

# Ordinary Council Meeting

## 27 July 2021

# Minutes

To: The President and Councillors

Here within the Minutes of the Ordinary Council Meeting of the Shire of Toodyay held on the abovementioned date in the Council Chambers at the Shire of Toodyay, 15 Fiennes Street, Toodyay.



Suzie Haslehurst  
**CHIEF EXECUTIVE OFFICER**

## **Our Vision, Purpose and Values**

The Shire of Toodyay works together with the community to obtain the best possible social, economic, and environmental outcomes for the people of Toodyay.

**Vision:** We are a vibrant rural community that respects our environment, celebrates our past and embraces a sustainable future.

**Purpose:** Local Government and community working together to obtain the best possible social, economic, and environmental outcomes for the people of Toodyay.

**Community Values:** We value highly:

- Our sense of community support and spirit;
- Our natural environment and healthy ecosystems;
- Our rural lifestyle;
- Our historic town; and
- Our local economy built on agriculture and emerging tourism, arts and cultural opportunities.

**Shire Values:** To progress the community's aspirations, the Shire is guided by:

*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.

*Commitment:* We translate our plans into actions and demonstrate the persistence that produces results.

## **Disclaimer**

Members of the public should note that in any discussion regarding any planning 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 as notice of approval from Council. No action should be taken on any item discussed at a Council Meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (*Copyright Act 1998*, as amended) and the express permission of the copyright owner(s) should be sought prior to reproduction.

## **Availability of Meeting Agenda and its Attachments**

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

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**ATTACHMENTS** with separate index follows Item 16.

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## Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following Ordinary Meeting of Council, where the Minutes will be confirmed subject to any amendments made by the Council.

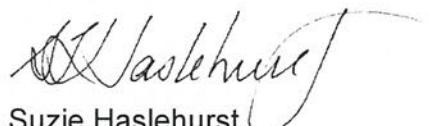
The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Council Meeting are put together as a separate attachment to these Minutes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as separate Confidential Minuted Agenda Items.

## Unconfirmed Minutes

These minutes were approved for distribution on 30 July 2021.



Suzie Haslehurst  
**CHIEF EXECUTIVE OFFICER**

## Confirmed Minutes

These minutes were confirmed at a meeting held on 24 August 2021.

Signed: ..... 

*Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.*



## 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr Madacs, Shire President, declared the meeting open at 4.01pm and read aloud an 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."*

The Shire President read through other preliminaries.

## 2. RECORDS OF ATTENDANCE

### Members

Cr R Madacs	Shire President
Cr B Ruthven	Deputy Shire President
Cr T Chitty	
Cr P Hart	
Cr M McKeown	
Cr S Pearce	
Cr B Rayner	<i>(arrived at 4.34pm)</i>

### Staff

Ms S Haslehurst	Chief Executive Officer
Mr J Augustin	Manager Assets and Services
Mr H de Vos	Acting Manager Planning & Development
Mr M Werder	Acting Manager Corporate & Community Services
Mrs M Rebane	Executive Assistant

### Visitors

P Ruthven	M Sinclair-Jones
R Pearce	K Robshaw
L Graham	B Foley

### 2.1 APOLOGIES

Cr Bell

### 2.2 APPROVED LEAVE OF ABSENCE

Cr Bell – 22 June 2021 to 4 July 2021.

## 2.3 APPLICATIONS FOR LEAVE OF ABSENCE

### 2.3.1 Applications for Leave of Absence – Cr Bell and Cr Chitty

Date of Report:	16 July 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	Nil.

### PURPOSE OF THE REPORT

To consider applications for leave of absence made by Cr Bell and Cr Chitty.

### BACKGROUND

On 7 July 2021 Cr Chitty emailed the Chief Executive Officer to request a leave of absence for the period 13 August 2021 to 25 August 2021 inclusive.

On 14 July 2021 Cr Bell emailed the Chief Executive Officer to advise that, due to COVID-related travel restrictions and potential quarantine requirements, he would be unable to attend any Council / Shire related events until at least the end of August 2021. Cr Bell requested a leave of absence to Tuesday 31 August 2021.

Ref: <https://www.wa.gov.au/organisation/covid-communications/covid-19-coronavirus-controlled-border>

### COMMENTS AND DETAILS

The application made by Cr Chitty is a standard application.

Officers sought clarification regarding Cr Bell's application in relation to the July Ordinary Council Meeting. Clarification was sought regarding the period from when the leave of absence would commence from.

The advice was that the commencement date from when leave of absence could be approved for Cr Bell would be 28 July 2021 in accordance with s.2.25(3A) of the *Local Government Act 1995* which does not permit the Council to approve retrospective leave of absences. Therefore, Cr Bell will need to be an apology for the meeting which is the subject of this agenda.

## IMPLICATIONS TO CONSIDER

### Consultative:

WA Local Government Association

Department of Local Government Hotline

### Strategic:

Nil

### Policy related:

Nil

### Financial:

Nil

### Legal and Statutory:

#### **2.25. Disqualification for failure to attend meetings.**

- (3A) *Leave is not to be granted in respect of —*
  - (a) *a meeting that has concluded; or*
  - (b) *the part of a meeting before the granting of leave.*
- (3) *The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting.*

### Risk related:

Nil

### Workforce related:

Nil

## VOTING REQUIREMENTS

Simple Majority

### **OFFICER'S RECOMMENDATION**

That Council approves a Leave of Absence for:

1. Cr Chitty from 13 August 2021 to 25 August 2021 inclusive.
2. Cr Bell from 28 July 2021 to 31 August 2021 inclusive.

Cr Pearce moved the Officer's Recommendation as follows:

**That Council approves a Leave of Absence for:**

1. **Cr Chitty from 13 August 2021 to 25 August 2021 inclusive.**
2. **Cr Bell from 28 July 2021 to 31 August 2021 inclusive.**

Clarification was sought.

The Presiding Member ruled that the Officer's Recommendation be amended at Point 2 and separated so that it could be handled in two parts as follows:

1. Cr Chitty from 13 August 2021 to 25 August 2021 inclusive.
2. Cr Bell from 4.07pm on 27 July 2021 to 31 August 2021 inclusive.

**OFFICER'S RECOMMENDATION 1 / COUNCIL RESOLUTION NO. 140/07/21**

**MOVED** Cr McKeown

That Council approves a Leave of Absence for Cr Chitty from 13 August 2021 to 25 August 2021 inclusive.

**MOTION CARRIED 6/0**

**OFFICER'S RECOMMENDATION 2 / COUNCIL RESOLUTION NO. 141/07/21**

**MOVED** Cr Pearce

That Council approves a Leave of Absence for Cr Bell from 4.07pm on 27 July 2021 to 31 August 2021 inclusive.

**MOTION CARRIED 6/0**

**3. DISCLOSURE OF INTERESTS**

The Chief Executive Officer advised that disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting as follows:

***Cr Chitty declared an Impartiality Interest pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 in regard to Agenda Item No. 9.3.1 Butterfly Cottages Association Inc – Rates Exemption, as she is the Vice Chair of Butterfly Cottages Association Inc.***

***Cr Pearce declared a Proximity Interest pursuant to Section 5.60B of the Local Government Act 1995 in regard to Agenda Item No. 9.1.3 Request to Amend Development Approval – Lot M1919 Chitty Road, as her husband's property has a boundary with the applicant.***

**4. PUBLIC QUESTIONS (responded to by the Shire President unless otherwise indicated)**

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

At the Ordinary Meeting of Council held on 22 June 2021 there were no questions taken on notice.

## 4.2 PUBLIC QUESTION TIME

L Graham

Summary of Question One

What was the total cost of the Recreation Precinct?

Shire President clarification

*Is that the total cost from the moment the land was purchased through to the last nail in the building? Is there some definition?*

L Graham response

May I have the construction costs?

Shire President response

*The acquitted costs of \$14.9m were provided earlier. Council has not gone back historically because of the enterprise software changeover as it would be too difficult and time consuming.*

Summary of Question Two

Who is responsible for the cost of water and electricity in the Recreation Precinct?

*The Shire President deferred to the Chief Executive Officer.*

Chief Executive Officer response

*The cost of water and electricity is the responsibility of the Venue Manager however the accounts for both of those are still currently in the Shire's name due to the fact they were in the Shire's name during construction. We are in the process of changing the names over.*

B Foley

Summary of Question One

What is the procedure for the Council to be involved in the governance review? I have looked at the timeline. It would appear the interim report has to go to the department within a couple of days and the final report seems to be going to Council and back to the department within one day. How do Councillors get involved in looking at this review?

Shire President response

*The Council was involved in this review. Understand first that the review was done by independent consultants looking at the governance practices of Council and administration overall. They then interviewed certain members of the staff and they interviewed Councillors. They also reviewed a great number of documents. From there they issued a report. Councillors'*

*involvement has been with the interviews, some of which were quite lengthy. The report was delivered. We will then respond to that report and it will go with Council's response of how we intend to address the matters that have arisen within the report; including what we have been doing in the interim before this report was undertaken, and that will be provided to the Department and the Minister.*

#### Summary of Question Two

There was a comment regarding discussions that went behind closed doors over the last number of years. Perhaps a throwback from previous councils and administration. Does the Shire of Toodyay have a policy regarding what business does go behind closed doors?

#### Clarification from Shire President

*You are referring to confidential business?*

#### Response from B Foley

Correct.

#### Response from Shire President

*We do not have a policy. What we do is follow the definition within the Act and make a decision on each item that is presented, from what the definition in the Act is. There is of course a matter of debate whether certain matters need to be kept confidential in the short-term or in the long-term; or whether matters can be released at a particular time where perhaps it is no longer relevant to keep those matters confidential. That is a conversation Council is still having and it is also a conversation that has arisen with the governance review. The fact that it has not been dealt with as we would have liked until now is simply a matter of timing. We have had a lot of very urgent matters on our plate. However, that does not preclude us taking retrospective action and reviewing what we have had, that we deem can be released to the public.*

#### R Pearce

***Cr Pearce declared a Proximity Interest pursuant to Section 5.60B of the Local Government Act 1995 in regard to Agenda Item No. 9.1.3 Request to Amend Development Approval – Lot M1919 Chitty Road, as her husband's property has a boundary with the applicant. I declare that I will leave the Council Chambers.***

*Cr Pearce departed Council Chambers at 4.14pm.*

### Summary of Question One

The Applicant indicated that, and I quote “we understand that the adjoining quarry (Lot 11 Chitty Road, Hoddy’s Well) has similar operational parameters. That is, there has been Council approval for extractive industries to operate on Saturdays from Lot 11.” How has the applicant provided Council with evidence of this statement?

*The Shire President deferred the response to the Acting Manager Planning and Development.*

*The Council has requested information and provided questions to respond to regarding this matter including providing details of current licence approvals operating in that area. This has been supplied to Council accordingly.*

*Cr Pearce returned to Council Chambers at 4.16pm.*

L Graham

### Summary of Question Three

I have a series of questions regarding the sale of 6 Duke Street which most of you know that I live next door to. Also, contrary to the advice that Council has been given, this property is a defined heritage place that is protected by your planning policies. I ask, has a valuation been carried out for the sale of 6 Duke Street?

*Chief Executive Officer response*

*A market valuation has been sought.*

### Summary of Question Four

When was it carried out and who conducted it?

*Chief Executive Officer response*

*It was carried out a month ago by Tony Maddox Real Estate.*

### Summary of Question Five

Is that a formal valuation?

*Chief Executive Officer response*

*We are not required to carry out a formal valuation because the property is proposed to be disposed of by public tender.*

### Summary of Question Six

How was the reserve price established?

*Chief Executive Officer response*

*Via the valuation that was provided by the Real Estate Agent.*

Summary of Question Seven

In 2017 the Council was asked to consider both 6 and 8 Duke Street for inclusion on the Shires Municipal Inventory Register. So I ask, on what date did Council consider that nomination and what was the result of that Council consideration?

*Shire President response*

*The Shire President took the question on notice.*

Summary of Question Eight

Have any undertakings implied or otherwise been given to anyone by way of either relaxing or waiving policies that apply on this property?

*Shire President response*

*Council is unaware of any waiving or relaxing of policies in relation to the property.*

*Chief Executive Officer response*

*No undertakings have been given.*

Summary of Question Nine

When were adjacent landowners advised of the decision to sell the property?

*Chief Executive Officer response*

*When the minutes of the last Council meeting were released to the public. Adjacent Landowners were not notified formally.*

Summary of Question Ten

Have the selling agent and potential purchasers been advised that the property is not connected to sewerage.

*Chief Executive Officer response*

*Yes.*

Summary of Question Ten

That is not on the advertisement for the property.

*Chief Executive Officer response*

*That is a statement.*

Summary of Question 11

Have the selling agent and potential purchasers been advised that the property is protected by Council's Heritage Policy?

*Chief Executive Officer response*

*The selling agent certainly has. We have not been in contact with potential purchasers.*

Summary of Question 12

Have the selling agent and potential purchasers been advised that there is asbestos on the property?

*Chief Executive Officer response*

*The selling agent has. We have not been in contact with potential purchasers.*

Summary of Question 13

Have the selling agent and potential purchasers been advised that there are building restrictions applicable to this property?

*Chief Executive Officer response*

*That is a matter for a purchaser to investigate and to determine.*

Summary of Question 14

As Council Policy requires the retention of the existing buildings and imposes a preference against demolition, who authorised advertising in the auction with the requirements to remove the existing building?

*Chief Executive Officer response*

*Council.*

Summary of Question 15

When did Council make that decision?

*Chief Executive Officer response*

*I believe that that was part of the resolution of 2015.*

Summary of Question 16

2015 or 2017?

*Chief Executive Officer response*

*I am sorry but I cannot tell you off the top of my head.*

Summary of Question 17

Based on those responses and the Council's planning policy objective that the policies are supposed to provide improved certainty to landowners and

the community about the planning processes for the development within the area I will be referring this matter for review, to either the Ombudsman or the State Administrative Tribunal because the Council was not advised that the decision it took in 2015, as you say; they were not advised that it was in breach of their Council Policy. It is a matter of fact and record that they were not advised. This current Council certainly was not. Will you put the auction on hold until the matter is determined by either or both of those bodies?

*Chief Executive Officer response*

*That is a matter for Council to determine but I will bring the matter to a Special Council Meeting if required.*

*B Foley*

Summary of Question Three

I want to talk about the condition of Bindoon Dewar's Pool Road. Back in the previous rain event in March or April, quite a bit of the road and gravel was washed off and nothing appears to have been done so far. Will it be repaired at this stage as far as works go?

*Shire President response*

*There are works planned for that road by Main Roads however I will refer you to the Manager Assets and Services.*

*Manager Assets and Services response*

*I can confirm that the road is maintained by the Shire of Toodyay. Repair works will be carried out soon on this road and we do have a couple of projects in place to widen and upgrade the road in some sections.*

Summary of Question Four

I asked this question about 18 month ago and was told that Council would look at as many federal grants to upgrade the total road. How far are we along getting grants for that major road?

*Manager Assets and Services response*

*We already have grant funding approvals to do those works.*

## 5. CONFIRMATION OF MINUTES

### 5.1 Ordinary Meeting of Council held on 22 June 2021

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO.**  
**142/07/21**

**MOVED** Cr Hart

That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 22 June 2021 be confirmed.

**MOTION CARRIED 6/0**

### 5.2 Agenda Briefing held on 20 July 2021

**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 20 July 2021 be received.

Cr Ruthven moved the Officer's Recommendation as follows:

**That the Notes of the Agenda Briefing held on 20 July 2021 be received.**

Clarification was sought.

Cr McKeown moved an amendment to the motion as follows:

**That the words “subject to additional information being included following the COVID advice provided by the Department of Local Government”**

Cr Ruthven accepted the amendment.

The motion was put.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO.**  
**143/07/21**

**MOVED** Cr Ruthven

That the Notes of the Agenda Briefing held on 20 July 2021 be received subject to additional information being included following the COVID advice provided by the Department of Local Government.

**MOTION CARRIED 6/0**

## 6. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

### 6.1 PETITIONS

Nil.

### 6.2 DEPUTATIONS

Nil.

### 6.3 PRESENTATIONS

Nil.

### 6.4 SUBMISSIONS

*Cr Pearce departed Council Chambers at 4.29pm.*

**Mr R Pearce addressed Council regarding Agenda item No. 9.1.3 Request to amend development approval – Lot M1919 Chitty Road**

*At the OCM 25th May 2021" Capitary No 3 (Midland Brick), made an application for Development approval for continuation of existing extractive industry (day extraction) on Lot M1919 Chitty Rd Hoddy's Well for period of 10 years. The application was advertised, and submissions called.*

*The application clearly states the hours of operation from 7am - 5pm Monday to Friday no weekends/public holidays.*

*In now asking for amendments, the community and residents in the area, have not been notified of the change in operation times. I was only made aware as my wife is on Council. She cannot take part in the decision-making process as an interest has to be declared.*

*The reason given for the change is that the applicant requires more "flexibility". It is stated the 100,000 tonnes is to be removed annually and can be done in 90 working days. This leaves 170 working days in the year, without weekends and public holidays. Surely this is sufficient flexibility.*

*The applicant also indicates that Toodyay Road has upgrades. However, these are only proposed and at this point there are still no passing lanes between Lot M1919 and 1 Km east of Gidgegannup.*

*Toodyay promotes itself as a tourist destination. In the Oct 2018 minutes, Council adopted a Toodyay Tourism Strategy. In the last 12 months since Covid, Toodyay has become a targeted destination for visitors. Many use Toodyay Road and perhaps would not appreciate navigating higher truck volumes on a Saturday.*

*The applicant indicated that "we understand that the adjoining quarry (Lot 11 Chitty Road, Hoddy's Well) has similar operational parameters, i.e. there has been Council approval for clay trucks from Lot 11 to operate on Saturdays. My understanding is this is not correct.*

*When asked at the Agenda briefing, contrary to the proponent's statement, that Saturday carting is already undertaken in Lot 11, the Council officer, stated there was no condition for carting on Saturdays from Lot 11 I am aware brick companies operating out of Lot 11 have previously applied for extended operating hours to include Saturdays. but this has been rejected by Council and no precedent has been set for carting on Saturdays.*

*I refer to the Oct 2018 Minutes*

**AMENDMENTS/COUNCIL RESOLUTION NO. 250/10/18 MOVED  
Cr Manning SECONDED Cr Bell**

*That at Point (1) (xxiii) and at point (2) (xx) the word ·Saturday be replaced with the word ·Friday and the second sentence be removed and replaced with the words truck movements shall be limited to 40 trucks per day." AMENDMENT CARRIED 4/3 and the substantive motion carried 5/2.*

*The clay operations on the other clay pits that use Salt Valley and Fernie Roads operate only from Monday to Friday excluding weekends and public holidays.*

*If this application if approved by Council - an undesired precedent will be set, and it would be only a matter of time for other industries to follow.*

*Another condition the applicant wants amended is 3.21 the removal of a traffic counter installed at the cross over at Salt Valley Rd.*

*I quote: The operator of the site already has an electronic system in place, referred to as load right, which automatically records load weight and times when clay is being loaded onto trucks. This provides a record of when trucks are on site.*

*The company has all the data. However, as they are a self-monitoring organisation, how can the Council be sure the information supplied is complete and accurate? An installed traffic counter {an independent gauge} as per condition 3.21, can be a cross referencing of data provided. I also note that in the Officers recommendation, that there is no reference to record the load weight Perhaps Council needs to look at this.*

*In finishing, I would like to suggest that Council hold a workshop on extractive industries within the Shire. I believe landowners with extractive industries on their properties and the organisations removing the material are not sufficiently contributing to the financial support of the Toodyay community.*

*Cr Rayner entered Council Chambers at 4.34pm.*

*Cr Pearce returned to Council Chambers at 4.34pm.*

*Cr Pearce departed Council Chambers at 4.35pm.*

Mr B Foley addressed Council regarding Agenda item No. 9.1.3 Request to amend development approval – Lot M1919 Chitty Road

*I think the Saturday movement of additional trucks is crazy to allow more trucks onto Toodyay Road, especially with the condition of Toodyay Road. Maybe when it is completely done up in whatever number of years then that*

*could be relooked at but if Council allow more trucks on Toodyay Road it will be bad for the Shire of Toodyay.*

*Cr Pearce returned to Council Chambers at 4.39pm.*

## 7. BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

## 8. ANNOUNCEMENTS BY THE PRESIDING MEMBER (without discussion)

The Shire President's announcement, in accordance with the *Shire of Toodyay Standing Orders Local Law 2008* (Section 4.3) is as follows:

*June has been a period of policy review and budget deliberations. The appointed Inquiry governance review consultants Hammond Woodhouse Advisory have completed staff and councillor interviews with a report due shortly.*

*The Avon Region of Councils is focused on strengthening opportunities for the alliance through cost sharing and joint projects. AROC represents approximately 20% of the Federal seat of Durack.*

### Shire President's Activities to the 16 July:

- *Weekly President/CEO Operational Briefings*
- *City of Swan, Midland meeting (11/6)*
- *Philippine Independence Day, Northam (13/6)*
- *Council Workshop (14/6)*
- *Agenda Forum (15/6)*
- *Concept forum (15/6)*
- *DAP (Development Assessment Panel) Member training (15/6)*
- *Environment Advisory Committee (21/6)*
- *Ordinary Council Meeting (22/6)*
- *Inquiry Governance Review - interview (23/6)*
- *Toodyay District High School, 'Footprints' presentation (24/6)*
- *Avon Midland Country Zone, Goomalling meeting (25/6)*
- *Wheatbelt Development Commission, RED Grants, Northam (25/6)*
- *LGEMA workshop, Perth (27/6)*
- *Post OCM Herald briefing (29/6)*
- *Chalice meeting (8/7)*
- *Minister's morning tea: Hon Melissa Price (9/7)*
- *Avon Region of Councils meeting (12/7)*
- *Wheatbelt North Regional Road Group (12/7)*
- *Council Workshop (12/7)*
- *Inquiry Governance Required Training – half day (13/7)*
- *Articles for the Toodyay Community Newsletter, Toodyay Herald, OCM and weekly reports to council.*
- *Review and question OCM and committee agendas, review and draft Budget research.*

- *Research and liaise regarding roads, mining, and environment, read departmental material.*
- *Liaise with CEO, Chalice, Local Governments and community members.*
- *Respond to councillor and community queries and maintain records.*

## 9. REPORTS OF COMMITTEES AND EMPLOYEE REPORTS

### 9.1 PLANNING AND DEVELOPMENT

#### 9.1.1 Request to close portion of Folewood road reserve in Toodyay.

Date of Report:	13 July 2021
Applicant or Proponent:	J & C Gibbons
File Reference:	ICR76998/00FOL/A2757
Author:	H. de Vos – Acting Manager Planning and Development
Responsible Officer:	S. Haslehurst – Chief Executive Officer
Previously Before Council:	Nil
Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-judicial
Attachments:	<ol style="list-style-type: none"><li>1. Map; and</li><li>2. Correspondence from Applicant.</li></ol>

### PURPOSE OF THE REPORT

To consider the permanent closure of a portion of Folewood Road reserve.

The request has been submitted by J & C Gibbons.

The road is proposed to be closed as part of a concurrent lot consolidation process which involves the amalgamation of this parcel of road reserve with Lot S39 on P223148.

### BACKGROUND

On 18 May 2021, the Shire of Toodyay received correspondence from Ms Colette Gibbons formally applying to have a portion of Folewood Road reserve closed.

The portion of the road proposed to be closed is 2,921.77m<sup>2</sup> in area and is to be excised from the existing Folewood Road, road reserve.

The irregular portion was formed when a previous realignment of Folewood Road occurred and this piece of land is now redundant.

For more details, please refer to Attachments 1 and 2.

### **COMMENTS AND DETAILS**

The application to permanently close a portion of Folewood Road is part of a plan to do a boundary realignment and lot amalgamation by the applicant. The portion of Folewood Road proposed for permanent closure is unmade and not used by the Shire of Toodyay. This will alleviate the Shire's responsibility to manage and maintain this portion of land which serves no current purpose.

The proposal has been discussed with the Shire's Works and Assets team who have advised that there are no plans in the future for the Shire to utilise this portion of land.

It is recommended that Council resolves to support the permanent closure of the portion of road reserve as outlined in Attachment 1.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative:**

In accordance with Council's Policy M.2 – *Public Consultation Formal Matters*, consultation on the proposed road closure requires that it is advertised in accordance with Level E. The application is also required to be advertised in accordance with section 58 of the *Land Administration Act 1997* (the Act).

An advertisement was placed in the June edition of the Toodyay Herald.

Additional mailouts were sent to adjoining properties and servicing authorities.

A 35-day consultation period was conducted in accordance with section 58 of the Act. This period ended on 8 July 2021. The Shire received one submission from the Water Corporation with no objections to the proposal.

#### **Strategic:**

Nil

#### **Policy related:**

M.2 – Public Consultation Formal Matters.

#### **Financial:**

Nil.

#### **Legal and Statutory:**

Road closures are regulated by Section 58 of the *Land Administration Act 1997* (the Act). In accordance with the Act and Regulations, there are three main steps involved in closing a road:

1. The Local Government must advertise the proposed road closure to adjoining landowners and servicing authorities in accordance with Section 58 of the *Land Administration Act 1997* and Regulation 9 of the *Land Administration Regulations 1998*.

2. The Local Government then considers submissions received during the advertising period and must resolve to close the road and request the Department of Planning, Lands and Heritage to proceed with the road closure.
3. The Minister is then to choose whether to grant a request and if granted the land can be purchased by private parties or can become Unallocated Crown Land.

At this point in time Council is requested to consider Stage 2 of the process.

**Risk related:**

Nil

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council requests the CEO, pursuant to Section 58(1) of the *Land Administration Act 1997*, to write to the Minister for Lands, requesting that the portion of Folewood Road as depicted in Attachment 1 to this report, is permanently closed.

Cr Ruthven moved the Officer's Recommendation as follows:

**That Council requests the CEO, pursuant to Section 58(1) of the *Land Administration Act 1997*, to write to the Minister for Lands, requesting that the portion of Folewood Road as depicted in Attachment 1 to this report, is permanently closed.**

Clarification was sought.

Cr Pearce objected to the motion.

Cr Rayner seconded the motion.

Debate commenced.

Cr Pearce moved an amendment to the motion as follows:

**That the words “within one month” be inserted following the words “Minister for Lands,”**

Cr Ruthven accepted the amendment.

Cr Rayner accepted the amendment.

Debate on the substantive motion continued.

The substantive motion was put.

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**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 144/07/21**

**MOVED** Cr Ruthven

That Council requests the CEO, pursuant to Section 58(1) of the *Land Administration Act 1997*, to write to the Minister for Lands, within one month, requesting that the portion of Folewood Road as depicted in Attachment 1 to this report, is permanently closed.

**MOTION CARRIED 7/0**

**9.1.2 Lot 58 McKnoe Drive, Morangup – Approval for Apiary Land Use.**

Date of Report:	12 July 2021
Applicant or Proponent:	S Grigoryev
File Reference:	IPA77265
Author:	H de Vos – Acting Manager Planning and Development
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-judicial.
Attachments:	<ol style="list-style-type: none"><li>1. Applicant Plans;</li><li>2. National Best Management Practice for Beekeeping in the Australian Environment; and</li><li>3. Best-practice guidelines for Urban Beekeeping</li></ol>

***This report has been withdrawn by the Chief Executive Officer.***

### 9.1.3 Request to Amend Development Approval - Lot M1919 Chitty Road.

***Cr Pearce declared a Proximity Interest pursuant to Section 5.60B of the Local Government Act 1995 in regard to Agenda Item No. 9.1.3 Request to Amend Development Approval – Lot M1919 Chitty Road, as her husband's property has a boundary with the applicant.***

*Cr Pearce departed Council Chambers at 4.44pm.*

Date of Report:	8 July 2021
Applicant or Proponent:	Land Insights / Capitary No. 3 Pty Ltd
File Reference:	A4804/IPA74159/11CHI
Author:	H de Vos – Acting Manager Planning and Development
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	Item 9.1.1 25 May 2021 (Resolution: 117/05/21)
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"><li>Extract of Agenda Item 9.1.1 from OCM held on 25 May 2021; and</li><li>Letter to Shire - Chitty Road Amendment.</li></ol>

### PURPOSE OF THE REPORT

Council is requested to consider an application for an amended development approval which is made under clause 77(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### BACKGROUND

At its Ordinary Council Meeting on 25 May 2021, Council approved an application for development approval for an extractive industry and associated licence with the following resolution (See Attachment 1):

2. Pursuant to clause 68(2)(b) of the deemed provisions for local planning schemes, approves the Application for Development Approval for an Extractive Industry on Lot M1919 Chitty Road, Hoddy's Well subject to the following conditions:

- 2.1 *This approval will expire and the use permitted by this approval must cease on or before 11 October 2031 unless, after a written request is made prior to that date, the approval is extended by the local government.*
- 2.2 *Development is to be in accordance with the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report, but amended, to the satisfaction of the local government, by updating the Rehabilitation Management Plan in Appendix E to –*
  - 2.2.1 *provide further detail regarding the planting of native vegetation on slopes steeper than 1:4; and*
  - 2.2.2 *to provide further details with respect to how the rehabilitation of the site will be monitored.*

#### **Site specific**

- 2.3 *The location and total area of the excavation is to be limited to 16 ha as depicted on the application.*
- 2.4 *The extraction of material is limited to a depth detailed in the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report.*
- 2.5 *The maximum permitted extraction is limited to 100,000 tonnes per annum.*
- 2.6 *Extraction is to be undertaken entirely within Lot M1919 Chitty Road, Hoddy's Well and is to be setback a minimum of 50 metres from the boundary.*
- 2.7 *Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.*
- 2.8 *Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Friday. No operations to occur on weekends or public holidays.*
- 2.9 *The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time, the Applicant will provide an update and forecast on staging for the following two-year period.*

#### **Environment and Rehabilitation**

- 2.10 *The excavation site is to be rehabilitated in accordance with the Rehabilitation Management Plan in the Clay Extraction Management Plan (as amended) that forms the subject of Attachment 1 to the report, and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be*

*completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.*

- 2.11 *The applicant is required to pay, in accordance with the Shire's adopted Schedule of Fees and Charges, an additional bond as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works. The Shire of Toodyay will accept a Bank Guarantee.*
- 2.12 *A Pit Rehabilitation Compliance Report prepared by an independent and suitably qualified consultant appointed by the local government, must be submitted to the local government upon completion of the final stages of rehabilitation. The full cost of the Pit Rehabilitation Compliance Report, including any associated costs, shall be borne by the Pit Operator (the licensee).*
- 2.13 *The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the local government.*
- 2.14 *The Applicant is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.*
- 2.15 *The applicant is to provide a Bushfire Management Plan in accordance with SPP 3.7 – Planning for Bushfire Prone Areas – to the satisfaction of the local government.*
- 2.16 *The noise generated by the development is not to exceed the levels as set out under the Environmental Protection Act 1986 (and the Environmental Protection (Noise) Regulations 1997).*
- 2.17 *Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the Environmental Protection Act 1986 and Department of Water and Environmental Regulation Guidelines.*
- 2.18 *The operations are managed in accordance with "Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources".*
- 2.19 *Any dewatering shall be in accordance with "Water Quality Protection Note 13 - Dewatering of Soils".*

### **Transport and roads**

2.20 *Operating hours for cartage shall be limited to 7:00am until 5:00pm Monday to Friday. No operation will occur on weekends and Public Holidays.*

2.21 *A traffic counter must be installed at the crossover point on Salt Valley Road, and the data must be made available to the local government upon request.*

2.22 *All trucks involved in the project shall comply with the Shire of Toodyay's Council Administration Policy No. A.8. Oversize Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.*

2.23 *All truck loads leaving the site with materials are to be covered.*

2.24 *The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay's Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.*

2.25 *The Applicant is to establish a level of communication with the Public Transport Authority (PTA) that will enable the Applicant to be aware of any changes to the school bus stop locations on Salt Valley Road and communicate such changes to all truck drivers involved travelling to and from this site. Council is to also be notified of any changes. No cartage operations from the site during school bus hours in line with RAV requirements.*

### **Insurance**

2.26 *The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.*

3. *Pursuant to clause 3.1(2)(b) of the Shire of Toodyay Extractive Industries Local Law 1999, approves an Extractive Industry Licence for Capitary No. 3 Pty Ltd (Midland Brick) to conduct clay extraction operations out of Lot M1919 Chitty Road, Hoddy's Well subject to the following conditions:*

- 3.1 *This approval will expire and the use permitted by this approval must cease on or before 11 October 2031 unless, after a written request is made prior to that date, the approval is extended by the local government.*
- 3.2 *Development is to be in accordance with the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report, but amended, to the satisfaction of the local government, by updating the Rehabilitation Management Plan in Appendix E to –*
  - 3.2.1 *provide further detail regarding the planting of native vegetation on slopes steeper than 1:4; and*
  - 3.2.2 *to provide further details with respect to how the rehabilitation of the site will be monitored.*

#### **Site specific**

- 3.3 *The location and total area of the excavation is to be limited to 16 ha as depicted on the application.*
- 3.4 *The extraction of material is limited to a depth detailed in the Clay Extraction Management Plan that formed the subject of Attachment 1 to the report.*
- 3.5 *The maximum permitted extraction is limited to 100,000 tonnes per annum.*
- 3.6 *Extraction is to be undertaken entirely within Lot M1919 Chitty Road, Hoddy's Well and is to be setback a minimum of 50 metres from the boundary.*
- 3.7 *Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.*
- 3.8 *Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Friday. No operations to occur on weekends or public holidays.*
- 3.9 *The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time, the Applicant will provide an update and forecast on staging for the following two-year period.*

#### **Environment and Rehabilitation**

- 3.10 *The excavation site is to be rehabilitated in accordance with the Rehabilitation Management Plan in the Clay Extraction Management Plan (as amended) that forms the subject of Attachment 1 to the report, and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be*

*completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.*

- 3.11 *The applicant is required to pay, in accordance with the Shire's adopted Schedule of Fees and Charges, an additional bond as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works. The Shire of Toodyay will accept a Bank Guarantee.*
- 3.12 *A Pit Rehabilitation Compliance Report prepared by an independent and suitably qualified consultant appointed by the local government, must be submitted to the local government upon completion of the final stages of rehabilitation. The full cost of the Pit Rehabilitation Compliance Report, including any associated costs, shall be borne by the Pit Operator (the licensee).*
- 3.13 *The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the local government.*
- 3.14 *The Applicant is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.*
- 3.15 *The applicant is to provide a Bushfire Management Plan in accordance with SPP 3.7 – Planning for Bushfire Prone Areas – to the satisfaction of the local government.*
- 3.16 *The noise generated by the development is not to exceed the levels as set out under the Environmental Protection Act 1986 (and the Environmental Protection (Noise) Regulations 1997).*
- 3.17 *Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the Environmental Protection Act 1986 and Department of Water and Environmental Regulation Guidelines.*
- 3.18 *The operations are managed in accordance with "Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources".*
- 3.19 *Any dewatering shall be in accordance with "Water Quality Protection Note 13 - Dewatering of Soils".*

### **Transport and roads**

3.20 *Operating hours for cartage shall be limited to 7:00am until 5:00pm Monday to Friday. No operation will occur on weekends and Public Holidays.*

3.21 *The applicant must have a traffic counter installed at the crossover point on Salt Valley and the data must be made available to the Shire of Toodyay upon request.*

3.22 *All trucks involved in the project shall comply with the Shire of Toodyay's Council Administration Policy No. A.8. Oversize Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.*

3.33 *All truck loads leaving the site with materials are to be covered.*

3.34 *The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay's Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.*

3.35 *The Applicant is to establish a level of communication with the Public Transport Authority (PTA) that will enable the Applicant to be aware of any changes to the school bus stop locations on Salt Valley Road and communicate such changes to all truck drivers involved travelling to and from this site. Council is to also be notified of any changes. No cartage operations from the site during school bus hours in line with RAV requirements.*

### **Insurance**

3.36 *The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.*

On 5 July 2021, the Shire of Toodyay was contacted in writing by the Applicant requesting a modification to the approval conditions pertaining to the development approval and extractive industry licence.

Further information on the request and justification is provided below.

### ***Operating and carting hours***

*Condition 8 and Condition 20 of both approvals (DA and EIL) relate to quarry operating hours and cartage hours (respectively). The operators of the site now require greater flexibility in terms of both operations and cartage by permitting activity on Saturdays.*

*As such, we suggest that the wording for Conditions 8 and 20 of both the DA and EIL is amended as follows:*

***Proposed Condition 8: “Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operations to occur on Sundays or public holidays.”***

***Proposed Condition 20: “Operating hours for carting shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operation will occur on Sundays or public holidays.”***

N.B. Condition 8 relates to 2.8 and 3.8 of the resolution and Condition 20 relates to 2.20 and 3.20 of the resolution.

*We understand that the adjoining quarry (Lot 11 Chitty Road, Hoddys Well) has similar operational parameters. Operation and carting on Saturdays is likely to be infrequent, and the total number of truck movements will not change, however this flexibility is important when there may be periods of peak demand.*

*It should also be noted that operation on Monday to Saturday between the hours of 7:00am and 5:00pm also complies with the Environmental Protection (Noise) Regulations 1997.*

### ***Traffic counter***

*Condition 21 of the DA and EIL requires a traffic counter be installed at the crossover point on Salt Valley Road. We understand that the intent of this condition is to create a record as to when cartage by trucks is occurring on the site.*

*The operator of the site already has an electronic system in place, referred to as ‘load right’, which automatically records load weight and times when clay is being loaded onto trucks. This provides a record of when trucks are on site and, as stated above, is what we understand is the objective of the condition. We also understand that information from this system has been provided at other quarry sites as a record for site use.*

*In order to recognise the existing ‘load right’ technology in use on the site, it is requested that Condition 21 on both the DA and EIL is amended as follows:*

***Proposed Condition 21 “The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request.”***

N.B. Condition 21 relates to 2.21 and 3.21 of the resolution.

In accordance with 2(a) of delegation PD3, the application cannot be determined under delegated authority as the original decision was made by the Council.

In accordance with clause 75(1)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, this application must be determined within 60 days of the receipt of the application which is by 3 September 2021.

## COMMENTS AND DETAILS

### Change to hours of operation and cartage

There is relevant recent precedent where the Shire has approved cartage for extractive industries and limited it to Monday to Friday only. The reason for this is to alleviate issues and safety risks for weekenders visiting the Shire. However, Main Roads WA has completed or is in the process of completing a major works upgrade of Toodyay Road which should reduce the pressure on the road and make it easier for trucks and the general public to share this road safely.

Given the additional day is consistent with State Government guidelines it is recommended that Council agrees to amend the condition of approval pertaining to operating times and cartage.

### Change to condition about traffic counter

This is acceptable and supportable as the intent does not change.

## IMPLICATIONS TO CONSIDER

### Consultative:

In accordance with clause 64(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* – there is no requirement for this application to be advertised.

### Strategic:

#### Shire of Toodyay Strategic Community Plan - Toodyay 2028

##### **Objective 3: Improve processes to support the built environment.**

*S 3.1 Adjust regulatory processes to be more enabling and accessible.*

### Policy related:

#### State Planning Policy 2.4 – Planning for Basic Raw Materials

This policy has been recently updated and is due to be gazetted on 16 July 2021.

The intent of the policy is to enable the responsible extraction of Basic Raw Materials (BRM), while ensuring the protection of people and the environment. Ensuring broad compatibility between land uses is essential to delivering this outcome.

The policy is to be considered in conjunction with strategic regional BRM mapping products and strategic planning documents and maps and should be read in conjunction with the Basic Raw Materials Guidelines.

The Guidelines state at 7.3:

*“Operating hours are generally between 5am and 5pm, 6 days a week, however, may vary for instance major infrastructure projects may require operations on Sunday. Operating hours may be addressed by a condition of approval.”*

The Shire of Toodyay does not have its own adopted Extractive Industry policy at this time.

**Financial:**

The applicant has paid the required application fee to the Shire of Toodyay as per Schedule 2 of *Planning and Development Regulations 2009* (WA) and clause 62(1)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (WA).

Should the Council choose to refuse this application, the applicant has the right of appeal to the State Administrative Tribunal. This could potentially involve ratepayer funds to defend a decision.

**Legal and Statutory:**

*Planning and Development Act 2005*

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

*Planning and Development Regulations 2009*

*Shire of Toodyay Local Planning Scheme No. 4*

Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the process involved with amending or cancelling development approval. Clause 77(1)(c) states:

- 1) *An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following:*
  - c. *to amend an aspect of the development approved which, if amended, would not substantially change the development approved;*

The normal process is for the request to amend a development approval to be in the form of a normal development application which is dealt with under Part 8 of the Regulations. However, in accordance with clause 77(3) of the Regulations,

*the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.*

It is recommended in this instance that the Council treats this request accordingly under clause 77(3) as the amendment is considered to be a minor amendment and does not materially change the nature of the existing development approval.

**Risk related:**

**Financial Risk**

Should the Council choose to refuse this application, the applicant has the right of appeal to the State Administrative Tribunal. This could potentially involve ratepayer funds to defend a decision.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council:

Pursuant to Clause 77(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; amends the development approval as granted under resolution number 117/05/21 for the proposed extractive industry at Lot M1919 Chitty Road in Hoddys Well by:

1. Amending Condition 2.8 of the Development Approval to read:

*“Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operations to occur on Sundays or public holidays.”*

2. Amending Condition 2.20 of the Development Approval to read:

*“Operating hours for carting shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operation will occur on Sundays or public holidays.”*

3. Amending Condition 3.8 of the Development Approval (pertaining to the Extractive Industry Licence) to read:

*“Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operations to occur on Sundays or public holidays.”*

4. Amending Condition 3.20 of the Development Approval (pertaining to the Extractive Industry Licence) to read:

*“Operating hours for carting shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operation will occur on Sundays or public holidays.”*

5. Amending Condition 2.21 of the Development Approval to read:

*“The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request.”*

6. Amending Condition 3.21 of the Development Approval (pertaining to the Extractive Industry Licence) to read:

*"The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request."*

Cr Chitty moved the Officer's Recommendation.

Clarification was sought.

Cr Hart objected to the motion.

Cr McKeown seconded the motion.

Debate commenced.

Cr Ruthven foreshadowed an alternate motion as follows:

**That the matter of the proposed extractive industry at Lot M1919 Chitty Road in Hoddys Well be deferred, to seek public comment for a period of two weeks, and requests the CEO to seek an extension from the applicant.**

Further clarification was sought.

Debate continued.

The motion was put.

#### **OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 145/07/21**

**MOVED** Cr Chitty

**SECONDED** Cr McKeown

That Council:

Pursuant to Clause 77(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; amends the development approval as granted under resolution number 117/05/21 for the proposed extractive industry at Lot M1919 Chitty Road in Hoddys Well by:

1. Amending Condition 2.8 of the Development Approval to read:

*"Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operations to occur on Sundays or public holidays."*

2. Amending Condition 2.20 of the Development Approval to read:

*"Operating hours for carting shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operation will occur on Sundays or public holidays."*

3. Amending Condition 3.8 of the Development Approval (pertaining to the Extractive Industry Licence) to read:

*"Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operations to occur on Sundays or public holidays."*

4. Amending Condition 3.20 of the Development Approval (pertaining to the Extractive Industry Licence) to read:  
*“Operating hours for carting shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operation will occur on Sundays or public holidays.”*
5. Amending Condition 2.21 of the Development Approval to read:  
*“The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request.”*
6. Amending Condition 3.21 of the Development Approval (pertaining to the Extractive Industry Licence) to read:  
*“The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request.”*

**MOTION CARRIED 4/2**

*In accordance with Section 5.21(4)(b) of the Local Government Act 1995, Cr Madacsi requested that the vote of all members present be recorded. Councillors Madacsi, Rayner, Chitty and McKeown voted for the motion. Councillors Ruthven and Hart voted against the motion.*

*Cr Pearce returned to Council Chambers at 5.10pm.*

#### 9.1.4 Lot 77 Bejoording Road – Retrospective development application for Dams.

Date of Report:	13 July 2021
Applicant or Proponent:	GF Maxted
File Reference:	A1157/77BEJ/IPA76990
Author:	H. de Vos – Acting Manager Planning and Development
Responsible Officer:	S. Haslehurst – Chief Executive Officer
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-judicial
Attachments:	<ol style="list-style-type: none"><li>Map;</li><li>Application; and</li><li>Schedule of Submissions.</li></ol>

#### PURPOSE OF THE REPORT

To consider an application for retrospective development approval for a series of dams at Lot 77 Bejoording Road, Bejoording. This application requires Council determination due to a number of strong objections to the development by members of the Bejoording community.

#### BACKGROUND

##### Location

Lot 77 Bejoording Road is a 4.1536 ha property in the locality of Bejoording. The land is zoned 'Rural Residential' under the Shire of Toodyay Local Planning Scheme No. 4. There is no rezoning proposed for this property under the Draft Local Planning Scheme No. 5. For more details, please refer to Attachment 1 – Map.

##### Compliance matter

On 14 January 2021, the Shire of Toodyay received complaints from multiple sources regarding the construction of a series of dams across a watercourse at Lot 77 Bejoording Road, Bejoording. The property was inspected by Shire Officers and a network of dams was observed.

The matter was discussed with the landowner at the time and Officers advised that two options were available:

1. Return the landform to original state; or
2. Apply for retrospective development approval for dams in accordance with the Shire of Toodyay Local Planning Scheme No. 4.

The landowner has opted to seek development approval.

#### Proposal

On 17 May 2021, the Shire received an application for retrospective development approval for the dams on the aforementioned property.

Retrospective development approval is sought for:

- Two (2) dams located across a watercourse;
- One (1) causeway located across a watercourse; and
- One (1) existing hillside dam not located on a watercourse.

Originally, five (5) dams were observed. These were all recently damaged in the 1 in 200-year storm event and now only two are proposed to be reinstated.

The dams will provide fresh drinking water for livestock, sheep (non-intensive) and domestic use (lawns, gardens, domestic orchard), as well as for firefighting.

For further details please refer to Attachment 2 – Application).

It should be noted that the applicant has, based on the advice of the Shire of Toodyay, done all that was asked of him and has gone to considerable expense in engaging an independent Hydrologist and licensed Building Surveyor to prepare an application, suitable plans, and assessment of the hydrology of the proposal.

#### **COMMENTS AND DETAILS**

There are a number of matters to consider in relation to this application.

##### Compliance with Local Planning Policy No. 25

Clause 2.1 of the policy expressly states that dams positioned across a watercourse will not be supported. However, as Council is aware, the weight of a Local Planning Policy is that due regard must be given – there is not a statutorily binding element. Clause 5.0 states that Council may vary the requirements of this policy where it is considered that full compliance with the policy is impractical, or such variation is warranted in the circumstances of the case. Therefore, there is an option for Council to support this proposal should it choose to do so.

##### Advice from Department of Water and Environmental Regulation

The Shire of Toodyay received two lots of advice from the Department of Water and Environmental Regulation (DWER).

Included as part of the application is a 'Letter of Education' from the DWER. The letter notes that an inspection was conducted and that it was '*noted (from visual*

*observations), that adequate flow was being maintained at the outflow of the property*. However, the letter did remain open ended and stated that should further concerns be raised relating to a reduction in downstream flow, that the applicant may be required to undertake additional remedial action.

Finally, it was noted in this letter that '*At this point however, we consider the matter closed with no further action to be taken.*'

The second piece of advice received from DWER was received as part of the formal consultation process.

#### ***On-stream dams***

*"In accordance with Water Quality Protection Note 53: Dam construction and operation in rural areas (DWER, 2019), the Department recommends that dams are positioned off-stream (away from the main waterway channel) rather than on-stream."*

The advice states that on-stream dams should have the provision to maintain low-stream flows and Environmental Water Provisions.

*"The property is located within the Avon River Catchment Area, proclaimed under the Rights in Water and Irrigation Act 1914 (RiWI Act), where a permit to interfere with the bed and banks of a waterway may be required."*

The advice states that DWER has received an application for this permit to conduct the proposed dam rectification works and is currently under assessment.

#### **Inconsistency with Local Planning Policy 25 – Dams**

The two on-stream dams and associated causeway are inconsistent with this policy. The intent of the clause is to stop landowners from damming a water course which can have implications for downstream users.

Were Council to approve this development, it would set an undesirable precedent for the community. Water is a scarce resource and in the case of an intermittent flow as this is, it is essential that steps are taken to ensure it remains viable for all users.

#### **Precautionary Principle**

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

In this instance the Shire has received advice from a hydrologist and also the DWER regarding the hydrological impact of this development. This advice is that there is no detrimental impact. However, in *State Planning Policy No 1 - State Planning Framework Policy* (SPP 1), the general principles for land use planning and development in Pt A state that the primary aim of planning is to provide for the fair, orderly, economic and sustainable use and development of land.

The purpose of this is to protect and enhance the key natural and cultural assets of the State and deliver to all West Australians a high quality of life which is based on environmentally sustainable principles.

Thus, the protection of environmental assets and the wise use and management of resources is essential to encourage more ecologically sustainable land use and development and should underpin planning decisions. Planning should contribute to a more sustainable future. This can be done by adopting a risk-management approach which aims to avoid or minimise environmental degradation and hazards.

Therefore, despite the submissions from the hydrologist and the DWER, it is considered that water supply in the Bejoording area is already under pressure. This is evident from the submissions of landowners who are living and experiencing it every day. Thus, in light of uncertainty, the precautionary principle should be considered by Council and it is recommended that the two on-stream dams and the causeway be refused.

There is no objection to the off-stream dam.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative:**

Given that the 'Dams' land use is a 'A' use in the zoning table of the Local Planning Scheme No. 4, it required a Level E consultation in accordance with the Shire's adopted M.2 Public Consultation – Formal Matters policy.

The application was advertised in accordance with these requirements. This included a mailout to adjoining landowners for a period of 29 days. This period concluded on 18 June 2021 and the Shire received six submissions in total (one included in the application). Four of the submissions were from private landowners strongly opposing the proposal. Two submissions were received from DWER. Details of these can be viewed in Attachment 3 – Schedule of Submissions.

#### **Strategic:**

##### **Natural Environment – Protecting Where We Live**

- O1: *Preserve and protect our natural assets for future generations.*
- O2: *Ensure sustainable operating practices.*

#### **Policy related:**

##### **Local Planning Policy No. 25 – Dams**

The primary area of non-compliance is regarding the two dams being built across the waterway.

Council has the ability to vary any provisions of this policy if it is considered warranted.

#### **Financial:**

Development Application fee per *Planning and Development Regulations 2009*.

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*

*Shire of Toodyay Local Planning Scheme No 4*

The Scheme provides the mechanism for protecting and enhancing the environment of the district, controlling land and building development, setting aside land for future reserves and other matters authorised by the *Planning and Development Act 2005*.

The subject site is zoned 'Rural Residential' under the provisions of Local Planning Scheme No 4. The proposed Dams are defined as a 'Dam' land use, which is a 'A' use within the Rural Residential zone. This means that the use is not permitted unless the local government has exercised its discretion by granting development approval and conducted public consultation in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Risk related:**

**Financial**

Should Council choose to refuse the application there is a risk of a review at the State Administrative Tribunal (SAT).

**Environmental**

Should Council choose to approve the application, low rainfall and the general intermittent flow of the stream could present additional environmental problems for the landowner and those further downstream.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council:

1. Receives the submissions received in relation to the application for retrospective development approval for the two (2) on-stream dams, one (1) off-stream dam and causeway at Lot 77 Bejoording Road, Bejoording.
2. Pursuant to Schedule 2, Clause 68(2)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, refuses the application for retrospective development approval for the two (2) on-stream dams and causeway at Lot 77 Bejoording Road, Bejoording for the following reasons:
  - (a) The two on-stream dams and causeway are inconsistent with the Shire of Toodyay adopted Local Planning Policy 25 – Dams.
  - (b) Application of the Precautionary Principle.

3. Pursuant to Schedule 2, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the application for retrospective development approval for the one (1) off-stream dam at Lot 77 Bejoording Road, Bejoording, subject to the following conditions:
  - (a) The development hereby permitted taking place in accordance with the approved plans.
4. Requests that Officers direct the Applicant to restore the landform and earthworks over the watercourse to original condition to the satisfaction of the Shire of Toodyay.

Cr Pearce moved the Officer's Recommendation.

Clarification was sought.

The motion was put.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 146/07/21**

**MOVED** Cr Pearce

That Council:

1. Receives the submissions received in relation to the application for retrospective development approval for the two (2) on-stream dams, one (1) off-stream dam and causeway at Lot 77 Bejoording Road, Bejoording.
2. Pursuant to Schedule 2, Clause 68(2)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, refuses the application for retrospective development approval for the two (2) on-stream dams and causeway at Lot 77 Bejoording Road, Bejoording for the following reasons:
  - (c) The two on-stream dams and causeway are inconsistent with the Shire of Toodyay adopted Local Planning Policy 25 – Dams.
  - (d) Application of the Precautionary Principle.
3. Pursuant to Schedule 2, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the application for retrospective development approval for the one (1) off-stream dam at Lot 77 Bejoording Road, Bejoording, subject to the following conditions:
  - (b) The development hereby permitted taking place in accordance with the approved plans.
4. Requests that Officers direct the Applicant to restore the landform and earthworks over the watercourse to original condition to the satisfaction of the Shire of Toodyay

**MOTION CARRIED 7/0**

## 9.2 CORPORATE & COMMUNITY SERVICES

### 9.2.1 List of Payments – June 2021

Date of Report:	27 July 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN6
Author:	C Muncott – HR/Finance Officer
Responsible Officer:	M Werder – Acting Manager Corporate & Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. List of Payments for month ending 30 June 2021.

### PURPOSE OF THE REPORT

To present the cheques and electronic payments raised during the month of June 2021.

### BACKGROUND

Creditor invoices are processed as they are received and, on the 15th, and final day of every month, cheques and electronic fund transfers are raised for payment.

### OFFICER COMMENT / DETAILS

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 charges etc.

Payroll Direct Debits are for payroll and superannuation expenditures which are paid through Council's on-line (internet) banking system.

The report on payments for the month is generated directly from Datascape and contains more detail than previously included. This means that the report is longer and in months where the number of payments is significant, this could increase.

## IMPLICATIONS TO CONSIDER

### Consultative:

Nil

### Strategic:

Objective 3: Ensure rigorous organisational systems.

S 3.1 Maintain long term financial and resourcing plans.

S 3.2 Operate to best practice management in all areas.

S 3.3 Ongoing review of customer service and satisfaction.

S 3.4 Embrace innovation in information and communication technologies.

### Policy related:

Council has delegated authority to the Chief Executive Officer to make payments from the Municipal and Trust Accounts.

### Financial:

Payments of accounts are in accordance with Council's adopted 2020/21 Budget.

### Legal and Statutory:

Section 5.42 of the *Local Government Act 1995* allows the local government to delegate its powers to the Chief Executive Officer.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* 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 each month showing for each account paid since the last such list was prepared.

### Risk related:

There is a compliance and reputational risk should Council choose not to approve the Officer recommendation.

### Workforce related:

Nil

### Comments:

Descriptions on Requisitions are being improved to provide clearer information on the List of Payments as presented to the Council meeting. The total payment for the month is \$1,846,407.58. 12-month motor vehicle registrations are included in the cheque listing.

## VOTING REQUIREMENTS

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 147/07/21**

**MOVED** Cr Chitty

That Council notes as being paid payments listed and presented for the month of June 2021 as follows:

1. Trust Fund Electronic Fund Transfers (EFT) \$160,189.33 and Trust Cheques payments \$0.00.
2. Municipal Fund Electronic Fund Transfers (EFT) payments amounting to \$1,248,891.92 and Municipal Fund Cheques numbered 12856 to 12868 amounting to \$66,396.04.
3. Direct Debit Loan amounting to \$73,293.38 and Direct Debit Superannuation amounting to \$38,177.46; and
4. Direct Debits Payroll totalling \$273,348.22.

**MOTION CARRIED 7/0**

### 9.2.2 Monthly Financial Statements – June 2021

Date of Report:	27 July 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN24
Author:	M Werder – Acting Manager Corporate & Community Service
Responsible Officer:	S Haslehurst – Chief Executive Officer
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"><li>1. Monthly Financial Statements including Outstanding Rates Debtors and Outstanding Sundry Debtors for the month ending 30 June 2021;</li><li>2. Bank Reconciliations for the month ending 30 June 2021.</li></ol>

#### PURPOSE OF THE REPORT

To accept the Monthly Financial Statement, Outstanding Rates and Outstanding Sundry Debtors Information for the month ending 30 June 2021; and the Bank Reconciliations for the month ending 30 June 2021.

#### BACKGROUND

Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996* states:

*A statement of financial activity and the accompanying documents referred to in sub regulation (2) is to be –*

- Presented at an ordinary meeting of the council within two months after the end of the month to which the statement relates; and*
- Recorded in the minutes of the meeting at which it is presented.*

These reports are prepared after all the end of month payments and receipts have been processed.

## COMMENTS AND DETAILS

Attached are the Monthly Financial Statement, Outstanding Rates and Outstanding Sundry Debtors Information for the month ending 30 June 2021; and the Bank Reconciliation for the month ending 30 June 2021. Explanation of the variance between the closing funding surplus (YTD Budget v YTD Actual) is included in Note 3 of the financial report.

## IMPLICATIONS TO CONSIDER

### Consultative:

Nil

### Strategic:

Objective 3: Ensure rigorous organisational systems.

S 3.1 Maintain long term financial and resourcing plans.

S 3.2 Operate to best practice management in all areas.

S 3.3 Ongoing review of customer service and satisfaction.

S 3.4 Embrace innovation in information and communication technologies.

### Policy related:

F.02 Authorised Signatories

F.03 Purchasing

F.11 Corporate Credit Cards

F.16 Financial Governance

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

### Financial:

Budget variances are reported and explained in the attached financial statements.

### Legal and Statutory:

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare financial reports.

Regulation 34 and 35 of the *Local Government (Financial Management) Regulations 1996* sets out the form and content of the financial reports.

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* requires a statement of Financial Activity to be prepared each month which is to contain the following details:

- a) Annual budget estimates;
- b) Budget estimates to the end of the month;
- c) Actual amount of expenditure and revenue;

- d) Material variances between comparable amounts in b) and c) and above; and
- e) The net current assets at the end of the month to which the statements relates i.e.: surplus/deficit position.

The Statement is to be accompanied by:

- a) Explanation of the composition of net current assets, less committed assets and restricted assets;
- b) Explanation of the material variances; and
- c) Such other information considered relevant by the local government.

**Risk related:**

There is a compliance risk in relation to this report as it is a requirement of the *Local Government (Financial Management) Regulations 1996* that local governments prepare a Statement of Financial Activity within two months after the end of the reporting period. This report mitigates the risk of non-compliance with the regulations.

**Workforce related:**

Officer resources continue to be focused on the transition of the Shire's enterprise software.

**Comment:**

The Revenue including Rating and Depreciation modules of Datascape have been implemented as of 1 July 2021 and this financial report will be the last one that needs to be constructed by combining information from SynergySoft and Datascape. The surplus identified in the Statement of Financial Activity as at 30 June 2021 is \$1,643,690 however the end of financial year accruals, reconciliations and adjustments will affect this final figure to be confirmed by the Auditors.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council accepts the Monthly Financial Statement, Outstanding Rates and Outstanding Sundry Debtors Information for the month ending 30 June 2021; and the Bank Reconciliations for the month ending 30 June 2021.

Cr Hart moved the Officer's Recommendation as follows:

**That Council accepts the Monthly Financial Statement, Outstanding Rates and Outstanding Sundry Debtors Information for the month ending 30 June 2021; and the Bank Reconciliations for the month ending 30 June 2021.**

Cr McKeown objected to the motion.

Cr Ruthven seconded the motion.

Debate commenced.

Cr McKeown requested that the confusion between Toodyay Street and Toodyay West Street be noted in the minutes.

Debate continued.

Cr Hart moved an amendment to the motion as follows:

**That the words “subject a note being placed in the minutes clarifying the confusion between Toodyay Street and Toodyay West Road including the footpath; and the Bank Reconciliations for the month ending 30 June 2021” be inserted following the words “month ending 30 June 2021”**

Cr Ruthven accepted the amendment.

The substantive motion was put.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 148/07/21**

**MOVED** Cr Hart

**SECONDED** Cr Ruthven

That Council accepts the Monthly Financial Statement, Outstanding Rates and Outstanding Sundry Debtors Information for the month ending 30 June 2021 subject a note being placed in the minutes clarifying the confusion between Toodyay Street and Toodyay West Road including the footpath; and the Bank Reconciliations for the month ending 30 June 2021.

**MOTION CARRIED 7/0**

*Note: On page 151 of the Agenda at Note13: Capital Acquisitions the expenditure for B0011 Toodyay West Road including Footpath for \$209,966 was added to D0071 Toodyay Street in error in the report. After reviewing the information in Datascape, the Minutes will report the correct spend to job B0011.*

### 9.3 EXECUTIVE SERVICES

#### 9.3.1 **Butterly Cottages Association Inc – Rates Exemption**

*Cr Chitty declared an Impartiality Interest pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 in regard to Agenda Item No. 9.3.1 Butterly Cottages Association Inc – Rates Exemption, as she is the Vice Chair of Butterly Cottages Association Inc.*

*Cr Chitty advised that as a consequence there may be a perception that my impartiality on the matter may be affected. I will therefore declare I will consider the matter on its merits and vote accordingly as I am bound to by legislation.*

Date of Report:	25 June 2021
Applicant or Proponent:	Butterly Cottages Association Inc
File Reference:	COM26; LEG087; A4639; A1980; A2996.
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	A1980 & A2996 Aug 2005:131/08/05; A4639 Sept 2013: 287/09/13; A4639 & A1980 Oct 2016: 202/10/16; A4639 Oct 2018: 259/10/18.
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Correspondence from Butterly Cottages Association Inc.;</li> <li>2. Charitable Exemptions Fact Sheet;</li> <li>3. Charitable Collections Licence issued to Butterly Cottages Association Inc.; and</li> <li>4. Rules of Association – 2019 - Butterly Cottages Association Inc.</li> </ol>

### PURPOSE OF THE REPORT

To consider a request for rates exemption on the following properties:

- i. A4639 (Lot 80) 15 Anzac Ave Toodyay WA 6566;
- ii. A1980 (Lot 11) 1/A-D Harper Rd Toodyay WA 6566; and
- iii. A2996 (Lot 55) 2 Henry St Toodyay WA 6566

## BACKGROUND

An email was received on 13 June 2021 from Judy Dow, President of Butterly Cottages Association Inc (Attachment 1) requesting a rates exemption for Butterly Cottages Association Inc.

## COMMENTS AND DETAILS

Butterly Cottages Association Inc. is a provider of low-cost accommodation services to persons in needy circumstances.

The Department of Housing (Government of Western Australia) publishes a Community Housing Rent Setting Policy (locatable publicly at this link: [https://www.housing.wa.gov.au/HousingDocuments/Community\\_Housing\\_Rent\\_Setting\\_Policy.pdf](https://www.housing.wa.gov.au/HousingDocuments/Community_Housing_Rent_Setting_Policy.pdf)) which states:

- *Providers must charge an affordable rent of no less than 25% and no higher than 30% of a household's net (after tax) income;*
- *No rent can exceed the current Market Rent for any property; and*
- *Commonwealth Rent Assistance (CRA) must be factored into any determination of rent.*

Butterly Cottages Association Inc has indicated in their correspondence that their current residents are Centrelink pension recipients and that they would be grateful for rates exemptions to be granted by the Council, as they have done in the past.

The decisions Council has made previously in relation to Butterly Cottages Association Inc are summarised below:

### A1980 - 1/A-D Harper Rd Toodyay WA 6566

This property has received a rates exemption since August 2005 on the basis that it was in the continued care and control of Butterly Cottages Association Inc and that the property was used exclusively for independent living accommodation for the aged.

Council's resolution on 25 October 2016 approved the continued rate exemption but continued the impost of ESL, Waste Transfer levy and Rubbish Collection charges relating to the property.

### A2996 - 2 Henry St Toodyay WA 6566

This property has received a rates exemption since August 2005 on the basis that it was in the continued care and control of Butterly Cottages Association Inc and that the property was used exclusively for independent living accommodation for the aged.

### A4639 - 15 Anzac Ave Toodyay WA 6566

Council's resolution on 17 September 2013 allowed a concession on the property so that it would be exempt from rates while they are in the care and control of the Butterly Cottages Association Inc and used exclusively for aged or infirmed persons homes or related purposes.

Council's resolution on 25 October 2016 maintained the status quo for what was at that time "vacant land" for the 2016/2017 financial year. The construction of the independent living units occurred in the 2017/2018 financial year.

Council's resolution on 23 October 2018 approved a rate exemption for the 2018/2019, 2019/2020 and 2020/2021 financial years. As per the correspondence received, Council is requested to consider a continued waiver of rates. Should Council choose to approve a waiver, Officers propose the continuation of the impost of ESL, Waste Transfer Levy and Rubbish Collection Charges relating to the property.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative:**

Research was undertaken in relation to previous Council decisions and information was sought from the Rates Officer in relation to charges on each of the properties that are not waivable or able to have a concession applied to them.

#### **Strategic:**

A key objective in the Strategic Community Plan states that the Shire will facilitate community safety and wellbeing and partner with health, medical and aged care services provided by others.

The Shire of Toodyay partnered with Butterly Cottages to construct nine independent living units (Rosedale Village) on land owned by Butterly Cottages Association Inc that were opened on Monday 6 August 2018 by Member for the Agriculture region, Darren West, on behalf of Minister for Regional Development.

Butterly Cottages Association Inc has provided Independent Living Units for aged persons in Toodyay since 1981. Properties located at 2 Henry Street and 1 Harper Road Toodyay have received a rates exemption since 2005 on the basis that those properties were in the continued care and control of Butterly Cottages Association Inc and they were used exclusively for independent living accommodation for the aged.

#### **Policy related:**

Nil

#### **Financial:**

A4639 - 15 Anzac Ave Toodyay WA 6566 is the only property out of the three properties in question that still has rates raised on it. This is due to the fact that at one time the property was vacant until Rosedale Village was built on the top section of the property, whilst the other two properties were classified non-rateable due to the concession applied through the Council Resolution made in 2005.

The non-waivable fees applicable for all properties are outlined in the table below:

	<b>A4639</b>	<b>A1980</b>	<b>A2996</b>
<b>Rates</b>	\$14,537.58	Non-Rateable	Non-Rateable

	<b>A4639</b>	<b>A1980</b>	<b>A2996</b>
<b>Emergency Services Levy</b>	\$ 583.39	\$ 442.94	\$ 132.88
<b>Waste Transfer Station Levy</b>	\$ 85.00	\$ 85.00	\$ 85.00
<b>Rubbish Collection</b>	\$ 2,070.00	\$ 940.00	\$ 690.00
<b>Total</b>	\$17,275.97	\$ 1,467.94	\$ 907.88

**Legal and Statutory:**

Section 6.26 of the *Local Government Act 1995* states as follows:

**6.26. Rateable land**

- (1) *Except as provided in this section all land within a district is rateable land.*
- (2) *The following land is not rateable land —*
  - (g) *land used exclusively for charitable purposes.*

**6.47. Concessions**

*Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive\* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

*\* Absolute majority required.*

Section 3 of the *Rates and Charges (Rebates and Deferments) Act 1992* states as follows:

**3. Terms used**

- (1) *In this Act, unless the contrary intention appears —*
  - administrative authority**, as regards any prescribed charge, means, subject to subsection (1a), the authority making that charge;
  - prescribed charge** means —
    - (a) *a charge, by way of rates, made under —*
      - (i) *the Local Government Act 1995; or*
      - (ii) *the Soil and Land Conservation Act 1945;*
      - or*
    - (b) *a charge for the provision of water supply, sewerage or drainage, not being a charge assessed by reference to the quantity of water or wastewater concerned, made under —*
      - (i) *the Water Services Act 2012; or*

[*(ii)* *deleted*]

(*iii*) *the Health (Miscellaneous Provisions) Act 1911; or*

(*iv*) *the Local Government Act 1995;*

*or*

(*c*) *a charge by way of the emergency services levy; or*

(*da*) *a charge, by way of a service charge, made under the Local Government Act 1995 section 6.38 in relation to the provision of underground electricity; or*

(*d*) *a charge prescribed by regulations made under this Act;*

**year** means a rating year.

(1a) *The administrative authority for the emergency services levy that is the subject of an assessment notice under section 36J of the Fire and Emergency Services Act 1998 is the local government that serves the notice.*

**Risk related:**

A reputational risk may be present should Council choose not to approve a rates waiver.

**Workforce related:**

Nil

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION**

That Council:

1. Waives rates in relation to the following properties:
  - (a) A4639(Lot 80) 15 Anzac Ave Toodyay WA 6566;
  - (b) A1980 (Lot 11) 1/A-D Harper Rd Toodyay WA 6566; and
  - (c) A2996(Lot 55) 2 Henry St Toodyay WA 6566

while they are in the ownership and management of Butterly Cottages Association Inc and used exclusively for independent living or related purposes for aged or infirmed person's accommodation.
2. Continues to impose ESL, Waste Transfer Levy and Rubbish Collection charges relating to the aforementioned properties.
3. Requests the Chief Executive Officer write to Butterly Cottages Association Inc to ensure that copies of the Association's Audited Annual Financial Statements are provided to the Shire on an annual basis.

Cr Rayner moved the Officer's Recommendation.

Clarification was sought.

Cr Ruthven foreshadowed an alternate motion as follows:

**That Council defer making a decision on the Butterly Cottages Association Inc – Rates Exemption until Council has considered the Schedule of Fees and Charges for the Annual Budget 2021/2022.**

Further clarification was sought.

Cr Ruthven objected to the motion.

Cr Pearce seconded the motion.

Debate commenced.

The motion was put.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 149/07/21**

**MOVED** Cr Rayner

**SECONDED** Cr Pearce

That Council:

1. Waives rates in relation to the following properties:
  - (a) A4639 (Lot 80) 15 Anzac Ave Toodyay WA 6566;
  - (b) A1980 (Lot 11) 1/A-D Harper Rd Toodyay WA 6566; and
  - (c) A2996 (Lot 55) 2 Henry St Toodyay WA 6566while they are in the ownership and management of Butterly Cottages Association Inc and used exclusively for independent living or related purposes for aged or infirmed person's accommodation.
2. Continues to impose ESL, Waste Transfer Levy and Rubbish Collection charges relating to the aforementioned properties.
3. Requests the Chief Executive Officer write to Butterly Cottages Association Inc to ensure that copies of the Association's Audited Annual Financial Statements are provided to the Shire on an annual basis.

**MOTION CARRIED 5/2**

*In accordance with Section 5.21(4)(b) of the Local Government Act 1995, Cr Madacsi requested that the vote of all members present be recorded. Councillors Madacsi, Rayner, Chitty, Pearce and McKeown voted for the motion. Councillors Hart and Ruthven voted against the motion.*

### 9.3.2 Related Party Disclosure Policy

Date of Report:	1 July 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2/MAN6
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	No.
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Related Party Disclosures Policy and Form.

### PURPOSE OF THE REPORT

To consider the adoption of the Related Party Disclosures Policy as attached to this report (Attachment 1).

### BACKGROUND

The AASB 124 Related Party Disclosures Implementation Guide published in June 2017 by the then Department of Local Government and Communities recommended that local governments have a related party disclosure policy.

Building on the feedback from local governments, the Department had also developed a step-by-step fact sheet as a companion to the guide, to assist local governments in complying with the accounting standard.

In 2017 the Shire of Toodyay created a Related Party Disclosures procedure and guidance notes and distributed the notes and the forms to key management personnel. The notes were based upon an Info page from the Western Australian Local Government Association (WALGA) in June 2017. Moore Stephens (WA) Pty Ltd, at the time, provided the content of the guidance notes as an explanation of the Australian Accounting Standards.

This practice of using those forms has continued to date.

### COMMENTS AND DETAILS

Following the distribution of the guidance notes created in 2017 and the form also created in that year, applicable legislation and reference material was cross-referenced and it was identified that the Department actually recommended a policy.

As it is the role of Council to determine the local government's policies in accordance with s.2.7 (2)(b) of the *Local Government Act 1995*, this policy is now presented for Council's consideration.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

Reference was made to the following:

- DLG&C AASB124 Related Parties Implementation guide June 2017.
- WALGA (Moore Stephens) Info Bulletin dated 22 June 2017.
- DLG&C Related Party Disclosures – Fact Sheet.
- AASB 124 Related Party Disclosures Standard published in December 2009 [https://www.aasb.gov.au/admin/file/content105/c9/AASB124\\_12-09.pdf](https://www.aasb.gov.au/admin/file/content105/c9/AASB124_12-09.pdf)
- Policies written by Shire of Wollongong, City of Bunbury, and the Shire of Serpentine Jarrahdale.

### **Strategic:**

#### **Governance: The way the Shire leads and operates**

*Objective 2: Consistently improve our governance practices.*

*Objective 3: Ensure rigorous organisational systems.*

### **Policy related:**

Nil.

### **Financial:**

Nil.

### **Legal and Statutory:**

The Australian Accounting Standards Board determined that from 1 July 2016, AASB 124 (Related Party Disclosures) will apply to government entities, including local governments. The Shire is required to disclose Related Party Relationships and Key Management Personnel compensation in its Annual Financial Statements.

### **Risk related:**

Adoption of this policy mitigates risk of non-compliance.

### **Workforce related:**

Related party disclosures are required to be completed by the following:

- elected members including mayors and presidents;
- chief executive officers (CEOs); and
- senior officers who heavily influence council decision-making and/or direct and control significant functions of council.

As a risk management strategy, the current practice is to have all Officers with delegation complete a Related Party Disclosure form to ensure maximum transparency.

## **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER'S RECOMMENDATION**

That Council adopts the Related Parties Disclosures policy, as attached to this report.

The Chief Executive Officer pointed out a typographical error in the recommendation in that the word "Parties" should read "Party".

Cr Hart moved the amended Officer's Recommendation.

The motion was put.

### **OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 150/07/21**

**MOVED** Cr Hart

That Council adopts the Related Party Disclosures policy, as attached to this report.

**MOTION CARRIED 7/0**

### 9.3.3 Voting Delegates for the 2021 Annual General Meeting of the WA Local Government Association.

Date of Report:	13 July 2021
Applicant or Proponent:	WALGA
File Reference:	WAL1
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	Not applicable
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"><li>1. Registration Brochure for Local Government Week;</li><li>2. Notice of Annual General Meeting including nomination form for voting delegates; and</li><li>3. Notice of proposed Amendments to the Association Constitution</li></ol>

#### PURPOSE OF THE REPORT

To seek Council's nomination of two voting delegates and two proxy voting delegates for the Annual General Meeting of the WA Local Government Association (WALGA) to be held on 20 September 2021.

#### BACKGROUND

The 2021 Annual General Meeting of WALGA will be held from 9:00am on Monday, 20 September 2021 at Crown Perth during the 2021 Local Government Convention (Attachment 1).

All Member Councils are entitled to be represented by two (2) voting delegates at the AGM (Attachment 2). Where a registered voting delegate is unable to attend, provision is made for registered proxy delegates to vote on behalf of the Member Council.

Elected Members and senior officers from Member Councils are welcome to attend the AGM as observers – registration is required. Observers can choose to register as a Convention Delegate or as an AGM Only Delegate.

Attachment 3 outlines proposed amendments to the WALGA constitution to be voted on at the AGM. Member Councils are also able to submit motions for the AGM Agenda.

While the closing date for submissions is 16 July 2021, the Shire has received confirmation from WALGA of an extension to accommodate the July OCM should Council wish to propose any motions.

### **COMMENTS AND DETAILS**

The 2021 Local Government Convention will take place from Sunday, 19 September to Tuesday 21 September 2021 at Crown Perth. Council's policy *M.4 Continuing Professional Development* provides for all elected members to attend the WALGA Annual Local Government Week Conference with costs covered by the Shire.

The theme of the 2021 convention is Leading the WAy: Looking Forward, Looking Back. The annual convention is a valuable opportunity to network with other elected members and senior officers, political figures, and industry peers. It also provides constructive information and updates on matters and issues that are common to the local government industry.

Officers are proposing that all elected members consider attending the Convention. It is further proposed that Council nominates the Shire President and Deputy Shire President as voting delegates with proxy voting delegates to be determined.

No motions are proposed at this time however, Council may choose to submit a motion.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative:**

Consultation was undertaken with the conference organiser in relation to the key dates and the nomination of voting delegates.

#### **Strategic:**

Providing good governance relies on decision-makers having relevant knowledge and experience. The Convention provides a professional development opportunity for elected members and senior staff.

#### **Policy related:**

M.4 - Conferences and Professional Development

Policy M4 states that Councillors are permitted to attend the WALGA Annual Local Government Week Conference and associated training courses / opportunities without requiring further Council authorisation.

#### **Financial:**

Policy M4 states:

- The Shire will meet the costs of all the Councillor's accommodation, airfares, conference costs and associated insurance costs;
- The Shire will also meet the cost of additional travelling expenses including meals, transport and incidentals verified through the provision of receipts;

- An elected member may apply for an advance of up to \$200 prior to the conference. Receipts and any unspent funds are to be returned. If expenses exceed the advance the additional costs will be reimbursed to the Councillor;
- Councillors may at their own cost extend their stay beyond that reasonably required for the conference;
- The Shire will meet the cost of another person to accompany the elected member to the conference dinner associated with an event;
- Elected members will be responsible for the cost of partner programs (if any), additional meals and airfares for the accompanying person; and

Costs associated with the attendance by Members will not be incurred until the 2021/2022 year and will be included in that budget.

**Legal and Statutory:**

Section 5.98 (2) of the *Local Government Act 1995* provides for the payment of reimbursement of costs for Council Members.

Expenses that may be approved for reimbursement are covered under r.32 of the *Local Government (Administration) Regulations 1996*.

**Risk related:**

Nil

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council:

1. Receives the Notice of Annual General Meeting of the WA Local Government Association.
2. Resolves not to submit any motions for inclusion on the Agenda for consideration at the 2021 Annual General Meeting.
3. Nominates the Shire President and Deputy Shire President as voting delegates and Councillors \_\_\_\_\_ and \_\_\_\_\_ as proxy voting delegates for the WALGA 2021 Annual General Meeting.

The Shire President sought nominations from the floor.

Cr Pearce and Cr McKeown raised their hands to be proxy voting delegates.

The Shire President read the motion out loud for the benefit of the live-stream audience.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 151/07/21**

**MOVED** Cr Chitty

That Council:

1. Receives the Notice of Annual General Meeting of the WA Local Government Association.
2. Resolves not to submit any motions for inclusion on the Agenda for consideration at the 2021 Annual General Meeting.
3. Nominates the Shire President and Deputy Shire President as voting delegates and Councillors Pearce and McKeown as proxy voting delegates for the WALGA 2021 Annual General Meeting.

**MOTION CARRIED 7/0**

#### 9.3.4 Standards for CEO Recruitment and Selection, Performance Review and Termination

Date of Report:	13 July 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. G5 Standards for CEO Recruitment and Selection, Performance Review and Termination.

#### PURPOSE OF THE REPORT

To seek Council's consideration and adoption of a policy regarding Standards for CEO Recruitment and Selection, Performance Review and Termination.

#### BACKGROUND

In February 2021, the *Local Government (Administration) Amendment Regulations 2021* (the Regulations) were enacted. The Regulations amend the *Local Government (Administration) Regulations 1996* to prescribe model standards for the recruitment, selection, performance review and termination of local government CEOs. Local governments are required to adopt as a minimum, the model standards and publish them on their official website.

The WA Local Government Association (WALGA) has developed a template for local governments to use as a basis for their adopted standards. This template has been used as the basis for the development of the draft policy which is now presented for Council's consideration (Attachment 1).

#### COMMENTS AND DETAILS

The attached policy contains four parts:

1. Preliminary provisions which define the terms used within the policy;
2. Standards for recruitment of CEOs incorporating provisions for advertising, selection criteria, the establishment of a selection panel and approval of contractual arrangements for the successful candidate;

3. Standards for the review of the performance of CEOs including the process for, and final endorsement by Council of, the review; and
4. Standards for the termination of employment of CEOs which outline the principles and processes for decision-making in the event of a proposal to terminate.

Local governments are at liberty to make additional provisions to those included in the template standards. Two additions have been proposed.

**2.6 (3) *The selection panel must comprise —***

- (a) *Council members who have completed (the number of which must be determined by the local government);*
- (b) *a suitably qualified human resources consultant; and*
- (c) *at least 1 independent person.*

Part (b) is proposed to ensure that a recruitment specialist is included to guide the process and provide advice.

In addition, part 4.5 below is proposed.

**4.5 *Termination payment***

*Any decision by the local government to provide a termination payment to the CEO in excess of the conditions of the CEO employment contract must be made by resolution of an absolute majority of the council.*

Otherwise, the policy reflects the content of the Regulations and the template standards developed by WALGA.

**IMPLICATIONS TO CONSIDER**

**Consultative:**

The policy was discussed at a workshop held on 12 July 2021 attended by six Councillors.

**Strategic:**

**Governance: The way the Shire leads and operates**

*Objective 2: Consistently improve our governance practices.*

*Objective 3: Ensure rigorous organisational systems.*

**Policy related:**

**A.20 *Legislative Compliance***

**Financial:**

Council will need to consider allocations for the engagement of consultants for CEO recruitment and/or performance review. Where termination of employment is considered, it is recommended that legal advice is sought. Furthermore, the involvement of an 'independent person' in the selection panel for the recruitment of a CEO may attract a fee.

**Legal and Statutory:**

*Local Government Act 1995 (WA)*

*Local Government (Administration) Amendment Regulations 2021*

*Local Government (Administration) Regulations 1996*

**Risk related:**

There is a compliance risk if Council chooses not to adopt the standards as required by legislation although this is mitigated by the fact that the model standards are taken to be the adopted standards as from 3 February 2021.

**Workforce related:**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION**

That Council:

1. Adopts G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination as attached to this report.
2. Requests the CEO to publish the policy on the Shire's website in accordance with section 5.39B(6) of the *Local Government Act 1995*.

*Cr Madacs departed Council Chambers at 5.31pm and Cr Ruthven assumed the Chair.*

Cr Pearce moved the Officer's Recommendation, including an amendment to the motion as follows:

**That Council:**

1. **Adopts G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination as attached to this report with the following amendments to part 2.5 Establishment of selection panel for employment of CEO**
  - (a) **Amend Part 3 to read:**
    - (3) **The selection panel must comprise —**
      - (a) **Council members who have demonstrated relevant training or experience (the number of which must be determined by the local government);**
      - (b) **a suitably qualified human resources consultant; and**
      - (c) **at least 1 independent person with demonstrated relevant training or experience.**

**(b) Add Part 4 to read:**

**(4) All Council members must be offered training in recruitment and selection from a suitably qualified source at least once every four years.**

**2. Requests the CEO to publish the policy on the Shire's website in accordance with section 5.39B(6) of the *Local Government Act 1995*.**

Cr Hart seconded the amendment motion.

Debate commenced on the amendment motion.

Cr McKeown moved an amendment to the motion as follows:

**That at Point 3(a) that the word "local government" be renamed "Council"**

Cr Pearce accepted the amendment.

Cr Hart accepted the amendment.

Debate continued.

*Cr Madacci returned to Council Chambers at 5.35pm.*

The motion was put.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 152/07/21**

**MOVED** Cr Pearce

**SECONDED** Cr Hart

That Council:

1. Adopts G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination as attached to this report with the following amendments to part 2.5 Establishment of selection panel for employment of CEO

**(a) Amend Part 3 to read:**

**(3) The selection panel must comprise —**

- (a) Council members who have demonstrated relevant training or experience (the number of which must be determined by the Council);**
- (b) a suitably qualified human resources consultant; and**
- (c) at least 1 independent person with demonstrated relevant training or experience.**

**(b) Add Part 4 to read:**

**(4) All Council members must be offered training in recruitment and selection from a suitably qualified source at least once every four years.**

---

2. Requests the CEO to publish the policy on the Shire's website in accordance with section 5.39B(6) of the *Local Government Act 1995*.

**MOTION CARRIED 7/0**

*Cr Madacsi assumed the Chair at 5.40pm.*

### 9.3.5 Approval of Chief Executive Officer Leave Requests

Date of Report:	7 July 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	HR421
Author:	S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	22 June 2021 - Item 13.1
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	Nil

#### PURPOSE OF THE REPORT

To provide information to Council regarding the authorisation for the Shire President to approve future leave requests by the Chief Executive Officer (CEO).

#### BACKGROUND

The current CEO employment contract contains the following clause in relation to the approval of leave requested by the CEO:

##### 9.1 Approval for Leave

*Leave by You is to be taken at a time, or during periods that are approved by the Council (or, if the Council so resolves, by the Shire President).*

As such, Council considered a request for leave as an Item of Urgent Business at the Ordinary Council Meeting (OCM) held on 22 June 2021 and resolved:

*That Council approves an application by the CEO for annual leave from 12-16 July 2021 inclusive.*

An officer recommendation to authorise the Shire President to approve future leave applications was not considered urgent business and was withdrawn.

However, at the same OCM, Council adopted a policy for the *Appointment of Acting or Temporary Chief Executive Officer* which contains the following clause:

##### 1. Applications for Leave

*An application for annual leave, long service leave, personal leave or an extended absence made by the CEO is to be approved by the Shire President.*

The policy stipulates that a Council resolution is required for periods of leave exceeding two months.

This report is presented for the purpose of informing Council and recording in the minutes, that further leave applications by the CEO for periods not exceeding two months will be submitted to the Shire President for approval in accordance with the above policy.

## **COMMENTS AND DETAILS**

In the event of a request for leave, the CEO will submit an application form to the Shire President outlining:

- The dates and times of the leave requested.
- The hours to be taken.
- Hours accrued and available to be taken.
- The person to be appointed as Acting CEO if the period of leave is more than five working days.

Once signed by the Shire President, the application will be submitted to the Payroll Officer for processing.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

Nil

### **Strategic:**

#### **Governance: The way the Shire leads and operates**

*Objective 2: Consistently improve our governance practices.*

*Objective 3: Ensure rigorous organisational systems.*

### **Policy related:**

G.4 Appointment of Acting or Temporary Chief Executive Officer

### **Financial:**

A higher duties allowance will need to be paid to officers appointed as Acting CEO. Provision for this will be included in the annual salaries and wages budget.

### **Legal and Statutory:**

The provisions of the *Local Government Act 1995* and subsidiary legislation will apply to any person appointed to act as CEO during periods of leave.

### **Risk related:**

Not applicable as there is no decision required to be made by Council. This report is for information purposes only.

### **Workforce related:**

Nil

## VOTING REQUIREMENTS

Simple Majority

### OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 153/07/21

**MOVED** Cr Rayner

That Council notes:

1. The Shire President is authorised to approve leave applications by the Chief Executive Officer for periods not exceeding two months.
2. A Council resolution is required to approve CEO leave for periods exceeding two months.

**MOTION CARRIED 7/0**

### 9.3.6 Governance Review – Recommendation to Department of Local Government, Sport and Cultural Industries

Date of Report:	2 July 2021
File Reference:	MAN12/GV.T01294.2
Author:	M Lamb – Compliance and Communications Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachment:	1. Report from Hammond Woodhouse Advisory

#### PURPOSE OF THE REPORT

To present to Council the report from consultants, Hammond Woodhouse Advisory of a Governance Review of the Shire of Toodyay.

#### BACKGROUND

Following an authorised inquiry into the Shire of Toodyay initiated in December 2018 in accordance with section 8.3(2) of the *Local Government Act 1995* (the Act), a Report was tabled in Parliament on 13 October 2020 which contained 25 findings. As a result, the Department of Local Government, Sport and Cultural Industries (the Department) made several recommendations to Council, one of which was that:

*The Shire undertake a Governance Review as approved by the Director General within 6 months of this report becoming final and the review is to be made available to the Director General.*

At the April 2021 Ordinary Council Meeting (OCM), it was resolved:

*That Council:*

- Approves the scope for an independent governance review of the Shire of Toodyay as contained in the Request for Quotation document attached as Attachment 1 to this report.*
- Proposes to engage Hammond Woodhouse Advisory to conduct an independent and objective governance review of the Shire of Toodyay in accordance with the quotation received.*

3. *Requests the CEO to submit the scope of works and the proposed consultant to undertake a governance review to the Director General of the Department of Local Government, Sport and Cultural Industries for approval.*

The Shire received approval from the Director-General of the Department on 12 May 2021 along with agreement to support the cost of the review up to the amount of \$24,000 plus GST.

### **COMMENTS AND DETAILS**

Independent consultants, Hammond Woodhouse Advisory attended the offices of the Shire of Toodyay on Tuesday, 22, Wednesday 23, and Thursday 24 June 2021 and conducted interviews with Councillors, Senior officers and staff.

The agreed timeframe for the review called for the report to be submitted to the Shire by 8 July 2021 to provide time for officers to prepare an agenda report for Council. However, due to Shire workloads and leave, there was a delay in completing interviews with some officers which affected the completion of the report. The report was subsequently provided by email on 19 July 2021 and is presented to Council at Attachment 1 for consideration.

The table below provides a summary of the recommendations for improvement made by the consultants. Attachment 1 outlines the methodology, findings and recommendations for each of the areas reviewed, followed by an Appendix that provides a table of consolidated recommendations which are prioritised as high, medium or low.

Area	Summary of improvements recommended
<b>The role of Council</b>	<ul style="list-style-type: none"> <li>- Agenda reports: training for staff, content and layout review</li> <li>- Comprehensive review of policies</li> <li>- Consideration of confidential matters</li> <li>- Corporate Business Plan development and utilisation</li> </ul>
<b>Council culture and dynamics</b>	<ul style="list-style-type: none"> <li>- Addressing behaviour issues</li> </ul>
<b>Relationship between CEO &amp; Council</b>	<ul style="list-style-type: none"> <li>- Independent facilitator for CEO performance reviews</li> </ul>
<b>Relationship between Council &amp; Administration</b>	<ul style="list-style-type: none"> <li>- Attention to Code of Conduct</li> <li>- Advice provided to Council</li> </ul>
<b>Management of employees</b>	<ul style="list-style-type: none"> <li>- Position description reviews and training opportunities for staff</li> </ul>

Area	Summary of improvements recommended
<b>Procurement and probity</b>	<ul style="list-style-type: none"> <li>- Development of templates</li> <li>- Training for staff</li> <li>- Procedures to be mandated by CEO</li> </ul>
<b>Record keeping</b>	<ul style="list-style-type: none"> <li>- Procedures to be mandated by CEO</li> <li>- Ensure new enterprise software provides record-keeping capability</li> </ul>
<b>Litigation policy</b>	<ul style="list-style-type: none"> <li>- Review regarding prosecutions and keeping Council informed</li> </ul>

As discussed, each of the recommendations have been prioritised. It should be noted that all the proposed actions have been rated either 'high' or 'medium' priority.

#### Next Steps

The Shire is required to submit the interim report to the Director-General of the Department by 30 July 2021. Therefore, officers are recommending that Council receives the report and authorises the CEO to submit the report by the agreed date.

It is proposed that an action plan is developed to address the recommendations contained in the report along with timeframes and required resources to be presented to Council for approval. Once approved, this will then be submitted to the Department by 28 September 2021 in accordance with the agreed timeframe.

#### **IMPLICATIONS TO CONSIDER**

##### **Consultative:**

As outlined in the Report, consultation has occurred with 7 x Councillors, Senior officers and staff.

##### **Strategic:**

Key points from the Strategic Community Plan that apply to this decision are:

- Governance: The way the Shire leads and operates.
  - O 1: Provide accountable and transparent leadership for the community.
  - O 2: Consistently improve our governance practices.
  - O 3: Ensure rigorous organisational systems.

##### **Policy related:**

The consultants have reinforced the previously identified need to review Council policies. A revised schedule for policy review will be developed in response to the recommendations in the report.

### **Financial:**

The Department has confirmed financial support of the cost of the review to a maximum of \$24,000 plus GST. The Shire will need to cover incidentals such as travel and accommodation.

The resources required to address the recommendations of the Governance Review will need to be considered as part of the budget process.

### **Legal and Statutory:**

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

The Shire is required to give effect to the recommendations of the Inquiry in accordance with s8.24(5) of the *Local Government Act 1995*.

### **Risk related:**

Timelines not met may impact on financial support offered by the Department, placing the financial burden back onto the Shire budget.

## **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER'S RECOMMENDATION**

That Council:

1. Receives the Governance Review Report from independent consultants, Hammond Woodhouse Advisory.
2. Requests the Chief Executive Officer to:
  - (a) Submit the Governance Review report to Director-General of the Department of Local Government, Sport and Cultural Industries no later than 30 July 2021.
  - (b) Present an action plan to address the recommendations of the Governance Review to Council at the August 2021 Ordinary Council Meeting.

Cr Ruthven moved the Officer's Recommendation as follows:

**That Council:**

1. Receives the Governance Review Report from independent consultants, Hammond Woodhouse Advisory.
2. Requests the Chief Executive Officer to:
  - (a) Submit the Governance Review report to Director-General of the Department of Local Government, Sport and Cultural Industries no later than 30 July 2021.
  - (b) Present an action plan to address the recommendations of the Governance Review to Council at the August 2021 Ordinary Council Meeting.

Clarification was sought.

Cr Ruthven moved an amendment to the motion as follows:

**That a new point (b) be inserted to read as follows:**

**(b) Requests the CEO to arrange a Council workshop to develop a response and proposed actions to the Governance Review Report prior to the agenda briefing being presented to Council for the September 2021 Ordinary Council Meeting.**

The substantive motion was put.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 154/07/21**

**MOVED** Cr Ruthven

That Council:

1. Receives the Governance Review Report from independent consultants, Hammond Woodhouse Advisory.
2. Requests the Chief Executive Officer to:
  - (a) Submit the Governance Review report to Director-General of the Department of Local Government, Sport and Cultural Industries no later than 30 July 2021.
  - (b) Requests the CEO to arrange a Council workshop to develop a response and proposed actions to the Governance Review Report prior to the agenda briefing being presented to Council for the September 2021 Ordinary Council Meeting.

**MOTION CARRIED 7/0**

## 9.4 ASSETS AND SERVICES

Nil.

## 9.5 COMMITTEE REPORTS

### 9.5.1 Museum Advisory Committee Recommendation

Date of Report:	30 June 2021
Applicant or Proponent:	Museum Advisory Committee
File Reference:	HER9
Author:	M Ross – Economic Development Coordinator
Responsible Officer:	M Werder – Acting Manager Corporate & Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Extract of 27 May 2021 MAC Meeting Minutes.

## PURPOSE OF THE REPORT

To receive an extract of the minutes of the Museum Advisory Committee (MAC).

## BACKGROUND

In accordance with Council Policy A.17 – Council Consideration of Committee Recommendations “Recommendation from Council Committees will be considered by Council at the earliest opportunity.”

## COMMENTS AND DETAILS

At the Museum Advisory Committee Meeting held on 27 May 2021 a recommendation was made to Council as follows:

*That Council receives the Museum update report on current activities – Shire Museum and its Collections, as contained in the Officer's Report.*

## IMPLICATIONS TO CONSIDER

### Consultative:

There has been no further consultation in relation to the recommendations made by the Museum Advisory Committee.

### Strategic:

A key point of the *Shire's Strategic Community Plan 2018* is to ensure:

O.3: Support the development of places and spaces for recreation, learning, art and culture.

### Policy related:

The Mission Statement of Council Policy No. O.4 *Museum Collection and Conservation Management* is:

*The Museum conserves, interprets and promotes Toodyay's unique cultural and environmental heritage by using a range of technologies and active public programs to attract and engage visitors of all ages.*

### Financial:

Nil

### Legal and Statutory:

The Museum Advisory Committee is established under Section 5.8 of the Local Government Act 1995 and does not have any delegated authority.

### Risk related:

Nil

## VOTING REQUIREMENTS

Simple Majority

### OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 155/07/21

**MOVED** Cr Pearce

That Council receives the Museum update report on current activities – Shire Museum and its Collections, as contained in the Officer's Report..

**MOTION CARRIED 7/0**

### 9.5.2 Environmental Advisory Committee Recommendations

Date of Report:	13 July 2021
Applicant or Proponent:	Environmental Advisory Committee
File Reference:	COC14
Author:	M Rebane – Executive Assistant; and H de Vos – Acting Manager Planning and Development
Responsible Officer:	H de Vos – Acting Manager Planning and Development
Previously Before Council:	Membership: May 2020 - 183/05/20 Purpose: October 2017 - 178/10/17
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"><li>1. Extract of EAC Minutes from Meeting held in June 2021;</li><li>2. Verge Notes applying roadside conservation values; and</li><li>3. Biodiversity Conservation Regulations 2018 Fact Sheet relating to flora licences.</li></ol>

### PURPOSE OF THE REPORT

To consider recommendations made by the Environmental Advisory Committee (EAC).

### BACKGROUND

At the EAC Meeting held on 21 June 2021 the Committee considered the following matters and made recommendations to Council:

1. Terms of Reference for the Environmental Advisory Committee; and
2. Community Verge Flora Survey

## COMMENTS AND DETAILS

### Recommendation 1 Terms of Reference

The current purpose of the EAC is to:

- Provide advice to Council on the implementation of the environmental strategy;
- Develop relevant documents including policies, strategies, leaflets, pamphlets or booklets consistent with the environmental strategy for consideration by Council; and
- Provide advice to Council on relevant matters referred to it by Council.

The Committee has made the following recommendation:

*That Council amends the Terms of Reference for the Environmental Advisory Committee as follows:*

#### Purpose

*The EAC will provide guidance and assistance where possible on all matters that benefit or impact the natural environmental assets of the Shire of Toodyay.*

#### Objectives:

*The EAC will:*

- (a) make recommendations to Council on matters relating to the environment including but not limited to:*
  - *Natural resources;*
  - *Native vegetation and landscape;*
  - *Biodiversity protection and enhancement;*
  - *Catchment drainage and water course management;*
  - *Resource recovery and waste management;*
  - *Pest and weed management;*
  - *Environmental sustainability;*
  - *Climate change impact adaption and mitigation.*
- (b) generate community interest and participation in matters relating to the above items;*
- (c) provide feedback to Council in relation to point (b) above;*
- (d) provide input and advice to Council on the implementation of Environmental strategies and policies.*

### Recommendation 2 Community Verge Flora Survey

The EAC has made a recommendation for Council to consider that has merit, given the advice provided by Officers at the June 2021 meeting of the Committee.

As was mentioned in the Officer report, the Shire's adopted Verge Maintenance Policy speaks to high conservation roadsides; stating the Shire's commitment to identifying

*and preserving high conservation roadsides. And that this should be assisted by identifying and implementing verge management activities that preserve, support, and enhance the conservation value of the high conservation roadsides.*

*Thus, a survey would be the logical step to not only obtain this data, but also to encourage community buy-in into the process. It would be an approach that is consistent with this policy.*

Therefore, the EAC is recommending:

*That Council:*

1. *Approves that the Environmental Advisory Committee will coordinate and run a staged community verge flora identification program by encouraging community participation through a variety of strategies that may include:*
  - *promotion through social media;*
  - *use of technology;*
  - *youth education and citizen science;*
2. *Endorses the objectives of the exercise and the expected outcomes of:*
  - *enhancement of verge protection,*
  - *improving the opportunity for flora-based tourism; and*
  - *creation of a database resource for the community and the Shire to support future development and protection of the environment.*
3. *Noting that:*
  - (a) *stage 1 will commence from August 2021; and*
  - (b) *updates be provided to Council through Council Forums.*

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

There has been no further consultation in relation to the recommendations made by the EAC.

In relation to recommendation 2 the DBCA was consulted and the Fact Sheet attached at Attachment 3 relating to flora licences was provided.

### **Strategic:**

#### **Natural environment: Protecting where we live.**

*O 1: Preserve and protect our natural assets for future generations.*

*O 2: Ensure sustainable operating practices.*

### **Policy related:**

Verge Maintenance Policy (adopted April 2021)

### **Financial:**

In making this recommendation to Council the members of the Environmental Advisory Committee are volunteering their time to coordinate and run a staged community verge flora identification program.

If the Committee was to take samples of flora for assessment they would require a licence to do so in accordance with the information contained in Attachment 3. The cost for a licence would be minimal.

### **Legal and Statutory:**

#### **Biodiversity Conservation Regulations 2018**

Subdivision 2 — Provisions relating to specific licence classes of the Biodiversity Conservation Regulations 2018 provide for specific licence classes relating to Flora.

### **Risk related:**

There are no risks in relation to Recommendation 1 or Recommendation 2.

### **Workforce related:**

There are no workforce related implications relating to Recommendation 1.

Recommendation 2 may involve risk.

As mentioned in the financial implications section of this report, *members of the Environmental Advisory Committee are volunteering their time to coordinate and run a staged community verge flora identification program.*

The Chairperson of the Committee will liaise with Shire Officers who will be able to upload relevant information provided by the Committee through the Shire's existing social media resources.

It is anticipated that Shire Officer involvement will be minimal.

### **VOTING REQUIREMENTS**

Simple Majority

### **ENVIRONMENTAL ADVISORY COMMITTEE RECOMMENDATION 1/COUNCIL RESOLUTION NO. 156/07/21**

#### **MOVED Cr Rayner**

That Council amends the Terms of Reference for the Environmental Advisory Committee as follows:

#### **Purpose**

The EAC will provide guidance and assistance where possible on all matters that benefit or impact the natural environmental assets of the Shire of Toodyay.

Objectives:

The EAC will:

- (a) make recommendations to Council on matters relating to the environment including but not limited to:
  - Natural resources;
  - Native vegetation and landscape;
  - Biodiversity protection and enhancement;
  - Catchment drainage and water course management;
  - Resource recovery and waste management;
  - Pest and weed management;
  - Environmental sustainability;
  - Climate change impact adaptation and mitigation.
- (b) generate community interest and participation in matters relating to the above items;
- (c) provide feedback to Council in relation to point (b) above;
- (d) provide input and advice to Council on the implementation of Environmental strategies and policies..

**MOTION CARRIED 7/0**

**VOTING REQUIREMENTS**

Simple Majority

**ENVIRONMENTAL ADVISORY COMMITTEE RECOMMENDATION 2/COUNCIL  
RESOLUTION NO. 157/07/21**

**MOVED Cr Hart**

That Council:

1. Approves that the Environmental Advisory Committee will coordinate and run a staged community verge flora identification program by encouraging community participation through a variety of strategies that may include:
  - promotion through social media;
  - use of technology;
  - youth education and citizen science;
2. Endorses the objectives of the exercise and the expected outcomes of:
  - enhancement of verge protection,
  - improving the opportunity for flora-based tourism; and

- creation of a database resource for the community and the Shire to support future development and protection of the environment.

3. Noting that:

- (a) stage 1 will commence from August 2021; and
3. (b) updates be provided to Council through Council Forums.

**MOTION CARRIED 7/0**

**10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**11. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

Nil.

**12. QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

**13.1 MEMBERS**

Nil

**13.2 EMPLOYEES**

Nil

**14. CONFIDENTIAL BUSINESS**

Nil.

**15. NEXT MEETINGS**

Bush Fire Advisory Committee	3 August 2021
Local Emergency Management Committee	11 August 2021
Audit and Risk Committee	12 August 2021
Agenda Briefing	17 August 2021
Ordinary Council Meeting	24 August 2021
Museum Advisory Committee	26 August 2021

**16. CLOSURE OF MEETING**

The Shire President declared the meeting closed at 6.15pm.

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Ordinary Council Meeting

Tuesday 27 July 2021

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# Agenda Briefing

## 20 July 2021

# Notes

### Unconfirmed Notes

These notes were approved for distribution on 22 July 2021.

Suzie Haslehurst  
**CHIEF EXECUTIVE OFFICER**

When the Chief Executive Officer approves these Notes for distribution they are in essence "informal notes."

At the next Ordinary Meeting of Council the Notes will be received, subject to any amendments made by the Council.

The "Received" Notes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Agenda Briefing are put together as attachments to these Notes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as part of the Ordinary Council Meeting, in a separate Confidential Minuted Item (CMI).

### Received Notes

These notes were received at an Ordinary Council Meeting held on 27 July 2021.

Signed: ..... 

*Note: The Presiding Member at the meeting at which the notes were received is the person who signs above.*



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The **ATTACHMENTS** to these notes were the attachments to the Ordinary Council Meeting dated 27 July 2021.

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# NOTES

## 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Madacs, declared the forum open at 4.02pm.

## 2. RECORDS OF ATTENDANCE/APOLOGIES

### Members

Cr R Madacs	Shire President
Cr B Ruthven	Deputy Shire President
Cr T Chitty	
Cr P Hart	
Cr M McKeown	
Cr S Pearce	
Cr B Rayner	(arrived at 4.56pm)

### Staff

Ms S Haslehurst	Chief Executive Officer
Mr J Augustin	Manager Assets and Services
Mr H de Vos	Acting Manager Planning & Development
Mr M Werder	Acting Manager Corporate & Community Services
Mrs M Rebane	Executive Assistant

### Visitors

Mr G Warburton
Mr R Pearce
Ms E Hall
Dr A St John

### 2.1 APOLOGIES

Cr Bell

### 2.2 LEAVE OF ABSENCE PREVIOUSLY APPROVED

Cr Bell – 22 June 2021 to 4 July 2021.

### 2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Name	Date from	Date To
Cr Chitty	13 August 2021	25 August 2021
Cr Bell	28 July 2021	31 August 2021

Cr McKeown

In regard to the rules of attending a meeting via electronic means. Why is it not possible for Cr Bell to do that?

*The Shire President responded as follows:*

*We went through the process several years ago and at the time the legislation did not support out of state attendance at meetings. You could attend a meeting if you were in the state but not if you were out of the state. My understanding is that he would be out of the state at the time of the July Council Meeting.*

Cr McKeown

Does that still apply under the COVID e-meeting arrangements?

*Chief Executive Officer response:*

*I know there were changes introduced as a result of COVID and they have not been rescinded. We will take that question on notice.*

**Response provided after the Agenda Briefing**

**The Principal Advisory Officer – Local Government Support at the Department of Local Government, Sport and Cultural Industries response as follows:**

**It is our understanding that the COVID provisions in Regulations 14C and 14D of the *Local Government (Admin) Regulations 1996* do not currently apply as the State of WA is not declared to be in a public health emergency or a state of emergency does not currently exist i.e. there is currently no lockdown or restrictions applicable to WA.**

**Therefore, the provisions in Regulation 14A would currently apply to the attendance of a council member at a meeting by electronic means. This would require a decision by Council to approve the attendance and the attendance would need to meet all other criteria. Please note that the Department has received advice that a “suitable place” or other residential area only applies to a location within the State of Western Australia.**

Cr Chitty

My understanding is that if he may be in the state but he may be having to isolate himself so if that is the case he could attend the meeting via electronic means. Is it his choice to attend the meeting?

*Chief Executive Officer response:*

*It was his choice to apply for a leave of absence.*

Cr McKeown

If he did attend electronically can he apply for a leave of absence at the meeting.

Chief Executive Officer response:

*Technically yes. We have been told that the intent of section 2.25(3A) is not to allow that exact situation, but I have argued that is what the legislation says. We are seeking further clarification.*

Response provided after the Agenda Briefing

The Principal Advisory Officer – Local Government Support at the Department of Local Government, Sport and Cultural Industries response as follows:

**It is our understanding that attendance by electronic means indicates that “A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if –**

- (a) ***the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and***
- (b) ***the person is in a suitable place; and***
- (c) ***the council has approved\* of the arrangement”.***

If that is the case, then it is presumed that all provisions that apply normally to the council member’s physical attendance at a meeting would apply, unless otherwise impracticable.

Further Response provided after Council Meeting

Cr Bell may request electronic presence at the OCM during a State of Emergency as identified by Cr McKeown in accordance with the Act which says;

**5.25. Regulations about council and committee meetings and committees**

- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to —
  - (ba) the holding of council or committee meetings by telephone, video conference or other electronic means
- (2) Regulations providing for meetings to be held by telephone, video conference or other electronic means may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.

**Admin Reg 14C below states:**

**14C. Attendance by electronic means in public health emergency or state of emergency (Act s. 5.25(1)(ba))**

(1) In this regulation —

**meeting** means —

- (a) an ordinary meeting of the council; or
- (b) a special meeting of the council; or
- (c) a meeting of a committee of the council; or
- (d) a meeting of an audit committee of a local government.

(2) A member of a council or committee may attend a meeting by electronic means if —

- (a) a public health emergency or a state of emergency exists in the whole or a part of the area of the district of a local government; and
- (b) because of the public health emergency or state of emergency, the member is unable, or considers it inappropriate, to be present in person at a meeting; and
- (c) the member is authorised to attend the meeting by electronic means by —
  - (i) the mayor; or
  - (ii) the president; or
  - (iii) the council.

(3) A person who attends a meeting by electronic means is taken to be present at the meeting.

[Regulation 14C inserted: SL 2020/20 r. 7.]

**3. DISCLOSURE OF INTERESTS**

Item Name	Item No.	Name	Type of Interest	Nature of Interest
9.1.3 Request to Amend Development Approval - Lot M1919	9.1.3	Cr Pearce	Proximity	Her husband's property adjoins the proponent's property.
9.3.1 Butterly Cottages Association Inc – Rates Exemption	9.3.1	Cr Chitty	Impartiality	She is a vice chair of the committee

#### 4. PUBLIC QUESTIONS

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

As per the Council Meeting Agenda.

##### 4.2 PUBLIC QUESTION TIME

Nil.

#### 5. CONFIRMATION OF MINUTES

As per the Council Meeting Agenda.

#### 6. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

##### 6.1 PETITIONS

Nil.

##### 6.2 DEPUTATIONS

Nil.

##### 6.3 PRESENTATIONS

A presentation from Dr Andrew St John, Chair of Safe and Scenic Toodyay Roads Inc was intending to be made at the Forum. (Refer to attachments to the Minutes). *At 4.09pm technical difficulties were experienced with the opening of presentation. The President asked for submissions.*

##### 6.4 SUBMISSIONS

*Cr Pearce departed Council Chambers at 4.10pm.*

Mr Pearce addressed Council in relation to Item 9.1.3 Request to Amend Development Approval - Lot M1919

*At the OCM on 25 May 2021, the proponent for Midland Brick, or what is now BGC, made an application for development approval for the continuation of existing extractive industry (clay extraction) on Lot M1919 Chitty Road for the period of ten years.*

*The application was advertised and submissions were called. One of the submissions received was from a respected Hydrologist Doug Blandford in which he describes the report by Land Insights on behalf of Midland Brick and I quote "was one of the most inadequate supporting documents for a license application that I have ever seen in my 55 years plus experience in general field of environmental management in resource development projects." The complete lack of science-based evidence in support of the application and the apparent reliance on statutory requirements as being the panacea for project approval is an embarrassing omission of ignorance and incompetence by the proponent and its consultants." I concur with Mr Blandford's submission.*

*The application clearly states the hours of operation from 7.00am to 5.00pm Monday to Friday. No weekends or public holidays. What has changed in eight weeks? Nothing. I suspect that if this had been part of the original proposal it would have gone out for submission and raised controversial issues and if rejected by Council and appeared at SAT the licence may have expired before the SAT determination. In asking for amendments the community and residents of the area have not been notified of the change in operation times. I was only made aware as my wife is a Councillor on Council who can take no part in the decision-making process as an interest has been declared. The reason given for the change is that the applicant requires more flexibility. It is stated that the 100,000 tonnes to be removed annually can be done in 90 working days. This leaves 170 working days in the same year without including weekends and public holidays. Surely this is sufficient flexibility? If it is not then perhaps it is poor management. The applicant also indicates that Toodyay Road has upgrades however these are only proposed at this point and there are still no passing lanes between Lot M1919 and one kilometre east of Gidgegannup.*

*Toodyay promotes itself as a tourist destination and this has become more evident in the last twelve months since COVID with an increased number of visitors to Toodyay who presumably use Toodyay Road and would not appreciate higher truck volumes. The applicant indicated that “we understand the adjoining quarry at Lot 11 Chitty Road, Hoddy’s well has similar operational parameters; operating and carting on Saturdays. A precedent has been set. My understanding is that this is not correct. Midland Brick should be aware of this as BGC cart out of the quarry on Lot 11. The clay operations on the other three clay pits used on Salt Valley and Fernie Roads operate only on Monday to Friday, excluding weekends and public holidays. No precedent has been set to cart on Saturdays. If his application is approved by Council then a precedent will be set. In my opinion it would only be a matter of time before the other industries to follow.*

*One of the conditions the applicant wants amended is 3.2.1 the removal of a traffic counter installed at the crossover of Salt Valley Road. I quote the operator of the site who has said that the site already has an electronic system in place, referred to as light load, which automatically records load weights and the times when the clay is being loaded. This provides a record of when trucks are on site. The company has all the data however as they are a self-monitoring organisation how can the Shire be sure that the information supplied is complete and is accurate. By having a traffic counter installed as an independent measure, as per condition 3.2.1 there can be a cross-referencing of data provided.*

*In finishing I would like to suggest that when Council have finished budget preparations and other pressing business that they do a workshop on extractive industries within the Shire as I believe that landowners with extractive industries on their properties and*

*organisations removing the product are not contributing anywhere enough financial support to the Toodyay Community.*

Submission concluded at 4.15pm.

*Cr Pearce returned to Council Chambers at 4.18pm.*

*The Presentation from Andrew St John commenced at 4.18pm and concluded at 4.35pm.*

Questions and Points raised and responded to by A St John.		
Councillor	Questions	Response to be provided by Officer
Cr Pearce	Nil How much interest has there been within the town?	<i>A lot of interest. Lots of people want roads to be improved but not the way it has been done with a huge loss of trees.</i>
Cr Chitty	How long have you had the petition?	<i>It was started a few months ago and the online petition is in the hundreds.</i>
Cr Chitty	How long will you run this petition?	<i>It is a delicate balancing act and will depend on whether Main Roads takes notice or not.</i>
Cr Madacs	Did you say State-wide data?	<i>Yes the state-wide data around comparing different strategies applied to a number of different roads in the Shire.</i>

*Questions concluded at 4.37pm.*

## 7. BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

## 8. ANNOUNCEMENTS BY THE PRESIDING MEMBER (without discussion)

As per Council Meeting Agenda.

## 9. REPORTS OF COMMITTEES AND EMPLOYEE REPORTS

### 9.1 PLANNING AND DEVELOPMENT

#### 9.1.1 Request to close portion of Folewood road reserve in Toodyay

No questions.

### 9.1.2 Lot 58 McKnoe Drive, Morangup – Approval for Apiary Land Use.

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Pearce	<i>The applicant has indicated 50 hives to pursue a small hobby, and no retail activities on the property. With the rural residential zoning, is there provision in the planning scheme for retail operations on the property?</i>	  <u><a href="#">Acting Manager Planning and Development responded as follows:</a></u> <i>The applicant has agreed to defer the item to the August 2021 OCM. I will be forwarding questions through to him over the next few days which will be incorporated into an updated report for August.</i>
Pearce	<i>There is a possibility of 1000kgs of honey production. Would be officer please indicate what form this hobby is to take – honey production? Other?</i>	
Pearce	<i>Does the applicant intend to move hives, in times of no flowering in the Morangup area?</i>	
Pearce	<i>Amendment point 4 of the Officers Recommendation:</i> <i>4. Requests that Officers direct the applicant to restore ...[insert a time frame – August, September 2021?]</i>	  <u><a href="#">Acting Manager Planning and Development responded as follows:</a></u> <i>Recommend the change to condition 4 but 6 months is more acceptable.</i>
Hart	<i>What duties and powers are vested in the Shire when it comes to the health and welfare of livestock?</i>	  <u><a href="#">Acting Manager Planning and Development responded as follows:</a></u> <i>The applicant has agreed to defer the item to the August 2021 OCM.</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<i>I will be forwarding questions through to him over the next few days which will be incorporated into an updated report for August.</i>
Hart	Does the Shire have an estimate, however informal, of what would constitute the maximum number hives that is consistent with hobby purposes?	
Hart	Does the New South Wales categorisation of amateur bee keeping as being of 40 or fewer hives have any relevance to question 1? (Source: <a href="http://www.agrifutures.com.au/wp-content/uploads/publications/07-059.pdf">www.agrifutures.com.au/wp-content/uploads/publications/07-059.pdf</a> )	<u>Acting Manager Planning and Development responded as follows:</u> <i>The applicant has agreed to defer the item to the August 2021 OCM.</i>
Hart	Is the applicant aware of the New South Wales document referred to in 2 above?	<i>I will be forwarding questions through to him over the next few days which will be incorporated into an updated report for August.</i>
Hart	Is the Shire aware of the need for water to be provided for bees all year round, not just during the hotter periods?	
Hart	What are the financial risks to the Shire of limiting the number of hives to 10?	
Hart	If in the opinion of the Environmental Health Officer bees are causing a nuisance, how will	

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	the Environmental Health Officer demonstrate that the said bees are from the approved hives rather than from a feral colony within a 6km radius?	
Hart	Would it be both reasonable and practicable to defer the determination to the August Ordinary Council Meeting and to seek feedback from the applicant in the interim?	
Ruthven	The applicant states that there will be no retail activities on the property but will there be any processing or wholesale or distribution activities involved with the hives on the property?	<p><u>Acting Manager Planning and Development responded as follows:</u></p> <p><i>The applicant has agreed to defer the item to the August 2021 OCM.</i></p> <p><i>I will be forwarding questions through to him over the next few days which will be incorporated into an updated report for August.</i></p>
Ruthven	Does the applicant have experience with the quantity of hives in this application?	
Ruthven	What are the “alternate forages” referred to in the applicant’s Proposed Development application?	
Ruthven	What consideration has the applicant given to managing the bees’ flight paths, as described on page 5 of the Best-practice	

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	Guidelines for Urban Beekeeping – WAAS 2020, included with the application?	
Ruthven	The Guidelines, on page 3, state that hobby beekeepers can expect to harvest at least 40kg per hive per year. Therefore, as 50 hives could be expected to yield at least 2,000kg of honey per year, what will that quantity be used for?	
Ruthven	What type of water source will the applicant provide?	<i>See above</i>

#### 9.1.3 Request to Amend Development Approval - Lot M1919

*Cr Pearce departed Council Chambers at 4.38pm.*

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Hart	What would be the likely consequences of granting the amended development approval for a limit of 24 months from the date of grant?	<i>Acting Manager Planning and Development responded as follows: This would more than likely be contested at the State Administrative Tribunal. The Council has already granted approval for 10 years.</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Ruthven	Does the applicant (Midland Brick) own the relevant property?	<u>Acting Manager Planning and Development responded as follows:</u> <i>No. The landowner is W. F. Chitty</i>
Madacsí	Are we currently receiving 'load right' information?	<u>Acting Manager Planning and Development response:</u> <i>No not under the current approval, but the purpose of adding this condition relating to truck movements is to ensure that trucks aren't coming on site outside of approved hours of operation and carting, not necessarily to receive the load information. However, please note the load right system is the same as BGC has relied on for many years to legally load clay trucks and provide a record of tons to the Shire when paying Road Contributions each quarter.</i>
Madacsí	What is the cost of installing a traffic counter?	<u>Acting Manager Planning and Development</u> <i>Traffic counters are installed by in-house resources. The Shire does not define fees/charges for the installation of traffic counters.</i> <u>Proponent response:</u> <i>Difficult to know without knowing the type of traffic counter the Shire requires.</i>
Madacsí	Does the traffic counter note weight?	<u>Acting Manager Planning and Development</u> <i>No, traffic counters detect vehicle axles only and measure the number of vehicles utilising the road.</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p><u>Proponent response:</u></p> <p>As far as we understand, the purpose of the condition is not to track the weight of loads, it is to register the time that trucks access the site. There are other conditions of approval which provide information to the Shire on truck movements and tonnages carted. However, please note the load right system is the same as BGC has relied on for many years to legally load clay trucks and provide a record of tons to the Shire when paying Road Contributions each quarter.</p>
Madacsı	What has been the historic demand in operational days?	<p><u>Proponent response:</u></p> <p>This can vary, but as is explained in our submission, the company owner has changed and therefore the operational strategy has also changed. This is one pit in a suite of resources for BGC and the request for Saturday is to provide more flexibility if clay is required during the week. BGC has 2 factories, 12 clay pits, approx. 20 clay types and only 2 cartage fleets (only 2 clay types can generally be carted from at any one time) so the flexibility allows them to provide the clay to the factories on Saturdays if needed. Carting is dependent on the weather so having the flexibility allows for carting if needed on Saturdays if weather is favourable. It should also be noted that transport is approved for this pit on Saturdays in the previous approval.</p>
Madacsı	If the application for extension states carting could be done over 90 days and the request to amend the carting	<p><u>Acting Manager Planning and Development</u></p> <p><u>See above</u></p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	periods from Monday to Saturday is to allow flexibility - why are the remaining 170 days (excluding Weekends & PH) not able to provide the flexibility sought?	
Madacsi	Does the adjoining clay extraction quarry on Lot 11 Chitty Road, Hoddy's Well, referred to in the application, have council permission to cart on Saturdays or do they operate only from Monday to Friday excluding weekends and public holidays?	<p><u>Acting Manager Planning and Development</u>  <i>The approval is for carting on Monday to Friday and limited to 40 trucks per day.</i></p> <p><u>Proponent response:</u>  Yes Saturdays are approved on lot 11.</p> <p><u>Acting Manager Planning and Development</u>  <i>I have looked at the application and it is Monday to Friday. The information the applicant supplied is incorrect.</i></p>
Madacsi	A condition of the development approval was to put in place a truck counter. Does the applicants 'load counter' they have requested to use in place of the traffic counter, provide a record of when trucks are on site or only those trucks loaded with the 'load counter'.?? Can the local government be assured that the data	<p><u>Proponent response:</u>  Yes, the load right technology records the times the trucks are loaded, that will occur very soon after entering the property as the stockpile area is very close to the road, i.e. it is a very close record of when the trucks enter the site. As is mentioned above, the purpose of the traffic counter in the current version of the condition is not to record tonnages, however it is the same technology that records the tonnage information that is provided to the Shire to satisfy the road maintenance conditions.</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	provided to the LG is a true indication of truck movement and tonnage extracted?	
Madacsí	Why is there no mention in the proposed amended Condition 2.21 of the Development Approval, to record the load weight and have the data available to the LG?	<p><u>Acting Manager Planning and Development</u></p> <p><i>The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request.</i></p> <p><u>Proponent response:</u></p> <p><i>There are other conditions of approval which provide information to the Shire on truck movements and tonnages carted.</i></p>
McKeown	In the original application what date did they ask for	<p><u>Acting Manager Planning and Development</u></p> <p><i>It was Monday to Friday. The Applicant advised us that this was a typographical error.</i></p>
Ruthven	If there is a change would it have to go out for public consultation?	<p><u>Acting Manager Planning and Development</u></p> <p><i>We could do further consultation on it if Council was of a mind to do so. The applicants would not mind deferring the item.</i></p>
McKeown	Do we know the particular clay types what the stockpile arrangements are in their processing plant and the capacity they have to stockpile the different clay types?	<p><u>Acting Manager Planning and Development</u></p> <p><i>I will take this question on notice.</i></p> <p><b>Response after Agenda Briefing</b></p>

<b>Questions and Points raised</b>		
<b>Councillor</b>	<b>Questions</b>	<b>Response to be provided by Officer</b>
		<p><b>Response provided by Sharee Rasmussen, Senior Environmental Planner, Land insights.</b></p> <p>Below is some information from Nathan and myself which will hopefully provide the answers to the additional questions arising from the agenda briefing.</p> <p><b>Stockpiling and carting</b></p> <p>The stockpiling system managed by the applicant is complex and critical to brick production. BGC now own both Brikmakers and Midland Brick. The clay resources are utilised as a combined set. BGC now supplies approximately 70% of the brick market in WA. Therefore the construction time frames for the majority of new homes are dependent on BGC brick manufacturing. Particularly during these historic "boom" building times, any delay in production directly impacts the builder and homeowner. For instance, much of the product BGC currently produce is sold prior to it being made so any delays in production have a huge impact on the building industry.</p> <p>The BGC Brikmakers pit is located next door at Lot 11 Chitty Road. This pit has a crossover onto Salt Valley Road approximately 150m east of the Chitty pit crossover. The approval allows for carting on Saturdays subject to conditions (as below). As both these pits are now operated by BGC, cartage will be occurring from time to time anyway along Salt Valley Road. If cartage is restricted at the Chitty pit to between Monday-Friday then the adjacent pit located at Lot 11 will cart on Saturday anyway (when needed). It is</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p>suggested that similar conditions could be applied to the Chitty pit (if excavation and carting on Saturday is approved).</p> <p>Working hours be restricted to:</p> <ul style="list-style-type: none"> <li>(i) within the extraction area, 6:00am and 5:00pm Monday to Saturday;</li> <li>(ii) subject to (iii) for the transportation of extracted material off-site:           <ul style="list-style-type: none"> <li>(a) in the months of October - April inclusive in each calendar year between 6:00am and 5:00pm Monday to Saturday and (b) in the months of May - September inclusive in each calendar year between 6:00am and 5:00pm Monday to Friday and between 5:00am and 12:00 noon on Saturday and;</li> </ul> </li> <li>(iii) in respect of up to 6 nominated Saturdays in respect of each calendar year (with the dates of such Saturdays to be nominated by the Shire in writing to Brikmakers at least three months prior to a relevant date) Brikmakers shall use all reasonable endeavours to avoid carting extractive material off-site on those days, subject to the requirements of its commercial operation, however if Brikmakers carts extracted materials on those days on Shire roads, it shall do so between the hours of 5:00am and 10:00am.</li> </ul> <p><b>Traffic counter</b></p> <p>Further information on the 'loadrite' system can be found in the link below.</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p><a href="https://heavyindustry.trimble.com/en/products/loadrite-l3180-smartscale-wheel-loaders">https://heavyindustry.trimble.com/en/products/loadrite-l3180-smartscale-wheel-loaders</a></p> <p>There seems to be a bit of confusion about the intent of this condition. It is our understanding that the intent of the traffic counter is to provide information on when trucks are entering and exiting the site, not to provide information on tonnages and weight. The independence of information from the 'loadrite' system is no different to if BGC managed their own traffic counter. The reason for proposing the 'loadrite' system is because it is already used by BGC and provides a time record as to when trucks enter and exit the site (the information the Shire is seeking).</p> <p>Information from the 'loadrite' system has already been used by BGC in the past (2015) to address a community complaint about truck movements on Salt Valley Road. In this situation, the record from the 'loadrite' system for the pit on Lot 11 was provided to the Shire as evidence of when trucks were on the site. Please see a copy of this letter attached.</p> <p>Thanks for the opportunity to respond to these queries, we really appreciate your help. If you need anything else please don't hesitate to get in touch.</p>
Madacsı	Was the Shire notified prior to the OCM of the 25 May that the company had changed from Capitary No3 Pty Ltd (Midland Brick) to BGC, or before the OCM Agenda of the 27 July was completed?	<p><u>Acting Manager Planning and Development</u></p> <p>The applicant has not changed, it is still Capitary No. 3 Pty Ltd. BGC bought the shares in Capitary No. 3 Pty Ltd which was finalised in April 2021.</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Madacsi	What are the cartage hours for all extractive industries in Hoddy's well?	<u>Acting Manager Planning and Development</u> I'm not sure of this Hugo, you probably have a better idea than I have!
Madacsi	What is the clay type being extracted by the proponent?	<u>Acting Manager Planning and Development</u> The clay type is a weathered micaceous schist that forms part of the Jimperding Metamorphic Belt. The particular grade extracted here is iron rich, fires red in colour and has very useful drying and fired characteristics. Hence it is a vital raw material for red brick production.
Madacsi	Is this type extracted elsewhere within BCG's declared twelve clay extraction pits given twelve pits are producing 20 types of clay?	<u>Acting Manager Planning and Development</u> No, not this particular grade or quality
Madacsi	What is the anticipated volumes to be obtained by Saturday movements?	<u>Acting Manager Planning and Development</u> This will depend on available truck numbers, however is anticipated to be approximately 1,500 tonnes.
Madacsi	What is the storage capacity at the BGC processing site for this clay type?	<u>Acting Manager Planning and Development</u> Approximately 5,000 tonnes

*Cr Pearce returned to Council Chambers at 4.50pm.*

**9.1.4 Lot 77 Bejoording Road – Retrospective development application for Dams.**

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Ruthven	What stock does the landowner keep on the property?	<u>Acting Manager Planning and Development responded as follows:</u> <i>Sheep</i>
Ruthven	Is there a house on the property? What does 10A mean?	<u>Acting Manager Planning and Development responded as follows:</u> <i>No. The Shire has a record for an approved shed Class 10a from 2006. This is a regular classification for an outbuilding.</i>

*Cr Madacsi departed Council Chambers at 4.53pm and returned at 4.55pm.*

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Ruthven	The consultant's report states that surface water licences are not required and riparian rights apply. Isn't this inconsistent with the <i>Rights in Water and Irrigation Act 2014</i> , sections 11 and 17?	<u>Acting Manager Planning and Development responded as follows:</u> <i>The advice we have received from DWER:</i> <i>Water Licensing Advice</i> <i>The property is located within a proclaimed surface water area. In proclaimed areas, the taking or diversion surface water for purposes other than domestic and/or stock watering may require a licence. The proponent mentions that water from the constructed dams will be used for irrigation of domestic orchard, lawns and gardens, stock watering and potentially</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p><i>firefighting. Should water be required for purposes other than those listed above, a licence will be required.</i></p> <p><i>My interpretation is that the owner does have riparian rights under s. 9(1)(b) of the Act as his intent is for watering of stock and gardens and an orchard. He would not have them under 9(1)(a) because there is no dwelling therefore no domestic use.</i></p> <p><i>With regards to s. 11 this is relating to s. 10 which specifically addresses taking water from a public road or reserve as the access point. As we are looking at an application to take water from a watercourse running through a private property, I do not believe this section is relevant in this instance.</i></p> <p><i>Section 17 relates to the Minister's powers regarding the obstruction of a watercourse. Section 17(3) states:</i></p> <p><i>(3) A person shall not, except as authorised by a permit or by any other Act, obstruct, destroy or interfere with the waters, bed or banks of any watercourse flowing through or over, or wetland situate wholly or partly on, land that has not been granted or demised by the Crown.</i></p> <p><i>It is the Shire's understanding through the DWER submission that:</i></p> <p><i>The Department advises that an application for a permit to conduct the proposed dam rectification works has been received and is currently under assessment.</i></p> <p><i>Therefore, I do not believe the information received in the report is inconsistent.</i></p>

## 9.2 CORPORATE & COMMUNITY SERVICES

### 9.2.1 List of Payments – June 2021

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Pearce	<i>EFT 28570 BS levies June \$2,428.22 What are BS levies and is it an annual payment?</i>	<i><a href="#">Acting Manager Corporate Services response as follows:</a> BS Levies are building services levies that we collect.</i>
Pearce	<i>CL 3465 ATO Refund excess BAS payments \$61,950 is this a refund or a payment? Is it an excess payment?</i>	<i>This is a payment to the ATO as calculated from the BAS statement which identified the payment amount in the June BAS. Generally, if the Shire receives income, e.g. grants, the GST is owed to the ATO. This is offset by the GST amounts paid out to suppliers. FBT owing to the ATO is included.</i> <i>We pay it to them so the word refund should not be used.</i>

Cr Rayner entered Council Chambers at 4.56pm.

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Pearce	<i>CI 3365 CNH Industrial Iveco Truck Lease \$3,207.70. Is this an operating or capital lease? Will the Shire retain the asset?</i>	<i><a href="#">Acting Manager Corporate Services response as follows:</a> The lease is an operating lease and with most operating leases there can be an option to return the vehicle to be replaced with a new leased vehicle or it is possible to negotiate buying out the leased vehicle.</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<i>Normally we would rollover and get a new vehicle.</i>
Pearce	<p>CI 3073 Landgate Rural UV valuation 2020/21 \$11,738.55.</p> <p>Will these be used for Rate calculation in 2021/22 Fin Year?</p>	<p><u>Acting Manager Corporate Services response as follows:</u></p> <p><i>The rates will be applied to the valuations as provided by Landgate across all areas. The final decided revenue for each category will be applied on these valuations.</i></p>
Pearce	12860 Water Sport Rec Precinct March – April \$23,020.45	<p><u>Acting Manager Corporate Services response as follows:</u></p> <p><i>The amount of water consumption for May would indicate both a correction of the water issue and less need for water due to the closed pool.</i></p>
Ruthven	<p>P126, CI 3273, WALGA training – Dealing with Conflict, \$4400, and</p> <p>P126, CI 3274, WALGA training – Meeting Procedures, \$4400</p> <p>Question - How were the costs for providing these training courses determined?</p>	<p><u>Chief Executive Officer response as follows:</u></p> <p><i>It is a set cost and we negotiated with WALGA to come to the Shire of Toodyay to deliver the training so we aren't expensing Councillors going to and from Perth as it is a cheaper option. It does not make any difference how many elected members attend as it is a set cost.</i></p> <p><i>These training courses are part of the requirements for Councillors as specified by the Department of Local Government.</i></p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p><i>There are several providers of these courses including North Metropolitan TAFE and WALGA. Evaluating the options, WALGA was chosen to provide these training Courses.</i></p> <p><i>There were options for delivery including the online and face to face courses. It was decided that the face-to-face option was preferred. The costs of each service provider were reviewed along with other criteria and WALGA on-site training was selected.</i></p>
McKeown	<p><i>The first one is the reference to the amended BAS on page 132. EFT28565. Feb 2020. \$150,000 in retrospect. How did that amendment get made?</i></p>	<p><u><a href="#">Acting Manager Corporate Services response as follows:</a></u></p> <p><b>Response provided after the Agenda Briefing</b></p> <p>From discussions with the Finance Coordinator they found out through the ATO there was an issue with one of them so we reviewed all of them. Some needed to be reviewed and we are not sure why it was done incorrectly.</p>
McKeown	<p><i>Was it an accumulation of corrections?</i></p>	<p><u><a href="#">Acting Manager Corporate Services response as follows:</a></u></p> <p><i>Something may have got missed and I will take that on notice.</i></p> <p><b>Response provided after the Agenda Briefing</b></p> <p>In the internal audit we have been doing, the Finance Coordinator reviewed all the BAS statements, and some had not been reconciled to the ATO since back to February 2020. These have been updated and payments to the ATO have been made.</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
McKeown	<p><i>Cost of water for the Recreation Precinct.</i>  <i>I have added up the cost of water from October last year to end of May this year during this period of high-water bills and it comes to \$166,000 and now is \$1500. I am still not clear on how the water usage came to be. This excess water usage and where the responsibility for that usage lies. Can I be informed about that?</i></p>	<p><u><i>Chief Executive Officer response as follows:</i></u>  <i>The excess water usage has been investigated by the contractors who constructed the centre and I have mentioned before that there has been a bit of discussion between the Shire and those contractors about what the cause of that large water usage is. We have argued that it is in fact a defect liability and have invoiced the construction contractor for a large portion of that excess water.</i></p> <p><i>As far as the technical aspect of why the excess water usage occurred I cannot provide you with detailed information but I am told it was due to the bore that contributes to the shandy arrangement we have to water fields. There was a defect which told the sensors in the bore that there was no water in the bore so more scheme water was used.</i></p>
McKeown	<p><i>I have further questions about the Management agreement with Clublinks that may be best to be asked behind closed doors.</i></p>	<p><u><i>The Shire President deferred to the CEO.</i></u>  <i>The CEO asked if he was happy to raise the query at the Concept forum and he was.</i></p>

### 9.2.2 Monthly Financial Statements – June 2021

Questions and Points raised										
Councillor	Questions	Response to be provided by Officer								
Pearce	<p>Total Operating Revenue – over budget – Extra \$2,233,726. This is a great variance from May 31<sup>st</sup> statement.</p> <p>Would the officer please clarify where these following increases?</p> <table> <tr> <td>General Purpose Funding</td> <td>\$807,000</td> </tr> <tr> <td>LOPS</td> <td>\$311,000</td> </tr> <tr> <td>Rec Culture</td> <td>\$328,000</td> </tr> <tr> <td>Transport</td> <td>\$571,000</td> </tr> </table>	General Purpose Funding	\$807,000	LOPS	\$311,000	Rec Culture	\$328,000	Transport	\$571,000	<p><u>Acting Manager Corporate Services response as follows:</u></p> <p><i>The variance report on page 137 covers some of it.</i></p> <p><i>General Purpose Funding: Receipt of grants as specified on Note 2 Variances on page 137. (The FAGS Grants of \$497,000 and the Roads Improvement Grant of \$342,000 were received early). The State Government Grants Commission often pays in late June nearly 50% of next year's financial assistance grants but they are not income for this year so we have to deal with that at the end of the year but they have actually come in and we are reporting in June.)</i></p> <p><i>Law and Order and Public Safety: The grant income for fire appliances and buildings was more than budgeted. We have received that amount already.</i></p> <p><i>Recreation and Culture: We found that there was an incorrect posting to another account and it was corrected in June.</i></p> <p><i>Transport: There was more grant income than budgeted.</i></p> <p><i>Note: There are instances in the SynergySoft &amp; Datascape where the budgets are not accurate enough. All the revenue has been recorded in Synergysoft.</i></p>
General Purpose Funding	\$807,000									
LOPS	\$311,000									
Rec Culture	\$328,000									
Transport	\$571,000									

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<i>We need to make sure we get those to be more accurate in the coming year but part of the Financial Assistance Grants (FAGs) for 2021/2022 were received in June.</i>
Pearce	<i>A lot of this extra revenue paid in this year but is for next year?</i>	<u><a href="#">Acting Manager Corporate Services response as follows:</a></u> <i>Yes nearly 50%.</i>
Pearce	<p><i>Capital Revenue</i></p> <p><i>Will the Officer please clarify the budget what attributed the Grants and subsidies being under by \$1,690,000; yet Note 11 Indicates in total \$640,000 was not received.</i></p> <p><i>Note 13 Capital Acquisitions DFES – x 2 fire tender not spent approx. 1.2m.</i></p>	<p><u><a href="#">Acting Manager Corporate Services response as follows:</a></u></p> <p><i>The Statement of Financial Activity on page 134 shows Capital revenue of \$1,685,436 not received against the budget.</i></p> <p><i>Note 11: is for operating and capital Grants and Contributions where the Capital Fire Prevention Grant of \$1,382,874 has not been received and is anticipated to be received after the program is acquitted by 31 August 2021. The grant for Bridge No. 700 for \$465,000 has not been received in June and is being processed at the moment.</i></p> <p><i>There are several grants and contributions in Note 11, pages 146 to 148 that show more actual receipts than budgeted were received including the Financial Assistance Grants (FAGs) for \$851,000 for 2021/2022 on the top of page 146. The figure \$640,904 is actual reflecting the net amount of additional Grants and Contributions received over the budgeted amounts. (Budget \$8,023,426 less Actual Received \$8,664,330)</i></p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Pearce	<p><i>Capital Expenses.</i></p> <p><i>Under spent in Land Buildings (97%) - \$3,244,583</i></p> <p><i>Plant Equipment( 82%) - \$1,029,979.</i></p> <p><i>In Note 13, some of these expenses were accrued in 2019/21 Fin Year, and some road projects did not happen, as with the 2 Fire tenders and the 2.8m for the capitalisation of the Rec Centre.</i></p> <p><i>However, I am having difficulty in arriving at the above figures.</i></p> <p><i>Would the officer please explain which projects areas of the budget did not occur?</i></p>	<p><u><i>Acting Manager Corporate Services response as follows:</i></u></p> <p><i>Note 13 on page 150 to 153 - The Recreation Precinct buildings have not been capitalised and will be done as part of the end of year reconciliation. Going forward capitalisation can be actioned on a quarterly basis.</i></p> <p><i>The Morangup Community Centre project has not been done and is being looked into by the MAS and may need Council input and a decision for 2021/2022.</i></p> <p><i>Capital Acquisitions DFES – x 2 fire tender not acquired yet for approx. \$1.138m</i></p>
McKeown	<p>In the capital acquisitions page 151 few outstanding road project not undertaken.</p> <p>Toodyay west road including footpath due to be completed.</p> <p>Why was it not done?</p>	<p><u><i>Acting Manager Assets and Services response as follows:</i></u></p> <p><i>The project is in progress and we have carried over funding to this financial year.</i></p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
McKeown	Toodyay Street we spent \$200,000 on that. Why? How was the decision made?	<p><u>Acting Manager Assets and Services response as follows:</u>  <i>I will take that question on notice.</i></p> <p><b>Response provided after the Agenda Briefing</b></p> <p>On Toodyay Street - Reseal - Capital Works Roads Council Funded there is a budget of \$7,562 with no expenditure to date. There is an error entering the expenditure to this WO line when it should have been three lines up on Toodyay Street - Upgrade - Capital Works Roads to Recovery for \$209,974.75 where it belongs. The recording is in the correct WO in our financial system. Reduced opportunities for entering information on the wrong line will reduce when there is only one financial system operating.</p>
McKeown	Page 140 receivables. There have been several changes on page including the amount of back rates – changes from last month to this month. We have collected \$6.476m this year when we only levied \$6.3m. We have collected \$110,000 more than we had budgeted for / levied. We have not adjusted page 134 the operating YTD actual on the second line of that page still showing the actual is only \$6.286m which comes from an accrual of the amount levied according to note 9. Now	<p><u>Acting Manager Assets and Services response as follows:</u>  <i>Noted - I will take that question on notice.</i></p> <p><b>Chief Executive Officer response as follows:</b></p> <p><i>There is a lot of work that is being done at the moment. Obviously, there was an internal audit which is resulting in a lot of amendments and adjustments and we are working very hard to ensure that we will be giving you the correct information for the budget.</i></p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	we have received more money should the figure not be changed to \$6.476m, otherwise the \$110,000 is not benefitting the operating revenue?	
Madacsı	Is that \$110,000 interim rates or another source?	<p><u>Acting Manager Corporate Services response as follows:</u>  <i>I will take that on notice.</i></p> <p><u>Response after Agenda Briefing:</u></p> <p>On note 6; Receivables there was a change in the reporting of the Opening Arrears Previous Years from 681,435 to 762,557 as identified by Cr McKeown as a previous typo error. With the efforts to recover outstanding rates there has been an increase on the percentage of rates collected, which shows \$110,000 more than last year.</p> <p>The focus is to ensure the reporting is prepared for review by the OAG Auditors who will be on site in September.</p>
McKeown	What is the holdup in capitalising the number in relation to the Recreation Centre?	<p><u>Acting Manager Corporate Services response as follows:</u>  <i>We are working very diligently with the Finance Coordinator in relation to this.</i></p>

## 9.3 EXECUTIVE SERVICES

### 9.3.1 Butterly Cottages Association Inc – Rates Exemption

*Cr Chitty departed Council Chambers at 5.20pm.*

Questions and Points raised										
Councillor	Questions	Response to be provided by Officer								
Madacsı	The amount of rates to be waived of \$14,537.58 is a significant amount and in the interest of community equity what is the profit and loss, or other financial justification of Butterly Cottages to support this request?	<p><u>Chief Executive Officer response as follows:</u></p> <p><i>We do get submitted the financials each year from Butterly Cottages and we have the audited financial statements for the year ended 30 June 2020. We will make them available on the hub for Councillors. The 2021 financials have not yet been done.</i></p>								
McKeown	How many households are involved in this?	<p><u>Chief Executive Officer response as follows:</u></p> <p><i>I will take that on notice.</i></p> <p><u>Response provided after the Agenda Briefing</u></p> <table> <thead> <tr> <th>Property Detail</th> <th>No. of Units</th> </tr> </thead> <tbody> <tr> <td>A4639 (Lot 80) 15 Anzac Ave Toodyay WA 6566</td> <td>9 units</td> </tr> <tr> <td>A1980 (Lot 11) 1/A-D Harper Rd Toodyay WA 6566; and</td> <td>9 units</td> </tr> <tr> <td>A2996 (Lot 55) 2 Henry St Toodyay WA 6566</td> <td>3 units</td> </tr> </tbody> </table>	Property Detail	No. of Units	A4639 (Lot 80) 15 Anzac Ave Toodyay WA 6566	9 units	A1980 (Lot 11) 1/A-D Harper Rd Toodyay WA 6566; and	9 units	A2996 (Lot 55) 2 Henry St Toodyay WA 6566	3 units
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A2996 (Lot 55) 2 Henry St Toodyay WA 6566	3 units									

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Ruthven	When the waiving of the other properties approved was it open ended	<p><u>Chief Executive Officer response as follows:</u>  <u>It was open ended.</u></p> <p><b>Response provided after the Agenda Briefing</b></p> <p>The detail of all of the previous Council resolutions relating to all the properties is contained in the Officer's Report. This is the reason for the Officer's Recommendation. So long as the properties remain in the control of Butterly Cottages Association Inc, the waiving would be in place. This recommendation is re-affirming Council's commitment on all three properties.</p>
Pearce	Are rates waived in other accommodation units for other regional organisations by other local governments.	<p><u>Acting Manager Corporate Services response as follows:</u>  <i>There are a number of charitable organisations leasing out properties to aged people. Some of them are defined as being organisations that are "for the elimination of poverty and they are rate exempt." There are approximately 2,000 across the whole state so it is fairly common.</i></p>
Ruthven	Do we know if there is any criteria to be eligible that future residents	<p><b>Response provided after the Agenda Briefing</b></p> <p><u>Chief Executive Officer response:</u></p> <p>Council is not being asked to consider how Butterly Cottages Association Inc run their organisation, nor the criteria that prospective residents face with respect to admittance into the Butterly Cottages Association Inc (as a licensed Charitable Organisation) Housing system. However, information related to the charitable institution of</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p>Butterly Cottages Association Inc is included in the Agenda and the Attachments as specifically outlined below:</p> <p>Page 39 of the Agenda states</p> <p>The Department of Housing (Government of Western Australia) publishes a Community Housing Rent Setting Policy (locatable publicly at this link: <a href="https://www.housing.wa.gov.au/HousingDocuments/Community_Housing_Rent_Setting_Policy.pdf">https://www.housing.wa.gov.au/HousingDocuments/Community_Housing_Rent_Setting_Policy.pdf</a> which states:</p> <ul style="list-style-type: none"> <li>• Providers must charge an affordable rent of no less than 25% and no higher than 30% of a household's net (after tax) income;</li> <li>• No rent can exceed the current Market Rent for any property; and</li> <li>• Commonwealth Rent Assistance (CRA) must be factored into any determination of rent.</li> </ul> <p>Page 157 states: All Butterly Cottages applicants are required to provide Centrelink Statements of Assets and Income to ensure that they are in need of low-cost accommodation, i.e.. needy circumstances.</p> <p>Page 159: defines the example that Butterly Cottages Association Inc must adhere to in order to be considered a charitable body; the first head of charity being relief of the aged, impotent and poor (providing low-cost accommodation to persons in needy Circumstances).</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p>Page 165 of the attachments: provides Council with a copy of the Certificate of License that has been issued to Butterly Cottages Association Inc by the Department of Mines, Industry Regulation and Safety (Consumer Protection).</p> <p>As a licensed charitable organisation, Butterly Cottages must follow the guidelines that the Department of Housing provide to them in respect to providing low-cost housing.</p>

*Cr Chitty returned to Council Chambers at 5.26pm.*

### 9.3.2 Related Party Disclosure Policy

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
McKeown	<p>Page 215 of the attachments just seems a comment on the way the table of the form is set out – e.g. under no. 3 ordinary citizens transaction – have to answer the question but nowhere there where you can answer the question.</p>	<p><u>Chief Executive Officer response:</u></p> <p><i>I will take that question on notice.</i></p> <p><b>Response provided after the Agenda Briefing</b></p> <p>The typographical error in the form has been fixed.</p> <p>Both questions in Box No. 3 are not just a Yes or a No response. This form works the same way the Annual Return forms work whereby if a person completing the form has, or a member of their close family has used any council facilities and received a discount or special terms that they would not otherwise be offered to any other member of the public then they are obliged to put the detail of those visits or uses in the boxes</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p>and columns underneath. If they or their close family had not received discounts or had special treatment in respect of their use of shire facilities then the person completing the form would just put "Nil" in each of the boxes (four of them) to indicate a No answer.</p> <p><b><u>Note: the front page states the following:</u></b></p> <p><b>If a particular area is not applicable, do not leave question areas blank. Please answer 'Nil' for the purpose of removing doubt with regard to completion of the form.</b></p>
McKeown	<p>Do we have to answer question 2 if the entity that we jointly control has nothing to do with anything in the Shire of Toodyay.</p>	<p><u>Chief Executive Officer response:</u></p> <p><i>I will take that question on notice.</i></p> <p><b><u>Response provided after the Agenda Briefing</u></b></p> <p>The RPD policy being considered by Council defines what an entity is as follows:</p> <p><i>Entities include companies, trusts, incorporated and unincorporated associations such as clubs and charities, joint ventures and partnerships.</i></p> <p><i>You control an entity if you have:</i></p> <p class="list-item-l1">(a) power over the entity;</p> <p class="list-item-l1">(b) exposure, or rights, to variable returns from involvement with the entity; and</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
		<p>(c) <i>the ability to use your power over the entity to affect the amount of your returns.</i></p> <p><i>Close members of the family of a related party (person filling out the form) are those family members who may be expected to influence or be influenced by that person in their dealings with the reporting entity (Shire of Toodyay).</i></p> <p><i>If the related party's entity has <u>no business relations</u> with the Shire of Toodyay then you may do as instructed on the front of the form and <b>If a particular area is not applicable, do not leave question areas blank.</b> Please answer 'Nil' for the purpose of removing doubt with regard to completion of the form.</i></p>

### 9.3.3 Voting Delegates for the 2021 Annual General Meeting of the WA Local Government Association.

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Cr Rayner	Is anyone going to the AGM of the LG Association?	<p>Clarification was sought.</p> <p><u>CEO:</u> Any councillor can attend. Which Councillors are intending to attend?</p> <p><u>Shire President:</u> I am intending to attend.</p>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Madacsı	Are there any other Councillors intending to go?	Cr Ruthven: <i>I am intending to attend.</i> Cr Pearce: <i>I am intending to attend.</i> Cr McKeown: <i>I am considering attendance.</i>

#### 9.3.4 Standards for CEO Recruitment and Selection, Performance Review and Termination.

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
Cr Pearce	Can we add: One year before expiration of CEO contract, councillors are given the opportunity to complete recruitment/selection panel training.	<u>Chief Executive Officer response:</u> <i>Yes it is possible. It is a decision of Council.</i> <i>I can help with wording for an amendment.</i>
Cr Pearce	In situation where sudden requirement to fill the CEO position, if there are no trained/ experienced Councillors available, then Councillors proposed to be a part of the panel are provided with opportunity to	<i>See above response</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	attend training while acting CEO is in place	
Cr Pearce	Where in your email you have selection panel must have a suitably qualified HR consultant, I think the wording might be more suitable with SHOULD rather than must.	<i>See above response</i>
Cr Pearce	Perhaps also add it is desirable that The independent selection panel member to have demonstrated, selection panel or other relevant experience ( e.g. Organisational Psychologist ) or training.	<i>See above response</i>
Ruthven	Terms used on the front additional performance criteria under clause 3.31b. Page 5 of the document performance criteria in addition to the contract. Will they be in addition to KPI's?	<i><u>Chief Executive Officer response:</u></i> <i>Yes it would be in addition to the contracted KPIs and may be related to something that has arisen since the KPIs were first agreed and approved. Council may deem there needs to be a performance indicator around a situation that has arisen since.</i>
Ruthven	Would that be an absolute majority decision?	<i><u>Chief Executive Officer response:</u></i> <i>This is a simple majority decision and it would have to be agreed between the CEO and Council.</i>

### 9.3.5 Approval of Chief Executive Officer Leave Requests.

No questions.

### 9.3.6 Governance Review – Recommendation to Department of Local Government, Sport and Cultural Industries.

CEO pointed out that there was a Revised Officer Report available and the Consultant's Report had been put onto the website and the hub today.

The Shire President asked for members to provide questions via email to the CEO if they did not have them formulated as yet for the Briefing.

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
McKeown	There was a timetable that was in the original report and not that has been removed from the revised report. Who designed and agreed to that timeframe?	<u>Chief Executive Officer response:</u> <i>That was agreed with the Department in February.</i>
McKeown	Because it is not in the Revised report the OREC 2b says present an action plan to address at the August 2021 OCM but final report and recommendations are not required to be presented to Council till 28 September according to their timetable.	<u>Chief Executive Officer response:</u> <i>The Consultants advised this is their final report and suggests that the final report to the Department includes an action plan to address the recommendation made.</i>

Questions and Points raised		
Councillor	Questions	Response to be provided by Officer
	Under the original timetable if this is a shire governance report why would we send it to the department before we finalise it?	<p><u>Chief Executive Officer response:</u>  <i>This was a directive from the Department.</i></p>
	This then goes back to 2a in the new OREC. If this is the final report then the interim report is due by 30 July but final not due till 30 September so if we have not got interim report we do not have to provide it by 30 July	<p><u>Chief Executive Officer response:</u>  <i>The intent was so that the Department could see the progress being made on the Governance Review. When I discussed this with the Consultants they advised that this is our report but Council is now required to decide what is intended to address the recommendations and that response will then form the final report to the Department that is due in September 2021.</i></p>
Rayner	Do we have to notify the department we will just send them a final?	<p><u>Chief Executive Officer response:</u>  <i>I am proposing we send the Consultant's report to the Department now and then as the final report, we send a copy of the consultant's report along with the action plan that Council agrees to.</i></p>
McKeown	Is it better to stamp interim on the front of it?	<p><u>Chief Executive Officer response:</u>  <i>I am happy to do that.</i></p>

#### **9.4 ASSETS AND SERVICES**

No reports.

#### **9.5 COMMITTEES**

##### **9.5.1 Museum Advisory Committee Recommendation**

No questions.

##### **9.5.2 Environmental Advisory Committee Recommendation**

No questions.

### **10. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

No questions.

### **11. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

No questions.

### **12. QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

No questions.

### **13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

#### **13.1 MEMBERS**

No questions.

#### **13.2 EMPLOYEES**

No questions.

**14. CONFIDENTIAL BUSINESS**

No questions.

**15. NEXT MEETINGS**

Bush Fire Advisory Committee	3 August 2021
Local Emergency Management Committee	11 August 2021
Audit and Risk Committee	12 August 2021
Agenda Briefing	17 August 2021
Council Meeting	24 August 2021
Museum Advisory Committee	26 August 2021

**16. CLOSURE OF MEETING**

There being no further business, the Shire President, declared the Agenda Briefing closed at 5.42pm.





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Mr John Erceg  
Executive Director Central and Northern Regions  
Main Roads Western Australia

2<sup>nd</sup> June 2021

Dear Mr Erceg

I am following up to our meeting of Thursday 20<sup>th</sup> May where representatives of SASTR met with yourself and colleagues from Main Roads Western Australia (MRWA) to discuss the planned changes to Toodyay Road.

At the meeting we noted your hesitancy to provide any minutes of the meeting despite having one of your colleagues there taking notes, so we see this letter as essential to ensuring that there is a clear understanding of the issues that SASTR is raising with your organisation.

We also see this letter as necessary because we came away from the meeting with the general impression that our requests and comments on the present plans for Toodyay Road were essentially dismissed.

As I noted, the meeting was primarily to indicate our concerns about specific areas of the roadworks but we were also seeking some additional information as follows:

- The full report of the impact on the environment of the planned road works – your response was to say that this is available to the public but we are again confirming that it is not available since it is password protected. We would also appreciate knowing who prepared this report? Specifically, was it prepared by GHD or by appropriately qualified environmental consultants.
- On the assumption that a business case is used to justify funding the works, we request that a copy of the Business Plan be made available for perusal by SASTR.

Before dealing with our request for specific changes, we wish to reiterate our comments on two points raised in the general discussion.

First, I made the case for seeing the inherent value of travelling along Toodyay Road as being similar to that of Caves Road which has also faced calls to be widened but the local community has resisted, not wishing to adversely impact the roadside environment. Your response I believe, was to say that the two roads are different in the sense that there are no tourist businesses along Toodyay Road as there are along Caves Road.



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This indicates your misunderstanding of the case we are making.

There are indeed few tourist businesses along Toodyay Road. However our case is based on the inherent environmental value, and in some areas, the heritage value of the presence along Toodyay Road of ribbons of remnant native vegetation containing trees such as Powderbark Wandoos. These of course compare to the Karri trees on Caves Road. These ribbons of green have long been shown to be wildlife corridors and are essentially complex linear niche ecosystems for both flora and fauna.

We seek as much preservation of this as can be managed with the acknowledged need to improve the road.

Second, the case was made by your Environmental Manager that orchid plants can be transplanted. We expressed some scepticism about the success of such transplantation and we take this opportunity to reiterate that point because in the view of professional botanists and ecologists it is indeed difficult for such plants to be successfully transplanted. It is important that MRWA appreciates the difference between transplanting and successful transplantation. The orchid community in question on Toodyay Road is centred on a pedogeomorphic system dating back some 30 million years.

Is your Environmental Manager aware that:

- At the micro scale, there is an orchid density of approximately 57 plants per square metre;
- The surface is a layer of accumulating eucalyptus leaf litter up to 300mm thick;
- This surface blanket of litter overlies a 30mm surface horizon of organic matter containing a component of very fine sand and coarse silt;
- This organic horizon is characterised by a very high fungus component, while at the same time being strongly hydrophobic, and has an electrical conductivity of 259 $\mu$ S/cm;
- This critical organic horizon overlies a transported gravel/fine sand horizon with water retention capabilities, has a pH of 6.6, and an electrical conductivity of 242 $\mu$ S/cm.
- There are several mature Marri trees which provide filtered light through a canopy cover of the area at 65%-70%, essential for successive generations to emerge as they have done in abundance.

This is a highly evolved ecological niche, and to assume that species living in this micro habitat can be just picked up and transplanted successfully is a monument to ignorance.



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A similar issue was highlighted recently on the ABC with another roadbuilding exercise which can be seen here (<https://www.abc.net.au/news/2021-05-21/rare-plant-species-found-near-highway-coffs-harbour-nsw/100149038>).

In terms of transplantation, we also point out that approximately two-thirds of the grass trees moved from the Toodyay Road prior to the works starting in the Jingaling Brook Road area are now dead! So at the risk of repetition, we seek preservation not transplantation.

Finally these are the specific changes to the current plans that we are requesting:

- Between Dryandra and Morangup roads where clearing is taking place on both sides of the road, there is an area of orchids (*Thelymitra macrophylla*) which are of outstanding beauty and accordingly worthy of preservation (see previous comments about transplantation).
- Close to the junction of Fernie Road where clearing needs to take place to accommodate a turning lane, which we fully support, proposed roadworks may impact the Beelaring Spring and associated wetland. There are very few similar spring-fed wetlands in the hills area. This wetland is the result of the interaction of complex hydrogeomorphic slope system components, changes to which may have negative impacts on both wetland vegetation and flora and fauna.
- At the junction of Sandplain and Salt Valley Roads there are many Powderbark Wandoos (*Eucalyptus accedens*), but in particular there are three trees of noteworthy age which we estimate one to be more than 400 years old, another c.400 years old and the third c. 270 years old. These ancient trees containing many habitat hollows have been planned for removal, and we seek their preservation.

In summary, we seek consideration of these three key areas and changes to the present design plans for the preservation of the natural roadside environment.

We emphasise the seriousness of these requests and that they not be dismissed out of hand. We are seeking to protect what are considered to be end-point ecological niches in the roadside environment. Given the losses that are going to take place overall as part of the upgrades, some of which are clearly needed, we are asking for relatively minor changes in road design.



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If these changes can be accommodated, there is every chance that they will enhance the environmental credibility of MRWA.

Yours sincerely,

A handwritten signature in black ink that reads "Andrew St John".

Dr Andrew St John  
Chair, Safe and Scenic Toodyay Roads Inc.

CC:

Mr Craig Manton, Regional Manager, MRWA  
Ms Suzie Haslehurst, CEO Toodyay Council  
Mr Shane Love, MLA Moore  
Mr Darren West MLC Agricultural Region  
Ms Rita Saffioti, Minister for Transport & Planning



## 156 Folewood Rd - Proposed Amalgamation View A

Legend  
 Cadastre



Notes



Date produced: 17-May-2021

1

THIS MAP IS NOT TO BE USED FOR NAVIGATION

THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend

## Notes

John & Colette Gibbons

Redacted Information

TOODYAY

WA 6566

The Chief Executive Officer

Shire of Toodyay

PO Box 96 TOODYAY

WA 6566

17 May 2021

Dear Madam,

**Proposed permanent road closure of portion of Folewood Road with a view of purchasing and amalgamating into Lot S39 Folewood Road**

In September 2020 my husband and I purchased our new home at 156 Folewood Rd (Lot 39) Toodyay and have since then spent a great deal of time and energy successfully reducing the considerable fuel load on the steeply sloping 6 acre block that had built up over the past 15 years or more and represented a huge fire risk.

Alongside the South-Western boundary of our block is an area of road reserve where Folewood Road used to pass before it was diverted slightly to the South with a cutting some years ago. This has left an island of trees, rocks and debris between the old and new road areas adjacent to our block, and through which we access our block.

We are concerned at the amount of rubbish (rusted metal, broken bottles etc) on this "island" as well as the considerable fire hazard it presents to blocks 156 and our neighbours at 158 (Lot 40) because it is unmanaged, steeply sloping and full of fallen trees.

We would therefore be grateful if Council could consider closing a portion of Folewood Road as shown on the attached diagram, in order that we can subsequently purchase it and amalgamate it into our Lot 39. We would then wish to move the fence line and tidy up the debris and broken trees. I confirm that we will be maintaining the existing landscape of trees and rocks on this area.

Please note that we are only wishing to amalgamate the portion of the road reserve adjacent to our block as shown on the attached diagram. We do not wish to change the status of the flat cleared area in front of the gate to 158 Folewood Rd which is useful as a safe layby area for the emergency services at the Targa West Rally, as well as good off-road access (from a very fast road at the top of a hill) for both properties 156 and 158.

I attach some photos of the land in question as well as a Google Street View and the proposed block area/dimensions.

I look forward to your positive response.

Kind regards

Redacted Information

Colette Gibbons

Redacted Information

This Page has been Left Blank "Intentionally,"

Street View of area outside Plots 158 and 156 with proposed amalgamation area in blue.





Large fuel load (above photos) being a fire hazard.  
Debris and rubbish in area (below photos).



16 May 2021

Shire of Toodyay,  
7 Piesse Street,  
Toodyay, WA 6566

ATT: *Planning Department*

## Proposed Development

Dear Sir/Madam,

Sergey Grigoryev and Elena Kudryashova of Lot 58 (No. 676) McKnoe Drive, Morangup, WA 6083 lodge this application seeking an approval for a development. This application proposes the keeping of 50 hives on the property pursuing a small-scale hobby apiary.

### Property details

The 100,248m<sup>2</sup> property is bound by McKnoe Drive to the West and neighbouring properties of similar size to other sides. It comprises the predominantly cleared land and a single house, and an incidental water tank along with two outbuildings. The surrounding properties are mainly single houses with associated outbuildings.

The property is zoned 'Rural Residential' under Local Planning Scheme No. 4, and 'Apiary' is considered a Discretionary ('D') use in the zone.

Figures 1, 2 and 3 below provide an overview of the location.

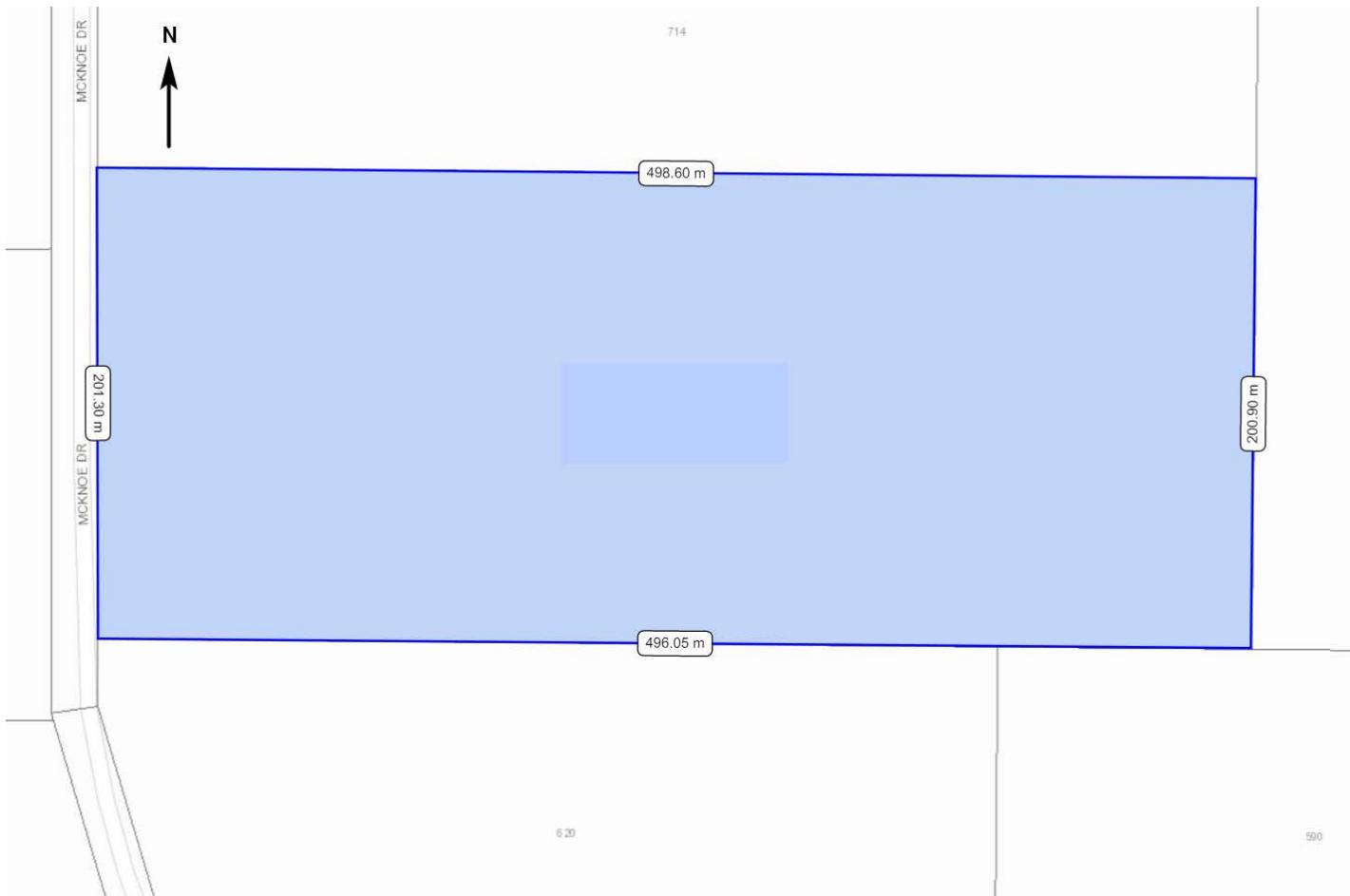


Figure 1 Approximate dimensions

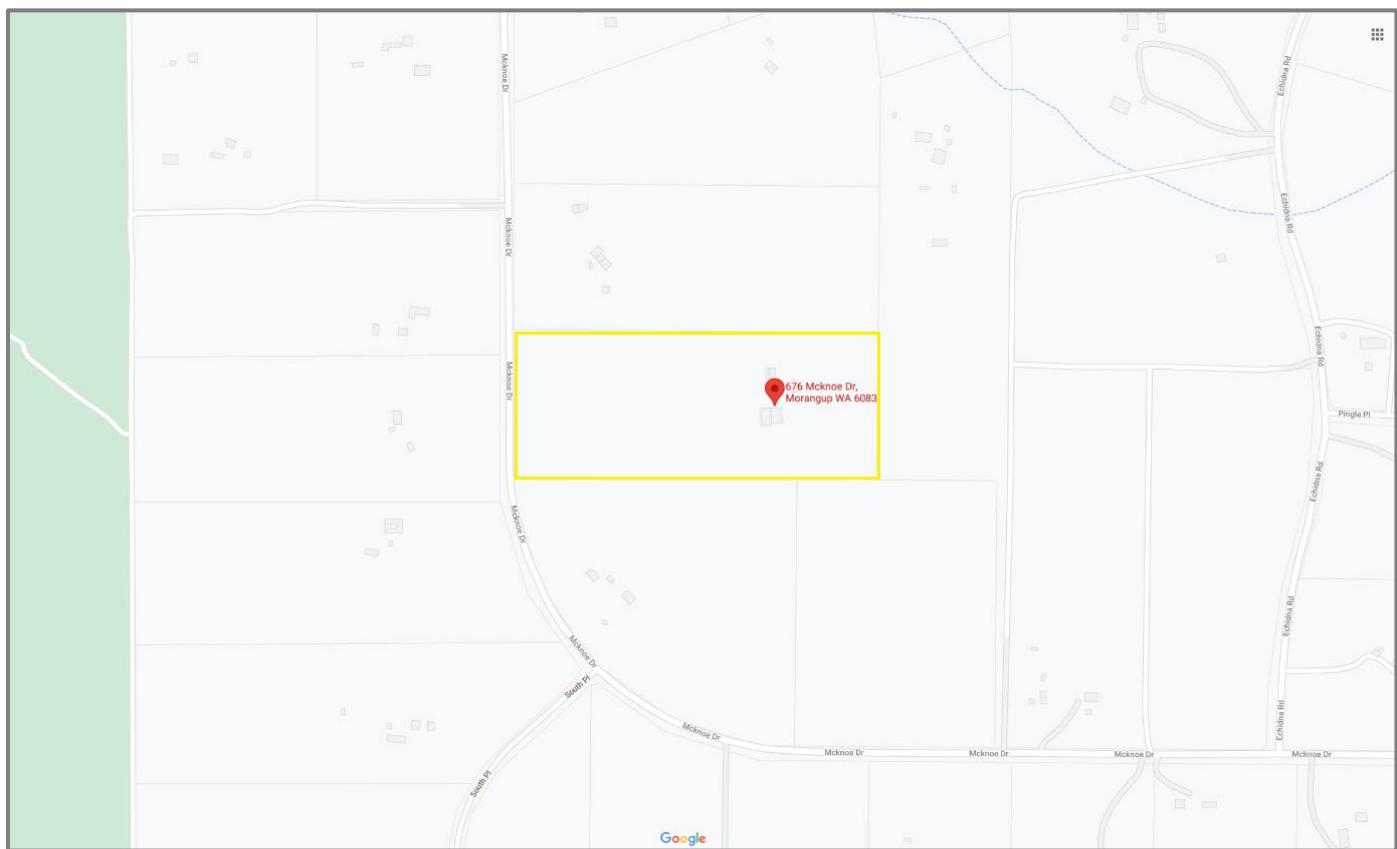


Figure 2 Street map



Figure 3 Satellite imagery

## Details of the proposed development

This application proposes the keeping of 50 hives on the property pursuing the small-scale hobby apiary. Hives will be kept on the property all year around. This proposal does not include hiring any additional personnel. There will be no retail activities on the property.

A location for the proposed beekeeping site is outlined in the Figure 4 below. It includes a watering point (a blue dot on the aerial photo) to provide bees with water through hotter period of the year. Hives will be positioned approximately 250m and 220m away from two closest dwellings belonging to neighbours.

The property is surrounded by mainly uncleared land as shown on Figure 3. The area is covered by dense vegetation providing an ample source of nutrients for bee colonies. 'NatureMap' (<https://naturemap.dbca.wa.gov.au/>) lists approximately eighty four plant species within ~5km radius from proposed beekeeping site. Some species of eucalyptus trees, e.g. Marri, Jarrah and Wandoo,

are major sources of nectar and pollen in the region. According to the book 'Honey plants in Western Australia' (F. G. Smith, 1961), plant species of the forest zone in Western Australia are able to produce nectar and pollen all year around. Despite that, applicants recognise those sources of nutrients are not always reliable and prepared to provide alternative forages to colonies as required.



Figure 4

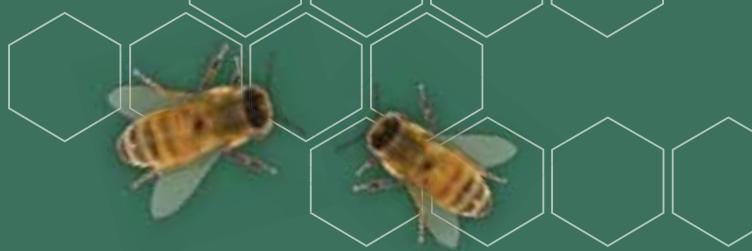
## Background of applicants

Both owners of the property have years of experience in beekeeping and are members of Western Australian Apiarists' Society. Sergey is a Bachelor of Agricultural Sciences and studied beekeeping as a part of the qualification. He is also is a registered in Department of Primary Industries and Regional Development as a beekeeper (Ref.: Registration № 39845).

Best regards,

Sergey Grigoryev

Elena Kudryashova



# National Best Management Practice for Beekeeping in the Australian Environment



**The Australian Honey Bee Industry Council**  
[www.honeybee.org.au](http://www.honeybee.org.au)

Industry Partnerships Program – Action Partnership Grants  
Part of the Australian Government's Agriculture – Advancing Australia Package



**Australian Government**  
Department of Agriculture,  
Fisheries and Forestry



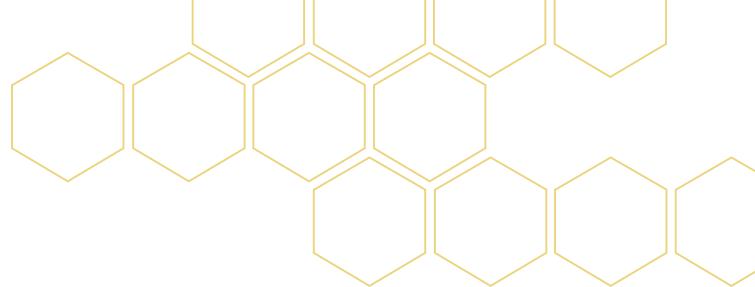
NSW DEPARTMENT OF  
PRIMARY INDUSTRIES

Project conducted on behalf of AHBIC

*Principle investigator*

**Dr Doug Somerville**  
Technical Specialist Honey Bees  
NSW DPI





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*“Bees play a vital role in maintaining the production and growth of the range native and non-native plants found across Australia today.”*



## Foreword

In times of drought, uncertain climate forecasts and tough markets, farmers are relying heavily on quality pollination services to increase their productivity.

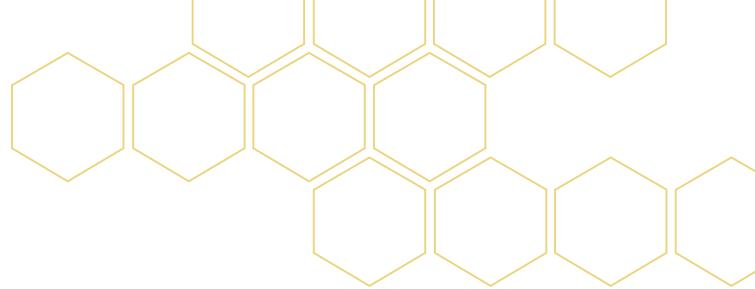
To provide those services, the bee industry needs to safeguard its access to public native forests. The Australian Honey Bee Industry Council has been working closely with bee keepers and with managers of native floral resources on this very important issue.

The bee industry contributes around \$60 million a year to the Australian economy through honey and related products. But in addition, the contribution of pollination services to agriculture is estimated to be worth billions of dollars annually.

To allow us to continue to support farmers across the nation, we hope that a unified voice and a clear explanation of the minimal environmental footprint of bee keepers will maintain our industry's access to floral reserves.

These Best Management Practice guidelines show that we have set very high standards for ourselves. We expect bee keepers to meet these standards and to maintain strong commitment to environmentally sustainable practices.





Under the Federal Government's Advancing Agricultural Industries Programme, stakeholders from across the country joined forces to identify and resolve the most important aspects of native floral reserve access.

Significant consultation and spirited discussion have produced a practical and relevant Best Management Practice guidelines. Environmentally responsible bee keeping practices will help our industry to face up to the uncertainties of the future and continue to provide the efficient pollination services that sustain Australian agriculture.

I am confident that the implementation of these Best Management Practice guidelines will secure a sweet future for our honeybee industry.

**STEPHEN FEWSTER**  
*Chairman, Australian Honey Bee Industry Council*



*“This little animal is a valuable asset to Australia’s agricultural future and long-term prosperity”*

# Background

The necessity for a National Best Management Practice set of guidelines for Australian beekeepers was initially tabled at a two day workshop held in Canberra in September 2005. Funds were successfully obtained from the Federal Government, and the project was completed by Dr Doug Somerville, Technical Specialist (Honey Bees), NSW Department of Primary Industries.

A committee was formed by the Australian Honey Bee Industry Council (AHBIC) of 20 persons to assist in providing feedback and direction to the process. They were Lindsay Bourke, Rex Carruthers, Paula Dewar, Leigh Duffield, Stephen Fewster, Ken Gell, Don Keith, Darryl Lawrence, Trevor Monson, Trevor Morgan, Ben Oldroyd, Elwyn Papworth, David Paton, Ed Planken, Greg Roberts, Doug Somerville (chair), Ian Stephens, Bill Weiss, Julian Wolfhagen and Ian Zadow.

Part of the process in developing a national set of guidelines for beekeeping in the Australian environment was the facilitation of a workshop in each state. Each state member beekeeping organisation within AHBIC was asked to identify and invite persons to participate in the development of a national set of guidelines.

Each workshop was provided with presentations on the formulation of industry codes and environmental management systems. The participants were then divided into small groups and given the tasks of discussing what it is that they want from the workshop, how detailed the guidelines should be and what should be the key elements. Discussions within the smaller groups and feedback within the larger group occupied the lion's share of each workshop. Individually, each participant was also asked to complete a workshop feedback and evaluation form. The combination of responses from the workshop process and the feedback/evaluation forms was the basis of the National Best Management Practice for Beekeeping in the Australian Environment.

The facilitators at each workshop were Dr Doug Somerville, Technical Specialist (Honey Bees), and Nick Annand, Apiary Officer, both NSW Department of Primary Industries staff, belonging to the Honey Bee Industry Group.





The workshop participants for each state were:

**QLD** (13/2/07) – Peter Barnes, Neville Bradford, Carmel Burnham, Rex Carruthers, Paula Dewar, Bill Gordon, Bob Johnson, Don Keith, Tony Knight, Dave Learoyd, Rodney Ruge, Patricia Swift, Trevor Weatherhead.

**NSW** (23/2/07) – Neil Bingley, Warwick Bratley, Todd Duffy, Ray Hull, Bryn Jones, Craig Klingner, Mick Ryan, Bill Weiss, Eric J Whitby, David Mumford.

**VIC** (27/2/07) – Linton Briggs, Robert Buntine, Mick Camilleri, Graham Connel, Ken Gell, Rod Gell, David Major, Bob McDonald, Robert McDonald, Trevor Monson, Marie Murley, Terry O’Kane, Bill Shay, Alan Smith, Eric Smith, John Ward.

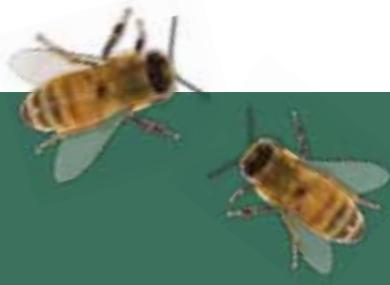
**TAS** (8/3/07) – Lindsay Bourke, Rod Bourke, Yeonsoon Bourke, Reg Down, Hazel Hoskinson, Hedley Hoskinson, Norman Hoyle, Ian Marmion, Greg Rainbird, Graeme Raphael, Ian Stephens, Robin Thomson, Des Willmott, Julian Wolfhagen.

**SA** (27/3/07) – Leigh Duffield, Darrell Lawrence, Nadia McLaren, Jude Nettleingham, Barry Pobke, Michael Stedman, Michael Stone, Ian Zadow.

**WA** (20/4/07) – Malcolm Briggs, John Davies, Stephen Davies, Harry East, Brendon Fewster, Colin Fleay, Jacqui Hay, Ron Hollett, Alan Kessell, David Leyland, Rod Pav, Wayne Ridley, Tracy Shea, Bill Trend, Cheryl Wong, Wally Zajac.



## Introduction

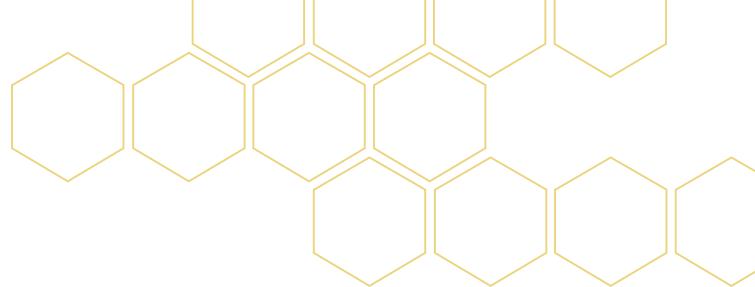


The Australian beekeeping industry is faced with mounting issues in a range of fields, the economic viability of commercial beekeeping is being continually squeezed and the threat of exotic pests and diseases is of major concern. The one over-riding factor with a greater capacity to affect the medium to long-term viability of the Australian beekeeping industry is the availability of suitable floral resources that will consistently produce pollen and nectar vital for the survival and productivity of a honey bee colony. Quite an extensive number of threats, past and present, have been listed by the beekeeping industry. They are:

- land clearing for agriculture;
- forestry activities that remove flowering trees;
- replacement of felled trees with pine and low pollen and nectar yielding eucalypt plantations
- fires, including back burning and natural bushfires;
- reduction in vehicle access to quality apiary sites;
- salinity affecting the health of the available flora;
- droughts, which reduce flowering and interrupt growth cycles;
- control of weed species that provide pollen and nectar for honey bees;
- urban sprawl, which reduces mature vegetation and limits the size of apiary sites due to safety concerns;
- loss of access to native forests because of transfer from State Forests to National Parks; and
- reduced access to native flora on private lands because of a perception by some landholders that honey bees are harmful to the ecosystem and a threat to personal safety.

Some persons in the community have taken the position that, as managed honey bees are exotic insects, they have no place in any conservation reserve.





This view is of increasing concern to the Australian beekeeping industry due to the ever-increasing area of land being gazetted under a conservation memorandum. The debate on the impact of honey bees on the Australian environment will not be resolved by any single event.

Even though the beekeeping industry has a clear objective of preserving native flora, the industry's position on access to government lands in particular is tenuous and will need a strong proactive stance to counter extreme views. By adopting a 'National Best Management Practice for Beekeeping in the Australian Environment', the beekeeping industry is in a more favourable position to demonstrate that it has a thorough understanding of its environmental impacts, and can adequately manage these impacts.

The honey bee industry stands for and depends on the preservation of native flora and hence has much in common with those in the community whose values support nature conservation and the establishment of conservation reserves. The National Best Management Practice for Beekeeping in the Australian Environment has been provided by the beekeeping industry to complement the conservation principles it has historically held. The future of the beekeeping industry is at risk while the health of the landscape is in decline. Beekeepers have acknowledged their concerns regarding the loss of floral resources for decades in their journals and in the political arena. During the development of the national guidelines existing regulations and conditions of use were reviewed. The guidelines developed in this document have gathered all of the key points from these various documents as they relate to the environment and incorporated them into the key elements.



# Summary

The Australian beekeeping industries have long recognised the ideal of minimising any impact of their activities on the greater environment.

The formalising of a set of national best practice guidelines for beekeeping in the Australian environment demonstrates to the whole community the commitment that the Australian beekeeping industries has to ensure that it is doing everything in its power to eliminate and minimise its potential impact on the whole Australian environment.

The guidelines are provided for beekeepers to clearly understand their role to the greater community and also to provide to the public an outline of what all beekeepers should be adopting in their keeping and management of honey bees. The guidelines are not specific to any single beekeeping group and all elements may not be applicable to each individual manager of bee hives. For further information and detail on the elements, refer to the full set of guidelines.

The elements, in no particular order, are:

- 1) Respect for heritage and areas of interest to indigenous Australians.
- 2) Display warning signs in appropriate places to announce proximity of apiary to the public.
- 3) Maintain stocking rates to the floral conditions prevailing. Ensure colonies have adequate stored honey.
- 4) Ensure that the appropriate authorities have been notified of the arrival and departure of apiaries and they have the beekeeper's address and contact details.
- 5) Keep the area of the apiary clean and tidy.
- 6) Ensure appropriate availability of water when required.
- 7) Incorporate best management practice to reduce the incidence of swarming.
- 8) Maintain swarm traps in and around apiaries, particularly during the spring period.





- 9) Prevent the spread of soil pathogens such as phytophthora and weed seeds by vehicle movements. Clean footwear/shoes and vehicle after inspecting potential sites in high risk areas.
- 10) Regularly maintain and service vehicles according to manufacturer's recommendations.
- 11) No travelling on access tracks when there is a high likelihood of damaging the track.
- 12) Only the immediate area of the apiary is to be cleaned of combustible vegetation.
- 13) Only camp on site with the approval of the property owner or manager. All presence of the camp site to be removed once the camp is finished with.
- 14) All fire warnings and restrictions are to be strictly adhered to and local fire codes should be taken into consideration whenever working bee hives.
- 15) Whenever the opportunity arises, provide information on the value of nectar and pollen producing flora to highlight the value of specific floral species.
- 16) Locate apiaries with consideration of the general public and livestock movements. Stocking rates in urban areas should be appropriate to the circumstances.
- 17) Keep records of flowering events.
- 18) Consider the most energy efficient manner in which the beekeeping operation is conducted.
- 19) Store, use and dispose of chemicals in the most appropriate manner, according to state, MSDS and label requirements. Keep chemical use to a minimum.

# Elements

## ELEMENT 1:

### Respect for heritage and areas of interest to indigenous Australians

Historic sites, old buildings, relics, and materials of obvious heritage significance should be left alone and not interfered with. Areas important to indigenous Australians should also be respected, and beekeepers are encouraged to honour the spirit of Native Title claims.

## ELEMENT 2:

### Warning signs

All apiaries pose an OH&S risk to the public. To manage the risks to the public, suitable signage in an internationally recognised format should be placed in proximity of the apiary to warn any approaching persons of the presence of the apiary. These signs should include sufficient information so the owner can be contacted, if required.

## ELEMENT 3:

### Stocking rates

It is normal practice for commercial bee hives to be placed in areas where there is an abundance of nectar and/or pollen. The actual quantity of floral rewards on offer will vary from species to species and from site to site, thus stocking rates will vary. A generic number of hives for an apiary would not be appropriate in all circumstances. If bee hives are to be left for any time, when not on a nectar flow, suitable amounts of stored honey should be left on each hive. Where the flowering intensity of the local flora is not adequate for



the bees present, then consideration should be given to reducing the number of hives in an apiary to that of the carrying capacity of the pollen and nectar available or removing the apiary to a new site.

## ELEMENT 4:

### Communicate movement of apiaries

In most cases commercial beekeepers, and often amateur beekeepers, place their apiaries on lands not of their ownership. Some land agencies require, as a condition of use, that they are notified when a site is being used for bees. It is also a courtesy to inform all land managers of the imminent arrival of an apiary and the departure of the apiary. Land managers, if kept informed, can then consider the bees in their daily management schedules. This may include functions such as the use of chemical sprays, maintenance of tracks, hazard reduction burning, and the movement of livestock.

Ensure the land manager/owner has the apiarist's full contact details, including phone numbers, address and beekeeper registration number, so that contact can be made rapidly if required.

## ELEMENT 5:

### Remove rubbish

It is normal practice for an apiary to be moved onto a site when the floral prospects are attractive and there is a strong possibility of an ample surplus of nectar and/or pollen. Likewise, once a flowering event is coming to a finish, the apiary is normally shifted to another site with a suitable flowering event.

In the course of the management of the hives, hive materials that may be broken or damaged must be removed from the site. Scrapings and products from the hive must never be left on site.

Under no circumstances should household or industrial waste be left on site. If the beekeeper finds rubbish not belonging to them located on the apiary site, they should notify the relevant property manager and if possible make all efforts to properly dispose of the rubbish.



#### ELEMENT 6:

### Provide water for bees

Ensure appropriate availability of water when required. In some states this activity is enshrined in legislation. Where water is close by, such as a creek, dam or river, water should not have to be supplied by the beekeeper. Honey bees, like all living creatures, require water to survive. In summer this requirement can equate to substantial amounts of water being collected by colonies and in extreme hot weather a colony will devote all of the available field bees to the collection of water.

The water consumption of a colony will vary according to the strength of the colony, the colony's location, and the ambient air temperature. Beekeepers should supply sufficient water for the apiary's needs if required to ensure that the colonies do not perish during hot weather, so that bees do not cause a nuisance around stock troughs and swimming pools.

An artificial water source should be placed within 200 metres of an apiary if a suitable, naturally occurring water source such as a dam, stream, or river is not within 500 metres. An artificial water source supplied by beekeepers must be suitably covered with mesh to prevent access by wildlife and their accidental drowning.

#### ELEMENT 7:

### Swarm control

It is normally accepted good practice for a beekeeper to do all in their power to prevent a colony from swarming. Swarming is a natural phenomenon that ensures the survival of the species through a colony reproducing itself. Swarming normally occurs in spring, allowing the colony to establish itself over the following summer and autumn before winter brings a serious reduction in flowering species from which food can be obtained.

The selection criteria for commercial breeding stock does not tolerate any swarming behaviour. Feral bees, on the other hand, are much more likely to issue swarms than managed bees. Beekeepers should consider the following, particularly in the spring period.

- Re-queen on a regular basis – young queens have less inclination to swarm than old queens.
- Replace the queens in any colony that has swarmed, to reduce the possibility of future swarming.
- Relieve congestion in a hive in spring when colonies can expand in populations extremely rapidly.
- Continue to select strains of bees that demonstrate a low tendency to swarm.



# Elements

## ELEMENT 8:

### Swarm capture

Invariably, some colonies within managed apiaries will swarm. Given the breeding of such stock, they possibly have a reduced chance of survival in the medium to long term compared to a swarm from a local feral colony. Managed bees are selected for rapid population gain so as to take advantage of major flowering events. A colony bred for commercial purposes and remaining on the one site is likely to experience significant shortages of food in the form of pollen and nectar, thus has a greater likelihood of starving. Even so, a beekeeper should make every endeavour to remove and collect swarms where clearly they have originated from the apiary under management.

For some unexplained reason, it is not uncommon for swarms originating from feral hives to be attracted to a managed apiary. In this case it is imperative that the swarms be collected and removed.



- obey road signs that alert the driver to a possible problem in the area, e.g., phytophthora;
- use wash down or hygiene stations when provided;
- report any unusual plant deaths to the local Department of Environment, National Parks and Wildlife, Heritage or Conservation office;
- remove weeds where feasible from the immediate area of the apiary.

## ELEMENT 9:

### Prevent the spread of soil pathogens and weed seeds

Soil borne fungi and weed seeds have been known to be spread from one location to another by vehicle movements. Fire fighting, logging and road working machinery have all been implicated in the spread of fungi and weed seeds. Even bushwalkers and bike riders can spread fungi and seeds by the transfer of mud on their boots and tyres.

The movement and servicing of apiaries may also provide the opportunity to spread soil pathogens and weed seeds. To help stop the spread of soil pathogens and weed seeds, beekeepers, where possible, should:

- avoid driving in areas when soils are wet and sticky;
- stay on designated roads and tracks;
- in high risk areas for soil pathogens and weed seeds brush soil off vehicles and footwear before and after each trip – this would be a site by site decision;

## ELEMENT 10:

### Minimise truck and vehicle emissions

In the course of keeping bees, the owner requires the use of a truck. Some beekeeping operations have ownership or control over a number of vehicles. To ensure the least impact on the environment, the following should be considered.

- Perform regular service and maintenance of each vehicle according to the manufacturer's specifications.
- Maintain tyre pressures to the manufacturer's recommendations.
- When given a choice of vehicles, choose the most economical one for the task in hand.
- When buying a new or second hand vehicle, consider the fuel efficiency rating.
- Where possible, work flowering events which require the least amount of travel.
- Place apiaries in the same region to reduce the distances necessary to service each apiary.



## ELEMENT 11:

### Track use and maintenance

As beekeepers are required, in most cases, to site apiaries on lands not of their ownership, it is important that the use of tracks and access routes be respected. Most tracks used by beekeepers are multi-use and not solely created for the benefit of siting bee hives.

Beekeepers have a duty of care to not travel on tracks or roads where it is known that there will be a strong possibility of causing damage to the surface. The circumstances will vary according to the integrity of the track/road, the materials it is constructed from, and the prevailing weather conditions. Poorly formed tracks on heavy soil during wet weather are likely to sustain heavy damage as a result of truck usage. On the other hand, tracks composed of sandy soils will be easier to negotiate during wet weather.

When a bee site is being considered, wet weather access should be a significant factor. If an apiary is located in an area where the soil type does pose a problem during wet weather, beekeepers should first consider the potential damage to the tracks and environment and delay use, if possible, until conditions improve.

Before taking on the task of repairing tracks and particularly bringing in materials from elsewhere, the beekeeper should consult with the land manager or property owner to obtain permission. If bringing in materials from elsewhere it is imperative that the introduction of soil pathogens and weeds are considered. Refer to Element 9.

## ELEMENT 12:

### Clearing of apiary sites

Site clearing must be completed with care to cause the least amount of disturbance to the local environment, while providing an adequate site for the placement of an apiary. To achieve this:

- rake or clear all loose surface litter on site before the placement of the bee hives;
- no trees greater than 20 cm circumference are to be damaged or removed;
- care must be exercised not to damage or destroy protected flora or fauna.



# Elements

## ELEMENT 13:

### Camping

Historically, camping with the apiary on site has been a common practice by beekeepers. Such activity (probably), in most circumstances, is no longer warranted. If camping is a desirable activity to enable the beekeeper to manage their bees, permission should be sought from the government land agency or private property owner. All evidence of the camping activity must be removed once the camp is finished with.

## ELEMENT 14:

### Fire management

The very nature of beekeeping means that bee hives are at risk of bushfire damage and that a beekeeper's use of a smoker has the potential to cause a fire. Therefore, it is necessary for beekeepers to ensure that:

- the smoker used is in good repair;
- the lighting of a smoker is done on bare ground or on the back of a suitable vehicle;

- the smoker is kept full of fuel to avoid the spitting and escape of lit embers;
- the smoker is not placed on combustible material such as dry grass when in use;
- all fire bans are adhered to and respected;
- in the event of an emergency, e.g. to remove an apiary due to an imposing threat from bush fire, the local fire authorities should be notified first before attempting to do so;
- extreme care should be exercised when working hives with a smoker when the environment is dry and the conditions are windy;
- suitable fire fighting equipment is carried at all times and maintained in working order;
- a smoker is properly extinguished using water or placed in an airtight container when not in use.

## ELEMENT 15:

### Proactive environmentalists

It is in beekeepers' best interest for society to value and retain large areas of native flora. It is also in the industry's long-term best interest





to see floral species replanted in degraded areas and other suitable sites that are reliable producers of nectar and pollen. Therefore, beekeepers should:

- actively pursue a tree planting program on their own properties, selecting suitable species for the long-term prospects of providing a resource for honey bees and other nectivores;
- associate or become involved in the local Landcare group, assisting in planting and revegetation projects; emphasis should be placed on encouraging known high value nectar and pollen plants;
- whenever the opportunity arises, address or pass on to interested parties information on the value of various floral species as a resource for nectar and pollen.

#### ELEMENT 16:

### Apiary site position

Locating an apiary may cause problems for people and livestock. The following should be adhered to.

- Place large apiaries away from houses.
- Keep numbers of hives in urban areas to a minimum. Depending on the size of the block, the following is a suggested recommendation as sufficient permanent hives close to an urban interface:
  - small block – 2 hives
  - average block (up to 1000 m<sup>2</sup>) – 4 hives
  - roomy block (up to 2000 m<sup>2</sup>) – 8 hives.
- Place apiaries away from gates, stock yards and public traffic areas.
- Wherever possible, position out of sight of public thoroughfares.
- Apiary site positions are to be checked with and approved by the land manager/owner prior to hives being unloaded.

#### ELEMENT 17:

### Keep floral records

Beekeepers, by the very nature of their chosen profession, have to develop a high awareness of the environment in which they work. Successful beekeeping requires the timely movement of



apiaries from the completion of one flowering event to the beginning of another flowering event. Most commercial beekeeping operations on mainland Australia can be best described as nomadic. The locations and flowering events to which apiaries are moved will vary significantly from year to year. In many cases, beekeepers probably hold the most detailed knowledge on the flowering patterns of specific flora in given regions. Therefore, beekeepers should record:

- the floral species on which the apiaries are placed;
- the duration of flowering, climatic influence on flowering, nectar and pollen yields and any other specific information on the floral species;
- any peculiarities in relation to dieback and significantly reduced yields;
- changes over time in various areas or to the health and production of the flora.

This information should be in a form to assist scientific endeavour to identify trends over time associated with flowering patterns and the general health of the vegetation. The information collected can also be used in Element 15 to assist in providing advice on the suitability of various floral species and their relative worth of a nectar or pollen producing plants.

Beekeepers have been responsible for passing on observations on the declining health of specific vegetation and the demise of floral communities, triggering major research endeavours. Any significant observations regarding the decline in the health of the vegetation within the areas which beekeepers frequent should be passed on to the relevant authorities. Communication with such parties should be recorded for future reference.



# Elements

## ELEMENT 18:

### Energy saving

Beekeeping in the Australian context is mainly focused on the production of honey. Honey combs are required to be extracted in a purpose built factory on a regular basis. Energy savings are possible during the extraction and storage of combs. Beekeepers should consider:

- turning off appliances when not in use;
- turning off cool rooms and hot rooms when not in use; use of cool rooms to prevent damage to stored combs from wax moth and small hive beetle may not be necessary during the winter period;
- where possible, full honey combs should be stored to allow a sufficient number of honey boxes to be accumulated for each extraction to cut down the number of times an extracting plant is required to be cleaned.

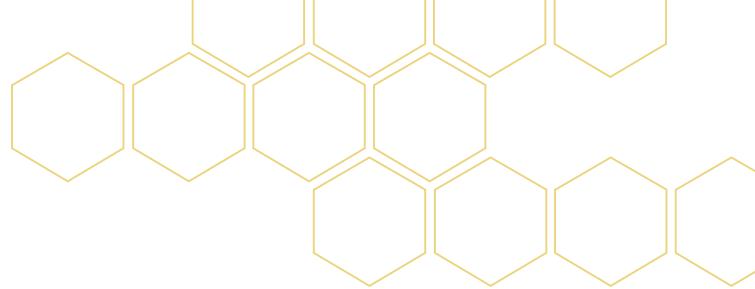
## ELEMENT 19:

### Responsible use of chemicals

The use of chemicals in the beekeeping industry is minimal compared to most primary industries. Even so, beekeepers have a responsibility to:

- consult land owners/managers before applying pesticides (herbicides);
- obtain the necessary qualifications to use chemicals in an agricultural business;
- follow the directions on the label;
- only use a product for the purpose it is permitted/registered;
- discard used containers and residues in an approved manner;
- retain and refer to the material safety data sheets for each substance being used;
- store chemicals in a safe and secure location;
- observe the withholding periods printed on the chemical label;
- notify any purchaser of honey of the use of any chemicals associated with obtaining the honey crop;
- keep up to date on the correct use of chemicals.

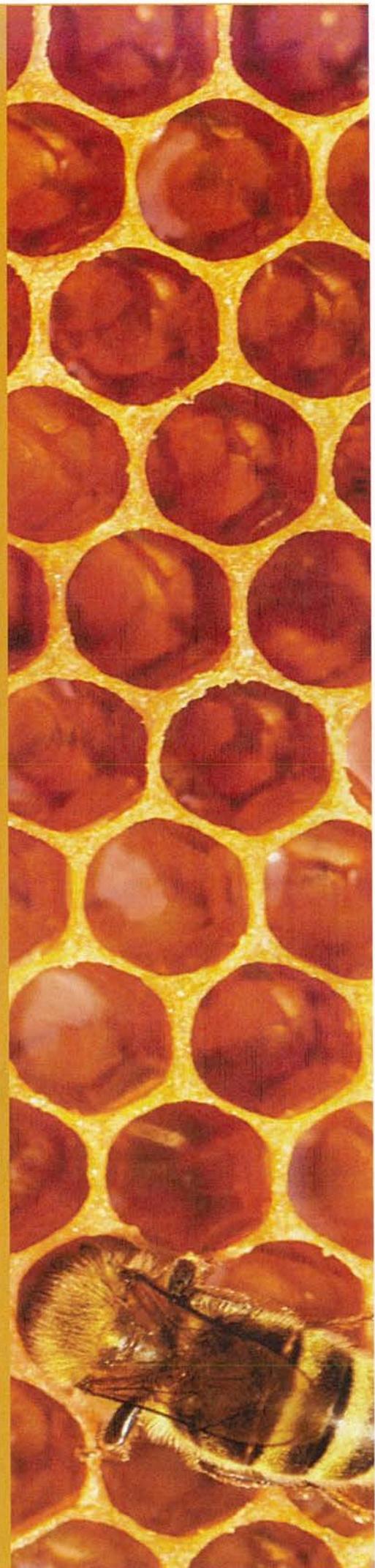






WESTERN AUSTRALIAN APIARISTS' SOCIETY

## BEST-PRACTICE GUIDELINES FOR URBAN BEEKEEPING





*These Best-Practice Guidelines have been developed by the members of the Western Australian Apiarists' Association (WAAS). WAAS has taken all reasonable steps to ensure that the information contained in these Guidelines is accurate at the time of publication.*

*Information contained in this document is provided as general advice only and readers should make appropriate enquiries to determine if the information is suitable for their circumstances and if new information is available.*

**Version 1 / 2020**

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# Western Australian Apiarists Society

## Best-practice guidelines for Urban Beekeeping

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## 1 INTRODUCTION

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The keeping of the European honeybee, *Apis mellifera* is becoming increasingly popular in urban areas. Beekeeping provides honey for home consumption, enjoyment from looking after bees and learning all about them, and the opportunity to meet like-minded people.

The Western Australian Apiarists' Society Inc (WAAS) was established in 1953. It is an incorporated not-for-profit association whose main object is to promote safe and responsible beekeeping. WAAS has around 1000 members, most of whom reside in the Perth metropolitan area. It also has chapters in the greater Bunbury and Margaret River regions. WAAS has several training apiaries in the metropolitan area and in the regional chapters.

The number of hobby beekeepers has increased dramatically in recent years with the growing awareness of the environmental benefits of pollinators and the invention and marketing of the Flow Hive® making hobby beekeeping more appealing.<sup>1</sup> These guidelines apply equally to the keeping of bees in conventional Langstroth type hives as it does to other types, such as Warré top bar hives and Flow Hives. It does not however, apply to feral hives that establish themselves on an urban property.

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<sup>1</sup> The Flow Hive® is a beehive designed to enable honey to be extracted without having to open the hive.

There are over 3000 beekeepers registered in WA at the time of publishing. Most of them are hobbyists in urban areas. The beekeeping industry in WA is estimated to be worth more than a billion dollars per year, the major part of which is the value of crop and orchard pollination by bees.<sup>2</sup> Hobby beekeepers in WA urban areas can expect to harvest at least 40kg of honey per hive per year whereas commercial migratory beekeepers would expect up to 300kg.

When bees are properly managed, they present a low risk of adverse impact on the community and can be kept by competent beekeepers with minimal intervention by local or state authorities. Bees can and will sting when threatened or stressed. Bee stings are painful and can cause distress to people especially children, and animals. Fortunately, serious incidents involving bee stings are rare in WA.

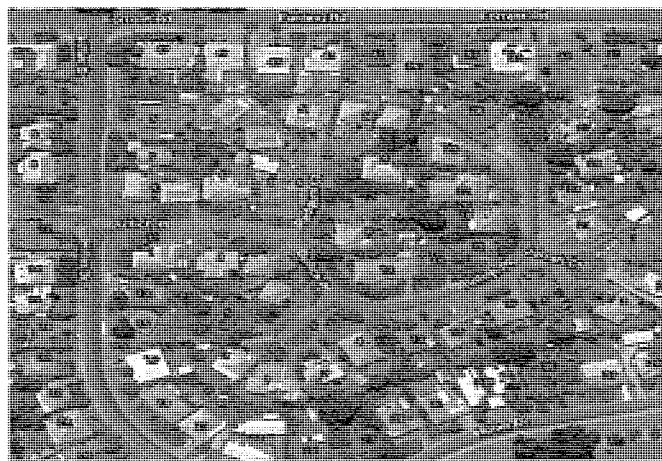
WAAS has published these guidelines to assist in maintaining a harmonious relationship between beekeepers, other members of their community and local councils. Compliance with the guidelines by beekeepers will ensure that the keeping of bees does not become a nuisance. The key to enacting these guidelines is the competency of the beekeeper.

These guidelines are meant to be a reference and provide standards for beekeeping in urban areas, including:

- Establishing practices which beekeepers should comply with to prevent their beehives from becoming a nuisance.
- Giving the community confidence in the safety of beekeeping.
- Helping local government and regulatory authorities to establish rules for beekeeping.
- Providing a standard against which complaints can be resolved.
- Promoting a competency standard for beekeepers.

All beekeepers should comply with the by-laws that apply within their local government authority jurisdiction; being aware that by-laws vary from one local authority to another. One of the goals in publishing these guidelines is to eventually achieve uniformity in by-laws governing beekeeping across all local authorities.

Members of WAAS are expected to comply with these guidelines.



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<sup>2</sup> *Pollination Aware – The Real Value of Pollination in Australia*; Australian Government, Rural Industries Research and Development Corporation, 2010.

## 2 BEST PRACTICE

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### 2.1 BECOME INFORMED

These guidelines are intended to summarise and explain the important aspects of beekeeping for urban beekeepers to follow to ensure that their bees don't become a nuisance. Above all, the beekeeper should be competent and the road to becoming a competent beekeeper involves learning, hands-on training and mentoring. It is important that prior to acquiring bees, new beekeepers undertake a basic training course that includes a practical component or work alongside a competent and experienced beekeeper. The Western Australia Apiarists' Society offers such training to its members in its "An Introduction to Responsible Beekeeping" course.

This guide is not a beekeeping training manual; it identifies aspects of beekeeping that a responsible beekeeper should implement in an urban environment.

### 2.2 NUMBER OF HIVES ON A PROPERTY

One of the primary controls to minimize the potential for bees to become a nuisance in urban areas is to manage the density, or concentration, of hives. The recommended numbers of hives per property shown in Table 1 should not be exceeded.

Property area	Maximum Number of Hives
up to 400 square metres	2
400-1000 square metres	4
1000-2000 square metres	8
2000-4000 square metres	16
>4000 square metres, if zoned urban	40
For hives on rooftops:	Refer to Property area

Table 1. Recommended maximum density of hives on urban properties.<sup>3</sup>

As a measure to proactively prevent swarming as described in Section 2.8, a beekeeper may decide to split hives in which case it is permitted to retain both the original and the split hives for a period of no longer than three months, subject to the maximum number of hives allowed on the site not being exceeded by fifty percent at any time.

It should be noted that these are the recommended maximum hive numbers; the configuration of the beekeeper's property and of neighbouring dwellings and their surroundings, including gradients of terrain and vegetation, will influence (but not increase) the actual suitable maximum number of hives on a property.

<sup>3</sup> This table complies with the National Best Management Practice for Beekeeping in the Australian Environment, Australian Honey Bee Industry Council, 2007

### 2.3 LOCATING HIVES

Correct placement of hives is also important. The hives should be in a dry, quiet, sunny area of the property. For security reasons it is often better if they are out of sight from roads and footpaths. This means that hives will be usually located in rear gardens.

Hives are best positioned with the entry facing in a north-easterly direction and with ample winter sunshine, full sun if possible, to minimize the risks of diseases such as Nosema and Chalkbrood. During summer, afternoon shade can be important and, if natural shade is unavailable, can be provided using shade cloth or other materials to assist in preventing overheating inside the hive.

Although hives can be placed next to each other it is often easier if they are positioned with adequate surrounding space for the beekeeper to have access for maintenance. For example, for a traditional Langstroth hive a 1 metre clearance along one side of the hive and 60 centimetres along the opposite side allow easy access to work the hives. A space of approximately 1.5 metres behind the hive allows for easier inspections and working of the hives, as well as an area to place equipment required during an inspection. The bees require very little space at the front entrance but 30 centimetres, and more if possible, in front of the hive entry is advised. In total these dimensions mean that for a single hive and the working area around it will take up an area approximately 2.5 metres by 2.0 metres.

Refer to Fig. 1 below for an example of a layout with suitable clearances.

Multiple hives can be placed next to each other if enough room to work all hives is maintained.

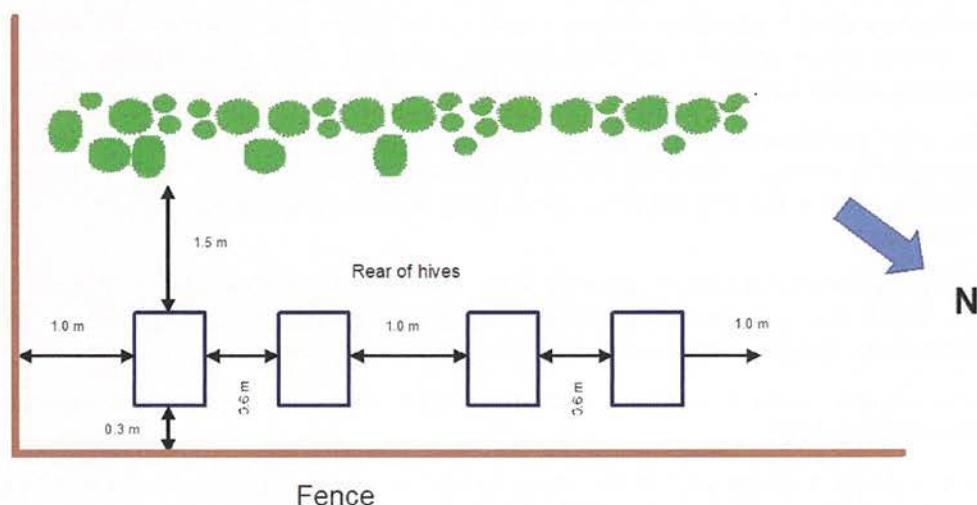


Fig 1. Example of layout and orientation of an apiary with suitable clearances for ease of management

### 2.4 MANAGING FLIGHT PATHS

A feature of bee behaviour is that they establish a distinct route that will be taken by many bees leaving from or returning to the hive. Therefore, hives should be set up to ensure that the flight path is well clear of people occupying adjoining property or passing by on footpaths or roads or any other area used for public access or recreation. The flight path height should be at least 3 metres at its lowest point above such areas.

Hives should not be placed within 3 metres of a property boundary unless it is defined by a solid barrier, such as a fence or impenetrable plant barrier not less than 1.8 metres high.

Hives should be separated from roads and not in direct line of sight of doors and windows of buildings. It is important to place hives such that bees will not be attracted to bright lights at night-time, which would create a risk that some bees might end up inside a house, an obvious nuisance.

Bees defecate when in flight and this can become a nuisance if their flight path is over a washing line or parked cars.



## 2.5 DEFENSIVE BEHAVIOUR

Guard bees position themselves at the entrance to hives to protect it from threats. Guard bees always exhibit defensive behaviour even to the extent that they may attack a person who comes within several metres of the hive entrance. The hive entrance should be oriented such that it is not within line of sight of where people or animals might be.

When bees are disturbed at the hive, they release pheromones which recruit other bees to respond defensively. Disturbing the hive by rough physical contact, strong odours and movement close to the hive entrance are all likely to cause defensive behaviour and should be avoided.

External environmental factors, such as wind, ambient temperature and the nature of the nectar which bees are gathering also can affect their temperament; a beekeeper should consider those factors when planning any disturbance of the hive.

Should a colony become defensive it can take some time, even days, for it to return to its normal tranquil state.

Genetics plays a strong part in the temperament of bees and the hive. Bees of docile temperament are far less likely to exhibit defensive and nuisance behaviour. Some strains of bees are more aggressive than others, and feral hives are more likely to be aggressive than a well-managed hive. The genetics of bee colonies kept in urban areas should be maintained with young healthy queens of a docile strain. Docility is one of the main selection criteria in queen bee breeding programs. There are a few queen breeders in Western Australia, most of whom sell through the retail beekeeping outlets. Queens can also occasionally be acquired through WAAS from member beekeepers.

Should, despite good bee keeping practice, a hive's behaviour be consistently aggressive, the beekeeper should replace the queen as soon as possible with a new queen from a reputable breeder.

## 2.6 PROVIDING WATER

Bees need water for their brood, the production of honey and to help maintain hive temperature and humidity. In hot weather, bees require a lot of water to cool down the hive, up to a litre per hive per day<sup>4</sup>. Bees seek out sources of water, and it is a requirement for a beekeeper to provide it,<sup>5</sup> otherwise the bees will go to swimming pools, bird baths and taps, which is a nuisance.

A beekeeper is required to provide a water source close to their hives, preferably within five metres but not more than 10 metres. Bees prefer water located in a sunny place with capillary moisture, for example wet sand or gravel, the edge of a concrete pond, or floating water weeds. The watering source must be permanent and established before spring. Given bees' propensity to learn and remember, if the water source provided should dry up at any time, the bees will find another source and the new habit will be hard to break.

## 2.7 WORKING THE HIVE

It is important to be gentle when working with bees. The beekeeper should avoid crushing bees, jerky movements or physical shocks to the colony, which will alarm the bees. When bees become defensive many of them could leave the hive and fly around some distance from it searching for the intruder. A smoker should always be used when working a hive. Smoke should be applied, initially at the hive entrance and then elsewhere as necessary whilst the hive is open. The smoker should be fuelled with untreated material of vegetable origin. Used correctly, smoke is harmless to bees. It works mainly by masking the alarm pheromones that bees use to communicate, and to stimulate them into preparedness to leave the hive quickly in the event of fire. These effects are very short lived.



Hive manipulations should be done as quickly and as calmly as possible to minimise disturbance of the bees. The beekeeper should aim to have the hive open for no more than around twenty minutes.

<sup>4</sup> *Australian Beekeeping Guide*: State Government of Victoria, Rural Industries Research and Development Corporation, 2014

<sup>5</sup> *Beekeeping for small landholders in Western Australia*: Government of Western Australia, Department of Primary Industry and Regional Development, Western Australia

The ideal time to work on a hive is when it is warm and sunny and not too windy, between mid-morning and mid-afternoon, when foragers are away from the colony gathering nectar and pollen. Opening hives at dawn or dusk should be avoided and never at night-time.

A beekeeper should avoid working on or harvesting hives in cold, windy or wet conditions. If the hive is open under such conditions, bees will become aggressive. Unless it is essential, a hive should not be opened during a nectar dearth which can cause defensive behaviour or robbing by other bees.

Beekeepers should cooperate with their neighbours when they need to work bees and ensure neighbours are not working or relaxing outdoors at the time. Domestic animals and small children should be kept indoors when bees are being worked, and until the bees have settled down afterwards.

When extracting honey, bees should be removed from honey supers and frames in a manner that will not agitate them. The use of clearer or escape boards to remove bees from honey supers is effective and should be considered. Shaking or brushing bees if done too vigorously will upset the bees. Use of a powered “bee” or leaf blower to clear bees from frames should be absolutely avoided as it will greatly upset them.

If, when working a hive, the bees become very defensive and don't respond to smoke, the beekeeper should consider aborting the work he or she is doing, closing the hive and coming back a few days later.

Good record keeping is the mark of a competent beekeeper. This record should include details such as ambient conditions, number of colonies, colony condition and any actions taken (see Appendix 1)

## 2.8 PREVENTING SWARMS

Swarming is a natural behaviour of bees to propagate and ensure the survival of their species. It occurs mainly in spring and early summer. Hives should be managed to prevent or minimise swarming. Such management can consist of, as appropriate to the circumstances:

- Replacement of old or failing queen bees with new ones, preferably ones with a low genetic disposition to swarm. Younger queens tend to be more vigorous which helps maintain the health and strength of the colony.
- Splitting of a colony into two or more units creating more space for brood and honey.
- Hive husbandry measures such as providing additional supers for brood rearing and honey storage, creating more space for the queen for laying and raising brood, and regularly replacing old brood comb in the brood chamber with frames fitted with fresh wax foundation.



A beekeeper should endeavour to collect any swarm that has originated from his or her hives and install it in a hive as soon as possible after it has formed into a cluster. Beekeepers should also respond promptly and sympathetically to calls from the public about swarms; in doing so they will be able to provide information about swarming behaviour and relocate a clustered swarm prior to a feral hive being set up, which could become a nuisance.

## **2.9 PEST AND DISEASE CONTROL**

The rigorous adoption of biosecurity is vital to the prevention of disease in the apiary. Disease can enter the hive through procured bees, robber bees, bee products, hive components, beekeeping tools and equipment, and protective clothing especially gloves.<sup>6</sup>

Although Western Australia is relatively pest and disease-free, there are a few honeybee diseases here, of which American Foulbrood (AFB) is the most serious. Beekeepers should manage hives in accordance with the *Australian Honeybee Industry Code of Practice* and be particularly cautious about mixing hive equipment or purchasing hives unless they are from known AFB free apiaries.

AFB is a notifiable disease, and urban beekeepers are required to be familiar with the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* and act accordingly.<sup>7</sup>

## **2.10 STORING EQUIPMENT**

Good storage practices are needed to restrict bees' access to equipment which should not be stored outdoors even for short periods. Beekeepers should follow good housekeeping practices and never leave wax, honey, frames or supers containing honey lying around and accessible to bees. Apart from being an offence, is not good beekeeping practice and can lead to the spreading of disease and aggressive robbing behaviour by bees which is a significant nuisance.

## **2.11 NOTIFY YOUR NEIGHBOURS**

Beekeepers should be pro-active in keeping their neighbours informed about their beekeeping activities and of the fact that he or she is trained and competent and is maintaining a high standard of beekeeping by complying with this guideline. Before procuring a hive, the beekeeper should inform him/herself about the neighbourhood and of any special situations that might exist, such as the presence of a childcare centre, and ensure that this information is considered in his/her planning.

## **2.12 INSURANCE**

Beekeepers should be insured against action for damages against harm caused to other persons by their bees or bee products that they sell. Financial members of WAAS are insured against such contingencies.

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<sup>6</sup> *Biosecurity Code of Practice: Australian Honey Bee Industry Council, 2016*

<sup>7</sup> *Biosecurity and Agricultural Management Act 2007, Western Australia: Biosecurity and Agriculture Management Regulations 2013*

## 3 OTHER CONSIDERATIONS

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### 3.1 OCCUPATIONAL HEALTH AND SAFETY

An apiary is a workplace<sup>8</sup> and the beekeeper is needs to observe health and safety standards including:

- Planning. Before carrying out an operation on the hive, the beekeeper should plan in detail, and especially identify all the risks presented by the situation and note the things he/she will need to do to manage them.
- Personal protection. When opening a hive, it is strongly recommended to protect the head and face with a hat and veil, or with a bee suit. If a full-length suit is not worn, long-sleeved shirts and long trousers of a light colour should be worn. Gloves should be worn, especially when manipulating frames in the brood box.
- Safe lifting techniques. Care should be taken when working beehives as the honey supers are heavy when full. Enough area, free of obstacles and trip hazards to work the hives should be maintained. Assistance from another person should be considered.
- Beekeepers should take bee stings seriously. It is important have a plan in case of bee stings. They can occur at any stage, and especially if things go wrong. Beekeepers should know how to remove stings and what to do if stings occur and be aware of the signs of an anaphylactic reaction and the appropriate response. An Epipen® should be available at the site of work and the beekeeper must know when and how to use it.
- Beekeepers should avoid working alone.

### 3.2 USE OF SMOKE IN HIVE MANAGEMENT

Smoke is used by beekeepers as a management aid to subdue honeybees when opening hives.

The use of the bee smoker is subject to fire regulations. On total fire ban days it is prohibited to light and use a smoker and severe penalties apply to non-compliance.

When a smoker is used, the following rules should be followed:

- Light the smoker in an area devoid of combustible material.
- Do not set a lit smoker down on combustible material whilst in use. It is always recommended to keep a lit smoker in a metal bucket.
- The smoker should not be placed where it can be dislodged by wind or easily knocked over.
- The smoker must be extinguished completely when the work has been finished.
- A lit smoker must never be carried on or inside a motor vehicle.
- Water, at least 5 litres, should be readily available at the site in case of a fire.

The entrance of a hive should be smoked before mowing grass or using weed slashers close to the hives. The vibrations created by these machines, along with the smell of exhaust fumes and cut grass upset bees, and operators or people passing by could be stung.

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<sup>8</sup> Occupational Safety and Health Act 1984, Western Australia

### 3.3 TRANSPORTATION OF HIVES

Beekeepers need to take appropriate care when transporting hives<sup>9</sup>. All loads of hives and supers of honey should be closed and secured in accordance with the Road Regulations. The beekeeper needs to take all precautions to avoid loss of bees in travel.

Ideally, beehives should be transported after closing or blocking the hive entrance with a foam strip or similar, considering that:

- This method allows a beekeeper to shift bees a short distance and unload them without being stung.
- Hives must be fitted with adequate ventilation, so bees don't suffocate or overheat.
- Bees can be shifted on a box trailer or on a truck and hives should be prevented from moving or coming apart by securing them in accordance with transport regulations.
- Hives can be closed at night when any bees clustered at the entrance can be smoked and driven inside the hive.
- Shifting should be done at night when all bees are inside the hive and when temperatures are coolest.

Stopping off at fuel stations or travel through built up areas with bright street lighting and traffic lights could cause loss of bees and create a nuisance. Travel routes, refuelling stops, and rest breaks should be carefully planned.



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<sup>9</sup> Rural Industries Research and Development Corporation, Victoria: *Australian Beekeeping Guide*

### 3.4 APPLICABLE LEGISLATION

In WA, beekeeping must be carried out in accordance with the *Biosecurity and Agriculture Management Act 2007* and the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*. Beekeepers and their hives must be registered, and all supers branded.<sup>10</sup>

In addition, most local government authorities have by-laws which cover beekeeping in their jurisdiction, many of which are not uniform. Additionally many local government authorities have other regulations that must be complied with if honey is to be processed and sold. It is the responsibility of the beekeeper to ensure they comply with all regulatory requirements.

Very few local government authorities employ staff with beekeeping expertise. This guidance note establishes the practices that beekeepers are required to follow if keeping bees in an urban area, thereby relieving local government authorities of the need to have in-house expertise or enact unnecessarily restrictive bylaws.



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<sup>10</sup> *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013, Part 9 – Identification and Movement of Apiaries, Western Australia*

## 4 GLOSSARY

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**Apiarist / Beekeeper:**

A person keeping bees.

**Apiary:**

A place where honeybees are kept in hives.

**Apiculture / Beekeeping:**

The management of beehives.

**Beehive / Hive:**

A modular framed housing for a honeybee colony, which normally contains either a nucleus colony or a standard size colony.

**Bee sting:**

The injury sustained and inflicted by the venom from a honeybee worker.

**Brood Box:**

A normal hive box fitted with frames, separated from other boxes (supers) by a queen excluder, in which the queen bee lays eggs and the young bees are raised by nurse bees.

**Colony:**

A family of bees: workers, a queen and drones

**Comb:**

A collection of hexagonal wax cells typically built along a plane, which houses honey, pollen and/or brood (eggs, larvae, pupae). In the movable-frame system, comb is synonymous with the term frame or top bar.

**Competent beekeeper:**

A beekeeper who has undertaken an approved course in beekeeping such as the WAAS "Introduction to Responsible Beekeeping" or has worked under the supervision of a competent beekeeper for enough time to achieve the same result.

**Feral bee colony:**

A colony of bees which has its nest in a place other than a beehive, e.g. a hollow tree

**Flight path:**

The distinct route taken by many bees leaving from or returning to their hive.

**Foraging bees:**

Bees seeking out supply of water or feed; bees naturally forage flowers for nectar and pollen supplies. Bees forage at temperatures of 12C and higher

**Harvest:**

The removal of honey from a Hive for human consumption.

**Honeycomb:**

See Comb

**Hive:**

A container or collection of boxes for housing bees.

**Honey extraction:**

See Harvest

**Honey super:**

A super which is full of honey

**Nucleus colony:**

A small colony that only contains a few thousand bees and a queen. A beekeeper uses a nucleus colony to replace a lost colony, strengthen a weak colony or add a queen to a colony that has lost its queen. It is not considered a production colony and is often referred to as a 'nuc'.

**Nuisance:**

A private nuisance is where someone stops your use or enjoyment of your land or any rights you have linked to your land. It can include overhanging tree branches, air and noise pollution, and water run-off from a neighbouring property. It also includes the keeping of bees under many local government environment laws.

**Pollination:**

The transfer of pollen by honeybees from anthers to stigmas of flowers for the purpose of plant fertilisation.

**Robber Bees:**

Bees attempting to access stored or spilt honey, or honey in another hive.

**Smoker:**

A device used by beekeepers to produce and direct cool, nontoxic smoke to pacify bees and enable a hive to be worked safely and efficiently

**Sticky:**

A frame from which most of the honey has been extracted, and which contains honey residue

**Super:**

A box containing frames, placed above the bottom or brood box of a hive.

**Swarm:**

A cluster or flying mass of honeybees from a colony that has divided. A swarm contains a queen and 30-70 percent of the workers, all of which have left the hive to start a new one elsewhere

**Swarm cells:**

Prior to swarming, bees will rear new queen cells, which look distinct from cells containing work or drone brood.



## 5 RESOURCES

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An updated list of resources on urban beekeeping, as well as a PDF version of these best-practice guidelines are available online at [www.waas.org.au](http://www.waas.org.au)

### 5.1 BEEKEEPING CLASSES AND WORKSHOPS

Western Australian Apiarists' Society runs a beginner's beekeeping course "Introduction to Responsible Beekeeping" in spring and summer each year. The course covers

- Theory Sessions  
Basic Purpose of Beekeeping, General safety precautions, Assembling and maintaining hives, Beekeeping equipment and obtaining bees, Selecting a bee site, What's in the Brood Box? Reducing Swarming Behaviour & Seasonal Considerations, Biosecurity and Health of the hive, Honey Extraction,
- Practical Sessions  
Lighting Your Smoker, Inspecting Hives-- Open, inspect and close a hive,

More intermediate level and advanced courses are being developed along with other specialist short courses

Some registered training organisations offer a Certificate 3 Beekeeping course in WA

### 5.2 BEEKEEPING INSTRUCTION BOOKS

Bee Agskills- A Practical Guide to Farm Skills-- NSW Department of Primary Industries

The Australian Beekeeping Manual –Robert Owen

Australian Beekeeping Guide: State Government of Victoria, Rural Industries Research and Development Corporation, 2014.

### 5.3 USEFUL WEBSITES

[www.waas.org.au](http://www.waas.org.au) The Western Australian Apiarists' Society Inc.

<https://www.agric.wa.gov.au/livestock-animals/livestock-species/bees> Department of Primary Industries and Regional Development – Bees

<https://www.agric.wa.gov.au/bam/biosecurity-and-agriculture-management-act-2007> Department of Primary Industries and Regional Development – Biosecurity

<https://www.allergy.org.au/hp/anaphylaxis/how-to-give-epipen> Australasian society of clinical immunology and allergy – How to give an EpiPen

#### 5.4 REFERENCES, CODES AND STANDARDS

*Code of practice Manual tasks*, Government of Western Australia, Department of Commerce, Commission for Occupational Safety and Health, 2010.

*Pollination Aware – The Real Value of Pollination in Australia*; Australian Government, Rural Industries Research and Development Corporation, 2010.

*Australian Beekeeping Guide*: State Government of Victoria, Rural Industries Research and Development Corporation, 2014.

*Beekeeping for small landholders in Western Australia*: Government of Western Australia, Department of Primary Industry and Regional Development.

*Biosecurity Code of Practice*: Australian Honey Bee Industry Council, 2016.

*Biosecurity and Agricultural Management Act 2007, Western Australia: Biosecurity and Agriculture Management Regulations 2013*.

Occupational Safety and Health Act 1984, Western Australia.

Bush Fires Act 1954: *Bushfire Regulations 1954*, Western Australia.



## 6 APPENDIX 1 – URBAN BEEKEEPING RECORD (EXAMPLE)

Date: \_\_\_\_\_ Apiary: \_\_\_\_\_ Time: \_\_\_\_\_

Temp: \_\_\_\_ °C     Sunny     Partly Cloudy     Overcast     Windy     Drizzle

Water Source:     In place     In place, needs to be refreshed     Absent

	Hive 1	Hive 2	Hive 3	Hive 4
<b>General Hive Appearance</b>				
Bees active?				
Pollen being bought in?				
Signs of robbing?				
Are the bees calm?				
Entrance reduced				
Number of supers? Number added.				
<b>Reproduction</b>				
Is the brood pattern good?				
Is there capped and uncapped brood?				
Are larvae healthy, white and shiny?				
How many frames are being fully or almost fully used for brood				
Active Swarm or supersEDURE cells?				
Colony Split				
New Queen Required or Installed				
<b>Capacity</b>				
How many frames are covered by bees				
How many frames have nectar or are capped				
Number of Frames taken for harvest				
<b>Signs of Pests</b>				
Ants present				
Wax moth present				
Unusual number of dead bees				
Is there an odour				
Any testing undertaken				
<b>Comments</b>				

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***Version 1 / 2020***

Produced with thanks to the following **Western Australian Apiarists' Society** members

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Brendan Kelly

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Content provided by

**THE WESTERN AUSTRALIAN APIARISTS' SOCIETY**



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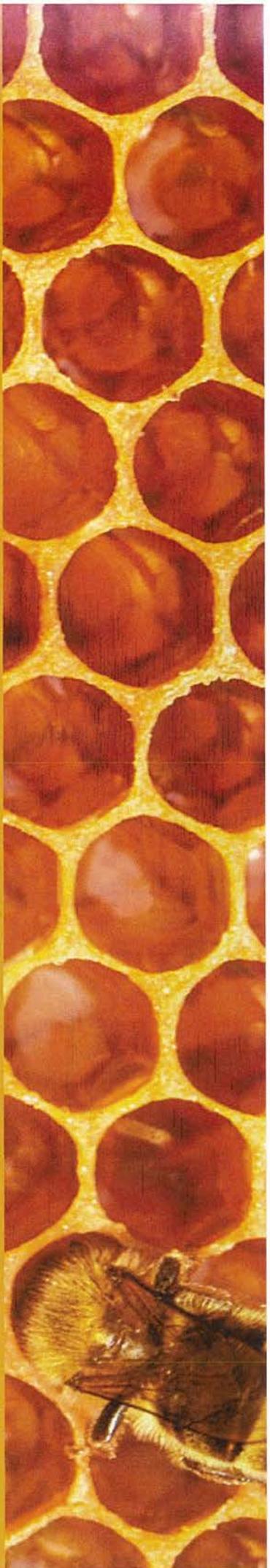
Margaret River Chapter: [margaretriver@waas.org.au](mailto:margaretriver@waas.org.au)

**"We promote and encourage the art of responsible beekeeping."**

**This guide has been produced to improve the community's understanding and appreciation of the important role of bees in our environment and to train in the skills of responsible beekeeping.**



WESTERN AUSTRALIAN APIARISTS' SOCIETY 2020





## 9. REPORTS OF COMMITTEES AND EMPLOYEE REPORTS

### 9.1 PLANNING AND DEVELOPMENT

*Cr Pearce declared a proximity interest pursuant to Section 5.60B of the Local Government Act 1995 in Agenda Item 9.1.1 Application for Development Approval – Continuation of Existing Extractive Industry (Clay Extraction) on Lot M1919 Chitty Road, Hoddy's Well, as her husband's property borders the pit of the extractive industry. Cr Pearce declared that "as a consequence there may be a perception that my impartiality on the matter may be affected. I will therefore declare that I will depart the Council Chambers while the matter is being heard."*

*Cr Pearce departed Council Chambers at 4.33pm.*

#### 9.1.1 Application for Development Approval – Continuation of Existing Extractive Industry (Clay Extraction) on Lot M1919 Chitty Road, Hoddy's Well

Date of Report:	10 May 2021
Applicant or Proponent:	Land Insights / Capitary No. 3 (Midland Brick)
File Reference:	IPA74159/A4804/5CHI
Author:	H. de Vos – Planning Officer
Responsible Officer:	K. Nieuwoudt – Manager of Planning and Development
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-judicial
Attachments:	<ol style="list-style-type: none"><li>1. Lot M1919 Salt Valley Road - Clay Extraction Management Plan - Capitary No. 3 (Midland Brick) - January 2021 – via link: <a href="https://www.toodyay.wa.gov.au/Profiles/toodyay/assets/moduledata/publicnotices/2f96ee65-2b35-44b9-add2-bbf0ead1bb95/1.6/1055-Chitty-EIA-Rev2a-Jan21.pdf">https://www.toodyay.wa.gov.au/Profiles/toodyay/assets/moduledata/publicnotices/2f96ee65-2b35-44b9-add2-bbf0ead1bb95/1.6/1055-Chitty-EIA-Rev2a-Jan21.pdf</a>; and</li><li>2. Schedule of Submissions</li></ol>

### PURPOSE OF THE REPORT

Council is asked to consider an application for Development Approval and an Extractive Industry Licence for the continuation of a clay quarry at Lot M1919 Chitty Road in Hoddy's Well.

## BACKGROUND

Lot M1919 Chitty Road in Hoddy's Well is a 236.7-hectare property which is zoned Rural under Shire of Toodyay Local Planning Scheme No. 4 (the Scheme). The property is situated adjacent to Chitty Road and also has frontage along Salt Valley Road – approximately 13 kilometres to the south of the Toodyay town site.

The application is for a ten (10) year extension of the Development Approval (DA) and Extractive Industry Licence (EIL) for the continued extraction of clay at Midland Brick's 'Chitty' quarry, located at Lot M1919 Salt Valley Road, Hoddy's Well.

The DA and EIL application apply to the current/existing areas used for excavation (including overburden and topsoil stockpiles, clay stockpiles, water detention basins, access tracks etc.), and for the proposed expansion areas and new pit areas as shown on the attached plans. Refer Appendix B (Plans) in **Attachment 1**.

Development Approval and an Extractive Industry Licence were last issued on 12 October 2011 for a period of 10 years. A reapplication was made in 2016 for the addition of a separate pit. The revised DA and EIL were issued on 22 December 2016 for a period of 5 years (expiring October 2021).

A summary of the proposal is outlined in the table below:

SUBJECT	DESCRIPTION
Operating times	The hours of operation will be from 07:00 to 17:00 hours from Monday to Friday. No operation will occur on weekends or Public Holidays.
Life of project	Exceeding 10 years.
Volume extracted	Approximately 100,000 tonnes annually.
Site preparation	<ul style="list-style-type: none"> <li>Limited site preparation is required as the site is already established for clay extraction.</li> <li>Only a few scattered trees will need to be cleared.</li> <li>There is no requirement for bunding or vegetation screening as the pit cannot be seen from the road.</li> <li>Internal access, signage and fencing has already been established.</li> </ul>
Pit Area	The Chitty Main Pit is currently 3.3 hectares (open pit area). The Chitty Junior pit on the western side of the lot is approximately 0.4 hectares. The new White Schist pit is expected to be approximately 2.3 hectares over the next 10 years. Chitty Main Pit is expected to be approximately 10 hectares in size.

SUBJECT	DESCRIPTION
Staging	<p>Excavation has been progressing in a southerly direction within the Chitty Main Pit area. It will continue south as well as to the east.</p> <p>There is no staging proposed for the smaller 'Chitty Junior' pit.</p> <p>It is expected that excavation within the new White Schist pit to the north of the Chitty Main Pit will commence in approximately 5 years' time. Excavation will commence at the southern end of the pit and will move northwards over the next approximately 20 years.</p>
Depth	Depth of excavation will reach approximately 20 metres over the lifetime of the operation.
Excavation process	<p>Excavation of clay is being undertaken on site via an Excavation Campaign (i.e. removal of topsoil and overburden, excavation of clay to stockpile) and Carting Campaign (transport of clay from stockpiles to the factories). In general, the steps will involve the following:</p> <ul style="list-style-type: none"> <li>Topsoil will be removed and stockpiled for later use at the decommissioning stage. Topsoil stockpiles will be located close to the pit area so they can be used for later rehabilitation.</li> <li>Overburden will be removed from the pit area if necessary and will be stockpiled for later use in site recontouring. The overburden stockpiles will be located adjacent to the pit area for readiness to push into the pit as part of land recontouring. They are approximately 2-3 metres in height.</li> <li>Clay will be excavated by a bulldozer, scraper or excavator and will be moved to the 'stockpile area' located approximately 200m from the site entrance or onto stockpiles adjacent to the pit area.</li> <li>The depth of excavation will vary depending on the availability of the resource; however the pits are expected to reach depths of up to 20 metres.</li> <li>It is estimated that there will be approximately 5 – 10 trucks per hour over 90 days throughout the year.</li> <li>Approximately 100,000 tonnes of clay will be</li> </ul>

SUBJECT	DESCRIPTION
	<p>excavated and transported per annum.</p> <ul style="list-style-type: none"> <li>Previously excavated areas will be used as a water detention basin and for drainage management.</li> </ul>
Direction of excavation	The Chitty Main Pit will largely continue to be excavated to the south and east. There is no particular direction of excavation for the Chitty Junior pit. The White Schist pit will be excavated from south to north.
Stockpiling	A stockpile area is located at the northern end of the property near the site entrance and stockpiles are also located adjacent to the pit areas.
Access	Existing site access is located at the north-west corner of the site from Salt Valley Road. An internal access track provides access to the pits.
Vehicle movements	It is estimated that there will be approximately 5 – 10 trucks per hour over 90 days throughout the year.
Refuelling	<p>The operation will use mobile refuelling.</p> <p>There will be no storage of fuel on site.</p>
Structures	No temporary structures are proposed to be used on site.
Decommissioning	The pit will be recontoured and rehabilitated in accordance with the Rehabilitation Management Plan.

## COMMENTS AND DETAILS

The applicant is seeking a renewal of the DA and EIL for a further 10 years.

Clay extraction has been occurring in this property for decades. To date, the Shire has not received any complaints regarding the operation.

It is noted that there has been a degree of public opposition raised during the consultation phase of this application. However, Officers consider that the issues raised can be adequately addressed through standard conditions of approval, and modifications of the management plan which will be required to the satisfaction of the local government.

Due to the low to medium risk score, it was considered that further independent advice beyond the standard departmental advice was not required in this instance.

Environmental impacts are being adequately addressed and managed in the conditions of approval being recommended to Council.

**Truck movements:**

The applicant is proposing 5-10 trucks per hour up to 90 days per year.

There is no change to the truck numbers between this application and the previous Council approval.

Ongoing monitoring of these numbers will be conducted by the Shire of Toodyay to ensure ongoing compliance. This will be undertaken through periodic random inspection of traffic numbers and included in the annual report of operations which is to be supplied to the Shire of Toodyay. It is recommended that the following words be included in any condition of approval:

*“The applicant must have a traffic counter installed at the crossover point and the data must be made available to the Shire of Toodyay upon request. The licensee must also supply truck movement data as part of the annual report on operations which will be required with this approval.”*

**Final rehabilitation closeout**

When the final stages of rehabilitation have been completed. The local government will appoint an independent consultant to produce a report on the closeout providing advice to the local government about the completeness and compliance of the closeout in relation to the approved management plan. This will be at the licensee's expense. It is recommended that this be included into any conditions of approval.

**IMPLICATIONS TO CONSIDER**

**Consultative:**

Consultation in respect to the DA and EIL was undertaken in accordance with Level E of Council's Policy M.2 – Public Consultation Formal Matters.

An advertisement was placed in the March 2021 edition of the Toodyay Community Newsletter. The proposal was also placed on the Shire of Toodyay's website and made available at the Shire administration offices. All landowners within 1,000m of the property were advised of the proposal in writing and provided with an opportunity to comment. This was also sent to Main Roads WA, Department of Planning, Lands and Heritage, Department of Water and Environmental Regulation and the Department of Biodiversity Conservation and Attractions. The consultation period ran for 28 days and expired on 16 April 2021.

The Shire received six submissions (three (3) from State Government Agencies and three (3) public submissions), and these are addressed in the Schedule of Submissions which can be viewed as **Attachment 2** – Schedule of Submissions.

State Government Agencies provided standard advice notes, whereas the public submissions raised the following concerns:

- Perceived inadequate information in the Applicant's Clay Extraction Management Plan (including site-specific management plans);

- Perceived issues with regards to Rehabilitation Management Plan;
- Perceived Water Management and drainage issues;
- Perceived inaccuracies with regards to tonnages and number of truck movements; and
- Perceived issues with dust control in the past;

By far, the most prominent concern raised by submitters revolves around the lack of detail in the Applicant's Rehabilitation Management Plan. Those concerns are adequately addressed in the Schedule of Submissions (**Attachment 2**).

Where appropriate, Officers have recommended (as a condition of approval) the Applicant provides further detail to compliment the submitted Rehabilitation Management Plan. This is reflected in the Officer's Recommendation at 2.2 and 3.2 respectively.

**Strategic:**

**State Planning Strategy 2050**

A primary outcome of this strategy is for accessible and affordable supplies of basic raw materials made available close to demand. To this extent, the Shire of Toodyay is well located to support this strategic outcome and therefore has a number of priority resource locations that have been identified.

The strategy also recognises natural resources such as water, agricultural land, energy and mineral resources and basic raw material deposits are conserved for best future use and development.

**Shire of Toodyay Community Strategic Community Plan 2028**

Toodyay is the source of significant quantities of basic raw materials for the Perth Metropolitan area. This includes clay, gravel, hard rock and sand. These activities are permitted and supported through State Planning Policies. Within the limitations of the State policy framework, the Shire seeks to regulate these activities through its Local Planning Scheme and an Extractive Industry Local Law. The Shire has the capacity to influence days and hours of operation, transport routes and conditions (including contributions) and rehabilitation requirements. All Shire decision making is subject to review by the State Administrative Tribunal.

The Shire will be able to regulate this activity through the proposed development approval conditions and licence conditions.

**Shire of Toodyay Environmental Management Strategy (EMS)**

A key outcome for the Shire with regards to land is to ensure that decisions are based on a systems framework for land management which recognises the capability of the land to support any proposed activity. This requires an improved understanding of the soil, water, vegetation and geological properties of the area and the ability to interpret this information within the context of the proposed action.

The land management objectives of the EMS are to:

- Incorporate natural resource management and environmental considerations into the Shire's planning processes; and
- Build and maintain relationships and partnerships with land managers including traditional owners to deliver improved environmental outcomes.

The Shire of Toodyay relies on its GIS capability to assist with the assessment of these proposals and seeks comment from relevant State Government agencies as part of the community consultation process. The information provided in submissions is then considered in the decision making and recommendation process.

An extractive industry should operate in a partnership between the landowner, the extractive industry licensee and the Shire of Toodyay. This is reflected first and foremost in any conditions of approval relating to reducing or eliminating environmental impacts occurring as a result of the industry and after through environmental rehabilitation.

#### Shire of Toodyay Local Planning Strategy 2017

The Shire's Local Planning Strategy maintains that extractive industries are an important industry within the Shire of Toodyay.

*Planning for the rural areas of the Shire must have regard to the potential for extraction of basic raw materials and accommodate suitable buffer areas between sensitive land uses and extraction sites in accordance with the provision of the WAPC's State Planning Policy No. 2.5 – Rural Planning. The priority resource and extraction sites identified in SPP 2.5 are shown on the Local Planning Strategy Map No. 3. Further, Section 6.4 of SPP2.5 guides the implementation of the provisions of the policy into local planning schemes, which has been taken into account in this Strategy and will be implemented into LPS5.*

*Extractive industries are a discretionary land use in the Local Planning Scheme No. 4 and this Strategy proposes to maintain this level of permissibility.*

The current Local Planning Strategy identifies lot M1919 as being adjacent to a priority clay resource location.

#### Policy related:

##### State Planning Policy 2.4 – Basic Raw Materials

This policy was superseded by State Planning Policy 2.5 – Rural Planning in 2016 for the Shires of Gingin, Chittering, Toodyay and Northam.

However, mapping for this policy still identifies Significant Geological Supplies (SGS) and priority resource locations within the Shire of Toodyay. Lot M1919 is located adjacent to a priority resource location for clay extraction.

### State Planning Policy 2.5 – Rural Planning.

Section 5.9(a) of the policy states:

*Significant Geological Supplies and their buffers are not to be developed for other purposes until the resource is extracted, or unless development is compatible with the future extraction of the resource;*

Whilst at 5.9(e):

*region and local planning schemes should not generally prohibit the extraction of basic raw material resources;*

and (f)

*sequential land use planning is encouraged whereby extraction and appropriate rehabilitation can take place on a programmed basis in advance of longer-term use and development;*

### Members Policy M.2 – Public Consultation Formal Matters

The Shire of Toodyay Members Policy M.2 – Public Consultation Formal Matters (M2) applies to the proposal and requires consultation in accordance with Level E – Locality.

### Local Planning Policy No. 7 – Extractive Industries Road Maintenance Contribution (LPP7)

This is applicable to Extractive Industry Applications. This Policy provides a framework for contributions by Extractive Industries to help the Shire to recover the additional costs incurred from road use that will result from that land use.

The contributions consist of two components:

- Construction and Rehabilitation: Under the authority of State Planning Policy 3.6 Appendix 1 - the Shire of Toodyay may charge for the cost of upgrading any road or roads to be used by the Extractive Industry to ensure it is fit for purpose. The Shire will also charge a rehabilitation cost calculated on the rate of consumption of that road asset.
- Repairs and Maintenance: Under the authority of the *Road Traffic Act 1974*, the Shire of Toodyay will recover the cost of repairs and maintenance of any road or roads used by the Extractive Industry. The contribution will be based on a formula adopted by the Shire of Toodyay as part of its annual adoption of fees and charges.

### Financial:

The proposed development does have financial implications for the Council in terms of any bonds or road maintenance contributions that may be sought. All bonds will be held in trust and will be refunded to the Applicant as outlined in the conditions of the Planning Approval and the Extractive Industry Licence.

The Shire of Toodyay's *Schedule of Fees and Charges* specifies that any extractive industry that extracts more than 2,000 tonnes per annum will need to make a road maintenance contribution.

### Road Maintenance Contributions

The required road contribution would then be calculated as Marginal Cost X Vehicle ESA X Trips X Haul Distance. This figure can then be converted to a charge per tonne, but the charge would vary from project to project depending on the haul distance.

Should Council decide to approve this application, it is recommended that a standard condition that is used in current extractive industry applications be applied:

*The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the clay extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay's Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.*

The final amount will be determined in accordance with the policy.

### Rehabilitation Bond

The Applicant is also required to pay a rehabilitation bond which is held in trust until the rehabilitation process of the site is completed to the satisfaction of the Shire of Toodyay. The Schedule of Fees and Charges stipulates that the following bonds are to be collected:

The current Shire of Toodyay Fees and Charges from the approved Budget 2020 - 21 are:

- Secured sum – Rehabilitation for gravel, clay or stone less than 3m deep per hectare = \$7,000
- Secured sum – Rehabilitation for gravel, clay or stone more than 3m deep per hectare = \$16,000

This rehabilitation bond is to be used by the local government if rehabilitation works have not been completed satisfactorily, in order to fund any additional rehabilitation work required.

### Legal and Statutory:

*Planning and Development Act 2005 (WA)*

*Planning and Development Regulations 2009 (WA)*

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

*Shire of Toodyay Local Planning Scheme No 4*

The Scheme provides the mechanism for protecting and enhancing the environment of the district, controlling land and building development, setting aside land for future reserves and other matters authorised by the *Planning and Development Act 2005*.

The subject site is zoned 'Rural' under the provisions of Local Planning Scheme No 4. The proposed Extractive Industry is defined as 'Industry – Extractive' land use, which is a 'D' use within the Rural zone. This means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

#### Local Laws

The Shire of Toodyay Extractive Industry Local Law applies to this application and establishes guidelines to assess applications for extractive industry and to issue extractive industry licences.

*The local government may, in respect of an application:*

- a) *Refuse the application; or*
- b) *Approve the application;*
  - i. *Over the whole or part of the land in respect of which the application is made and*
  - ii. *On such terms and conditions, if any, as it sees fit.*

#### Reviews

Decisions made by local government are subject to review by the State Administrative Tribunal (SAT) (part 6.1).

#### Risk related:

As noted above, should Council resolve to refuse or conditionally approve the proposal, the applicant has a right of review through the State Administrative Tribunal (SAT) which will incur legal costs.

Additionally, there is a potential risk to the environment if an extractive industry operation is poorly managed.

Non-compliance of either development approval or extractive industry approval conditions is a serious matter and is dealt with under Part 13 of the *Planning and Development Act 2005 (WA)* and/or Section 2.1 of the Shire of Toodyay's *Extractive Industries Local Law 1999*. In each instance the Shire of Toodyay has the ability to fine and/or prosecute licensees for breaches where it is deemed appropriate to pursue that course of action.

### **VOTING REQUIREMENTS**

Simple Majority

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

That Council –

1. Receives and adopts the recommendations in the Schedule of Submissions that forms the subject of Attachment 2 to the report;
2. Pursuant to clause 68(2)(b) of the *deemed provisions for local planning schemes*, approves the Application for Development Approval for an Extractive

Industry on Lot M1919 Chitty Road, Hoddy's Well subject to the following conditions:

- 2.1 This approval will expire and the use permitted by this approval must cease on or before 11 October 2031 unless, after a written request is made prior to that date, the approval is extended by the local government.
- 2.2 Development is to be in accordance with the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report, but amended, to the satisfaction of the local government, by updating the Rehabilitation Management Plan in Appendix E to –
  - 2.2.1 provide further detail regarding the planting of native vegetation on slopes steeper than 1:4; and
  - 2.2.2 to provide further details with respect to how the rehabilitation of the site will be monitored.

**Site specific**

- 2.3 The location and total area of the excavation is to be limited to 16 ha as depicted on the application.
- 2.4 The extraction of material is limited to a depth detailed in the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report.
- 2.5 The maximum permitted extraction is limited to 100,000 tonnes per annum.
- 2.6 Extraction is to be undertaken entirely within Lot M1919 Chitty Road, Hoddy's Well and is to be setback a minimum of 50 metres from the boundary.
- 2.7 Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
- 2.8 Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Friday. No operations to occur on weekends or public holidays.
- 2.9 The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period.

### **Environment and Rehabilitation**

- 2.10 The excavation site is to be rehabilitated in accordance with the Rehabilitation Management Plan in the Clay Extraction Management Plan (as amended) that forms the subject of Attachment 1 to the report, and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- 2.11 The applicant is required to pay, in accordance with the Shire's adopted Schedule of Fees and Charges, an additional bond as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works. The Shire of Toodyay will accept a Bank Guarantee.
- 2.12 A Pit Rehabilitation Compliance Report prepared by an independent and suitably qualified consultant appointed by the local government, must be submitted to the local government upon completion of the final stages of rehabilitation. The full cost of the Pit Rehabilitation Compliance Report, including any associated costs, shall be borne by the Pit Operator (the licensee).
- 2.13 The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the local government.
- 2.14 The Applicant is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
- 2.15 The applicant is to provide a Bushfire Management Plan in accordance with SPP 3.7 – Planning for Bushfire Prone Areas – to the satisfaction of the local government.
- 2.16 The noise generated by the development is not to exceed the levels as set out under the *Environmental Protection Act 1986* (and the *Environmental Protection (Noise) Regulations 1997*).
- 2.17 Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Water and Environmental Regulation Guidelines.

- 2.18 The operations are managed in accordance with "Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources".
- 2.19 Any dewatering shall be in accordance with "Water Quality Protection Note 13 - Dewatering of Soils".

**Transport and roads**

- 2.20 Operating hours for cartage shall be limited to 7:00am until 5:00pm Monday to Friday. No operation will occur on weekends and Public Holidays.
- 2.21 A traffic counter must be installed at the crossover point on Salt Valley Road, and the data must be made available to the local government upon request.
- 2.22 All trucks involved in the project shall comply with the Shire of Toodyay's Council Administration Policy No. A.8. Oversize Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- 2.23 All truck loads leaving the site with materials are to be covered.
- 2.24 The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay's Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.
- 2.25 The Applicant is to establish a level of communication with the Public Transport Authority (PTA) that will enable the Applicant to be aware of any changes to the school bus stop locations on Salt Valley Road and communicate such changes to all truck drivers involved travelling to and from this site. Council is to also be notified of any changes. No cartage operations from the site during school bus hours in line with RAV requirements.

**Insurance**

- 2.26 The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.

3. Pursuant to clause 3.1(2)(b) of the *Shire of Toodyay Extractive Industries Local Law 1999*, approves an Extractive Industry Licence for Capitary No. 3 Pty Ltd (Midland Brick) to conduct clay extraction operations out of Lot M1919 Chitty Road, Hoddy's Well subject to the following conditions:
  - 3.1 This approval will expire and the use permitted by this approval must cease on or before 11 October 2031 unless, after a written request is made prior to that date, the approval is extended by the local government.
  - 3.2 Development is to be in accordance with the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report, but amended, to the satisfaction of the local government, by updating the Rehabilitation Management Plan in Appendix E to –
    - 3.2.1 provide further detail regarding the planting of native vegetation on slopes steeper than 1:4; and
    - 3.2.2 to provide further details with respect to how the rehabilitation of the site will be monitored.

#### **Site specific**

- 3.3 The location and total area of the excavation is to be limited to 16 ha as depicted on the application.
- 3.4 The extraction of material is limited to a depth detailed in the Clay Extraction Management Plan that formed the subject of Attachment 1 to the report.
- 3.5 The maximum permitted extraction is limited to 100,000 tonnes per annum.
- 3.6 Extraction is to be undertaken entirely within Lot M1919 Chitty Road, Hoddy's Well and is to be setback a minimum of 50 metres from the boundary.
- 3.7 Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
- 3.8 Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Friday. No operations to occur on weekends or public holidays.
- 3.9 The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period.

### **Environment and Rehabilitation**

- 3.10 The excavation site is to be rehabilitated in accordance with the Rehabilitation Management Plan in the Clay Extraction Management Plan (as amended) that forms the subject of Attachment 1 to the report, and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- 3.11 The applicant is required to pay, in accordance with the Shire's adopted Schedule of Fees and Charges, an additional bond as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works. The Shire of Toodyay will accept a Bank Guarantee.
- 3.12 A Pit Rehabilitation Compliance Report prepared by an independent and suitably qualified consultant appointed by the local government, must be submitted to the local government upon completion of the final stages of rehabilitation. The full cost of the Pit Rehabilitation Compliance Report, including any associated costs, shall be borne by the Pit Operator (the licensee).
- 3.13 The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the local government.
- 3.14 The Applicant is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
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- 3.21 The applicant must have a traffic counter installed at the crossover point on Salt Valley and the data must be made available to the Shire of Toodyay upon request.
- 3.22 All trucks involved in the project shall comply with the Shire of Toodyay's Council Administration Policy No. A.8. Oversize Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- 3.23 All truck loads leaving the site with materials are to be covered.
- 3.24 The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay's Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.
- 3.25 The Applicant is to establish a level of communication with the Public Transport Authority (PTA) that will enable the Applicant to be aware of any changes to the school bus stop locations on Salt Valley Road and communicate such changes to all truck drivers involved travelling to and from this site. Council is to also be notified of any changes. No cartage operations from the site during school bus hours in line with RAV requirements.

**Insurance**

- 3.25 The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.

Cr McKeown moved the Officer's Recommendation.

Clarification was sought.

Cr Chitty seconded the motion.

Debate commenced.

Further clarification was sought.

The motion was put.

**OFFICER'S RECOMMENDATION / COUNCIL RESOLUTION NO. 117/05/21**

**MOVED** Cr McKeown

**SECONDED** Cr Chitty

That Council –

1. Receives and adopts the recommendations in the Schedule of Submissions that forms the subject of Attachment 2 to the report;
2. Pursuant to clause 68(2)(b) of the *deemed provisions for local planning schemes*, approves the Application for Development Approval for an Extractive Industry on Lot M1919 Chitty Road, Hoddy's Well subject to the following conditions:
  - 2.1 This approval will expire and the use permitted by this approval must cease on or before 11 October 2031 unless, after a written request is made prior to that date, the approval is extended by the local government.
  - 2.2 Development is to be in accordance with the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report, but amended, to the satisfaction of the local government, by updating the Rehabilitation Management Plan in Appendix E to –
    - 2.2.1 provide further detail regarding the planting of native vegetation on slopes steeper than 1:4; and
    - 2.2.2 to provide further details with respect to how the rehabilitation of the site will be monitored.

**Site specific**

- 2.3 The location and total area of the excavation is to be limited to 16 ha as depicted on the application.
- 2.4 The extraction of material is limited to a depth detailed in the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report.
- 2.5 The maximum permitted extraction is limited to 100,000 tonnes per annum.
- 2.6 Extraction is to be undertaken entirely within Lot M1919 Chitty Road, Hoddy's Well and is to be setback a minimum of 50 metres from the boundary.

- 2.7 Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
- 2.8 Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Friday. No operations to occur on weekends or public holidays.
- 2.9 The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period.

#### **Environment and Rehabilitation**

- 2.10 The excavation site is to be rehabilitated in accordance with the Rehabilitation Management Plan in the Clay Extraction Management Plan (as amended) that forms the subject of Attachment 1 to the report, and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- 2.11 The applicant is required to pay, in accordance with the Shire's adopted Schedule of Fees and Charges, an additional bond as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works. The Shire of Toodyay will accept a Bank Guarantee.
- 2.12 A Pit Rehabilitation Compliance Report prepared by an independent and suitably qualified consultant appointed by the local government, must be submitted to the local government upon completion of the final stages of rehabilitation. The full cost of the Pit Rehabilitation Compliance Report, including any associated costs, shall be borne by the Pit Operator (the licensee).
- 2.13 The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the local government.

- 2.14 The Applicant is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
- 2.15 The applicant is to provide a Bushfire Management Plan in accordance with SPP 3.7 – Planning for Bushfire Prone Areas – to the satisfaction of the local government.
- 2.16 The noise generated by the development is not to exceed the levels as set out under the *Environmental Protection Act 1986* (and the *Environmental Protection (Noise) Regulations 1997*).
- 2.17 Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Water and Environmental Regulation Guidelines.
- 2.18 The operations are managed in accordance with “*Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources*”.
- 2.19 Any dewatering shall be in accordance with “*Water Quality Protection Note 13 - Dewatering of Soils*”.

#### **Transport and roads**

- 2.20 Operating hours for cartage shall be limited to 7:00am until 5:00pm Monday to Friday. No operation will occur on weekends and Public Holidays.
- 2.21 A traffic counter must be installed at the crossover point on Salt Valley Road, and the data must be made available to the local government upon request.
- 2.22 All trucks involved in the project shall comply with the Shire of Toodyay’s Council Administration Policy No. A.8. Oversize Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- 2.23 All truck loads leaving the site with materials are to be covered.
- 2.24 The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay’s Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.

2.25 The Applicant is to establish a level of communication with the Public Transport Authority (PTA) that will enable the Applicant to be aware of any changes to the school bus stop locations on Salt Valley Road and communicate such changes to all truck drivers involved travelling to and from this site. Council is to also be notified of any changes. No cartage operations from the site during school bus hours in line with RAV requirements.

**Insurance**

2.26 The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.

3. Pursuant to clause 3.1(2)(b) of the *Shire of Toodyay Extractive Industries Local Law 1999*, approves an Extractive Industry Licence for Capitary No. 3 Pty Ltd (Midland Brick) to conduct clay extraction operations out of Lot M1919 Chitty Road, Hoddy's Well subject to the following conditions:

3.1 This approval will expire and the use permitted by this approval must cease on or before 11 October 2031 unless, after a written request is made prior to that date, the approval is extended by the local government.

3.2 Development is to be in accordance with the Clay Extraction Management Plan that forms the subject of Attachment 1 to the report, but amended, to the satisfaction of the local government, by updating the Rehabilitation Management Plan in Appendix E to –

3.2.1 provide further detail regarding the planting of native vegetation on slopes steeper than 1:4; and

3.2.2 to provide further details with respect to how the rehabilitation of the site will be monitored.

**Site specific**

3.3 The location and total area of the excavation is to be limited to 16 ha as depicted on the application.

3.4 The extraction of material is limited to a depth detailed in the Clay Extraction Management Plan that formed the subject of Attachment 1 to the report.

3.5 The maximum permitted extraction is limited to 100,000 tonnes per annum.

3.6 Extraction is to be undertaken entirely within Lot M1919 Chitty Road, Hoddy's Well and is to be setback a minimum of 50 metres from the boundary.

- 3.7 Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
- 3.8 Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Friday. No operations to occur on weekends or public holidays.
- 3.9 The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period.

#### **Environment and Rehabilitation**

- 3.10 The excavation site is to be rehabilitated in accordance with the Rehabilitation Management Plan in the Clay Extraction Management Plan (as amended) that forms the subject of Attachment 1 to the report, and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- 3.11 The applicant is required to pay, in accordance with the Shire's adopted Schedule of Fees and Charges, an additional bond as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works. The Shire of Toodyay will accept a Bank Guarantee.
- 3.12 A Pit Rehabilitation Compliance Report prepared by an independent and suitably qualified consultant appointed by the local government, must be submitted to the local government upon completion of the final stages of rehabilitation. The full cost of the Pit Rehabilitation Compliance Report, including any associated costs, shall be borne by the Pit Operator (the licensee).
- 3.13 The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the local government.

- 3.14 The Applicant is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
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- 3.17 Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Water and Environmental Regulation Guidelines.
- 3.18 The operations are managed in accordance with “*Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources*”.
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- 3.21 The applicant must have a traffic counter installed at the crossover point on Salt Valley and the data must be made available to the Shire of Toodyay upon request.
- 3.22 All trucks involved in the project shall comply with the Shire of Toodyay’s Council Administration Policy No. A.8. Oversize Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- 3.33 All truck loads leaving the site with materials are to be covered.
- 3.34 The Applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair. Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the Applicant, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay Chief Executive Officer. This is to be done in accordance with the Shire of Toodyay’s Local Planning Policy No. LPP.7 Extractive Industry - Road Maintenance Contributions.

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**Insurance**

3.36 The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.

**MOTION CARRIED 7/0**

*Cr Pearce returned to Council Chambers at 4.42pm.*

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Your ref:

Our ref: 1055

Shire of Toodyay  
PO Box 96  
TOODYAY WA 6566

Dear Sir/Madam

**Extractive Industry Planning Approval and Licence Amendment**  
***Lot M1919 Chitty Road, Hoddys Well***

I refer to the Shire's letter of the 3 June 2021 pertaining to the approval of the Extractive Industry at Lot M1919 Chitty Road, Hoddys Well. A renewal of the Development Approval (DA) and the Extractive Industry Licence (EIL) was granted by the Shire of Toodyay Council at the May 2021 Council meeting. The approval was issued to Capitary No. 3 Pty Ltd (business name Midland Brick). BGC (Australia) Pty Ltd purchased Capitary No. 3 Pty Ltd in April 2021 who will now operate the quarry.

Following discussion with BGC, it has become apparent that a minor change to three conditions, relating to operating hours and traffic counting, would assist in operational efficiency at the site. Further information on the request and justification is provided below.

**Operating and carting hours**

Condition 8 and Condition 20 of both approvals (DA and EIL) relate to quarry operating hours and cartage hours (respectively). The operators of the site now require greater flexibility in terms of both operations and cartage by permitting activity on Saturdays. As such, we suggest that the wording for Conditions 8 and 20 of both the DA and EIL is amended as follows:

*Condition 8: Operating hours within the extraction area shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operations to occur on Sundays or public holidays.*

*Condition 20: Operating hours for carting shall be restricted to 7:00am and 5:00pm Monday to Saturday. No operation will occur on Sundays or public holidays.*

We understand that the adjoining quarry (Lot 11 Chitty Road, Hoddys Well) has similar operational parameters. Operation and carting on Saturdays is likely to be infrequent, and the total number of truck movements will not change, however this flexibility is important when there may be periods of peak demand.

It should also be noted that operation on Monday to Saturday between the hours of 7:00am and 5:00pm also complies with the *Environmental Protection (Noise) Regulations 1997*.

#### **Traffic counter**

Condition 21 of the DA and EIL requires a traffic counter be installed at the crossover point on Salt Valley Road. We understand that the intent of this condition is to create a record as to when cartage by trucks is occurring on the site.

The operator of the site already has an electronic system in place, referred to as 'load right', which automatically records load weight and times when clay is being loaded onto trucks. This provides a record of when trucks are on site and, as stated above, is what we understand is the objective of the condition. We also understand that information from this system has been provided at other quarry sites as a record for site use.

In order to recognise the existing 'load right' technology in use on the site, it is requested that Condition 21 on both the DA and EIL is amended as follows:

*The truck loading must be undertaken with an electronic system that logs the time of loading, and the data must be made available to the local government upon request.*

We thank the Shire Council for considering the above requests. We believe that the proposed changes will still ensure that the quarry operates appropriately while providing improved flexibility for the operator.

Please contact the undersigned should you require any further information or clarification of the above.

Yours sincerely,



Sharee Rasmussen  
**Land Insights**  
**Planning – Design – Environment**

5<sup>th</sup> July 2021  
Cc: BGC (Australia) Pty Ltd



Department of Planning,  
Lands and Heritage

## Lot 77 Bejoording Road, Bejoording



1: 8,027



0.4 0 0.20 0.4 Kilometers

Date produced: 13-Jul-2021

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

### Legend

Cadastre

Minor Roads

Minor, Sealed

Minor, Unsealed

Cadastre (No Attributes)  
(LGATE-001)

Notes

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PO BOX 775 COWARAMUP WA 6284

MOBILE 0474 203 115

EMAIL [INFO@SOUTHCONSULT.COM.AU](mailto:INFO@SOUTHCONSULT.COM.AU)

## PLANNING APPROVAL APPLICATION

### TITLE: RETROSPECTIVE DAM DEVELOPMENT & RECTIFICATION

---

LOCAL GOVERNMENT AUTHORITY: *SHIRE OF TOODYAY WA*

PROPERTY DETAILS: *LOT 77 BEJOORDING RD, BEJOORDING WA*

*MAY 2021*

APPLICANT/LANDOWNER:

*GEORGE FREDERICK MAXTED*

*M:0475 849 360*

*E: GFMAXTED1948@GMAIL.COM*

PREPARED BY

*STEFFEN SCHULZ BEENG*

*SOUTHCONSULT PTY LTD*

*PoBox 775*

*COWARAMUP WA 6284*

*M: 0474 203 115*

*E: [INFO@SOUTHCONSULT.COM.AU](mailto:INFO@SOUTHCONSULT.COM.AU)*

*ev 001*

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## 1 PROPOSAL

The property is located to the east of **Bejoording** Rd and south of Bindi Bindi-Toodyay Rd in the Shire of Toodyay.

The lot is **Rural Residential** zoned according to Local Planning Scheme No. 4 (2017).

Lot size is 4.1536 hectare (ha)

Retrospective planning approval is sought for two (2) dams and one (1) causeway located across a watercourse and one (1) existing hillside dam located not across a watercourse.

The dams on the watercourse were all existing until a major storm flood (larger than a 1 in 200-year) damaged all of the existing dams/ ponds and only two (2) of them are proposed to be reinstated.



Figure 1 - Dam sites mapped by the Shire of Toodyay prior storm flow damage.

The proposed sites for reinstating some of the existing dams were carefully chosen within the boundaries of Lot 77 Bejoording Rd, BEJOORDING WA. See Appendix B – Location and Sheet Layout Plan.

All dam waters are incorporated into the lot boundary such as that the dam water level when maintained at its maximum height is not causing waters to pond outside that boundary. The new design of the reinstated dam wall will include culverts set at a level and sized to maintain an adequate flow at the outflow at the property. The overflow culverts and spillways are also sized to handle a flow of up the 1 in 100-year storm event (1%AEP).

The DWER has inspected the site on 12 Feb 2021; see Appendix D – DWER – Letter of Education; Lot 77 Bejoording Rd and confirmed adequate outflow from the property.

All dams except Dam 2 are positioned with a buffer larger than 10m from all boundaries. Dam 2, the edge of the water surface area at the high watermark, is only positioned with a buffer of 8m from the eastern boundary.

The dams are designed to meet the standards and requirements in accordance with the DWER Water Quality Protection Note No.53: “Dam construction and operation in rural areas” (Sep 2019).

The dam will capture winter flow and run-off from an unnamed, minor, non-perennial watercourse which is a tributary of the **Bejoording** Brook in the upper catchment system of the Avon River.

Riparian rights for taking water from a watercourse apply, and no water licence requirements are needed.

The dams will provide fresh drinking water for livestock, sheep (non-intensive) and domestic use (lawn, gardens, domestic orchard), as well as firefighting.

No remnant and riparian vegetation will be removed for the re-development, and all existing vegetation on the banks of the watercourse will remain undisturbed.

The proponent is also proposing to revegetate the area around the dams and install ground cover vegetation on all embankments to protect the soil against erosion and install suitable, local, native vegetation along the watercourse and the submerged areas of the dam.

## 2 SPECIFICATION OF THE DAM

### 2.1 HYDROLOGICAL ASSESSMENT AND CATCHMENT ANALYSIS

#### GENERAL CONCLUSION

As part of the dam development, only one small catchment is being used to harvest water. The catchment area and the associated run-off contribute to a minor, non-perennial watercourse on Lot 77, a tributary to Bejoording Brook.

A comprehensive catchment analysis has identified that the dam catchment has a total area of 35ha and a *mean annual winter run-off & seepage yield* of 10 ML (Mega Litres). The alignment of small dams placed on Lot 77 across the minor watercourse and the off-stream hillside dam has a total combined storage volume of 2480 Kilo Litres (2.48 ML).

Therefore, the 2.48 ML water stored in the dams is only retarding a proportion of 24.8% from the catchment on Lot 559.

#### HYDROLOGICAL CATCHMENT DESCRIPTION

Lot 77 is located in the Hydrological Zone of the AVON RIVER BASIN and can be described as follows:

CATCHMENT	Toodyay Brook
SUBCATCHMENT	Bejoording Brook
Hydrography Type	Watercourse - minor, non-perennial
Hydrography Name	22353swp (DWER source ID)

#### CATCHMENT SIZE

The estimated size of the catchment is 35 ha and has been assessed from the 2m contour data (DPIRD\_072).

23 ha of the catchment can be described as flat pastureland. 12 ha of the catchment can be labelled as bushland with gentle slopes.

Soils are generally defined as within the Jelcobine York Subsystem 256JcYO. '*Areas of soils derived from freshly exposed rock. This unit is typified by the red soils of the Avon Valley but also includes areas of similar, but often greyer and lighter textured soils to the east of the valley.*' With 4% rocks, 45% clayey, loamy soils and 42% sandy soils (Source: DPIRD; Natural Resource Information Map)

RAINFALL AND CLIMATE

The rainfall and evaporation record for the property and catchment area is documented by the Bureau of Meteorology station # 010134 WATTENING approximately 10km away from Lot 77.

Precipitation (annual rainfall)	Mean	435	mm/a
	Lowest	245	mm/a
	Mean winter	363	mm/a
Evaporation		2000-2400	mm/a

The monthly rainfall statistics show that the main rainfall events are between the winter months of April and October and occasionally rainfall events occur in the spring/summer/autumn period from November to March.

This is when the evaporation rates of up to 1000mm are at the highest level and exceed the rainfall volume in  $\text{mm/m}^2$  by almost three to four times.

## RUN-OFF COEFFICIENTS

Run-off from the catchment area is affected by several aspects like general topography, slope, flow path distance, land use and vegetation cover.

The soil type located within the catchment absorbs and stores water volumes and has a large impact on the run-off.

All these factors have been taken into account and the run-off coefficients have been determined as follows:

23.0 ha of flat (slopes < 5%), pastured land and loamy, clayey, sandy

$$C_{\text{run-off}} = 0.10$$

12.0 ha of bushland on gentle slopes

$$C_{\text{run-off}} = 0.02$$

The average total run-off for the whole catchment is calculated at  $C_{\text{run-off}} = 0.07$ .

## CATCHMENT YIELD

The total annual catchment yield for the mean winter rainfall of 363 mm is calculated at:  $363\text{mm} \times 350,000\text{ m}^2 \times 0.07 =$

RUN-OFF ~9 Mega Litres

A small proportion of seepage flow within the catchment valley system is estimated at 1% of the mean annual winter rainfall. The coefficient is projected on the base of the soil type and predominantly loamy soil with an average drainage capacity

**SEEPAGE YIELD** 1 Mega Litres

At the point of concentration, the outflow of the lowest dam, the estimated water yield (mean annual winter rainfall & seepage) is available at:

**TOTAL CATCHMENT YIELD** 10 Mega Litres

Reflecting the combined maximum storage capacity of all three (3) dams of 2.48 Mega Litres, only 24.8 % of the total storage will be retarded from the catchment. This is below the required maximum of 5ML for rural properties and is below the suggested rate of 1ML storage per 10ha as required in the LPP25 “Dams” for a dam constructed over an existing watercourse in rural areas.

For a summarised report, see Appendix E – Hydrological Assessment.

## 2.2 CONCLUSION ON WINTER AND SUMMER FLOW PATTERNS AND MANAGEMENT PROVISIONS

### *WINTER AND SUMMER FLOW PATTERNS*

The majority of the creek flow will occur in the winter months of comprising nearly 83% of the annual rainfalls. Therefore, any substantial summer flow is unlikely to occur in the watercourse system on Lot 77.

### *LOW FLOW BYPASS PROVISION*

In the unlikely event of rainfall in the dry season, an automated low flow bypass system can be installed at the direction of the Department of Water and Environmental Regulation given the appropriate flow limits to bypass any low flows at all times around the dam.

### *OVERFLOW AND SPILLWAY CHANNEL*

For both dams, an overflow system in the form of two (2) dia 350mm concrete culvert pipes are to be installed. The invert level is placed 500mm below the top level of the banks and provides enough freeboard and flow capacity ( $0.9\text{m}^3/\text{sec}$ ) to securely handle the flow created by a 1 in 100-year storm event (1%AEP).

The '*Rational Method for catchments smaller than 50ha*' has been used to determine the max flow of  $0.71\text{ m}^3/\text{sec}$ .

The spillway system below the overflow is designed to be 2m wide at the bottom, and rocks shall be placed in the channel to prevent erosion and scouring. The flow capacity for all spillways is calculated at  $8\text{ m}^3/\text{sec}$  at 0.3m water flow depth.

## 2.3 WATER REQUIREMENTS

The minimum water requirements for the property and the estimated storage capacity for the dams can be assumed as follows: (1 m<sup>3</sup> = 1 Kilo litre KL)

Domestic Orchards (0.1 ha)	300 KL per year
Lawn & Garden (0.1 ha)	300 KL per year
Stock water	50 KL per year
Firefighting (optional)	200 KL
Evaporation (1000mm)	1,200 KL
<u>Residual storage vol. (20%)</u>	<u>430 KL</u>
<b>TOTAL</b>	<b>2,480 KL (m<sup>3</sup>)</b>

To maintain a steady water level in the dams a proportion of 1 ML seepage flow is expected throughout the year and until mid-summer season.

The dams are sized to fit the purpose of the demand for domestic use & irrigation, stock water and additional firefighting purposes.

## 2.4 DAM SPECIFICATIONS

The dams are designed in a way to store water from a watercourse and will be constructed across a small gully. A central clay core and cut-off trench shall prevent seepage flow through, under and around the dam wall. The dam will also be facilitated with an emergency overflow and spillway system to handle any large stormwater run-off events up to the 1 in 100-year occurrence interval (1%AEP). The flow depth in the overflow for the 1%AEP event will be around 0.3m, whereby a residual 0.2m freeboard will be available for safety precautions.

The dams will be 2-3m wide on top of the crest and around 1.5m high at the crest's centre line.

The depth of the dam's storage is estimated at 3m from the top of the dam wall, and clay material will be sourced from the borrow pit to build the dam wall and the central clay core sealing. All excavated material will be used to construct the dam wall and the associated overflow/spillway structures.

At the site inspection, it was noted from soil samples and a hand-roll-out-test of the soil, that very good clay class I material is present on-site to re-construct both new dams 1 & 2.

### *DAM DIMENSIONS AND KEY FIGURES*

The dam capacity is derived from the as-constructed survey information and adjustment made on the depth for each of the two dams.

The new dam designs have been derived from a surveyed DTM (Digital Terrain Model) and the volume calculation was modelled with CAD software up to the full supply level (FSL).

	Dam 1	Dam 2	Dam 2 / Causeway	Hillside Dam
Dam capacity at FSL:	500 m3 RL 227	300 m3 RL 224.5	180 m3 RL 225	1,500 m3 RL 229.75
Depth at FSL:	2.5 m	2.5 m	2.0 m	4.0 m
Water area at FSL:	600 m2	400 m2	150 m2	750 m2
<b>TOTAL</b>	<b>2,480 m3 (KL) / 2.5 ML</b>			
Top Crest	RL 227.5	RL 225	RL 225	RL 229.75
Width Crest	3 m	2 m	2 m	2 m
Wall height (above existing ground level)	1.5 m	1.0 m	1.0 m	
Batters down	> 1 : 2.5	> 1 : 2.5	> 1 : 2.5	> 1 : 2.5
Spillway level (FSL)	RL 227	RL 224.5	Under wall Pipe @ RL 223	RL 229.25
Free board	0.5 m	0.5 m	0.5 m	0.5 m
Spillway width/depth	2 m / 0.3 m	2 m / 0.3 m	n/a	2 m / 0.3 m
Spillway return slope	30%	30%	n/a	30%
Spillway discharge capacity@0.3m depth	8 m3/sec	8 m3/sec	n/a	8 m3/sec

All batters shall be constructed at a ratio of 1m vertical to 2.5m horizontal (1:2.5) to prevent slumping and to provide structural integrity for the embankments.

Topsoil and all organic material, roots, peat and soft loamy soils, shall be removed underneath the constructed embankment (footprint of the dam).

Assess moisture conditions of the exposed natural subgrade (if required) and proof compact the subgrade using suitable compaction equipment with 6 passes or more to achieve a minimum dry density ratio (DDR) of 95% maximum modified dry density (MMDD). All weak areas, which deform excessively under rolling, should be removed and replaced with structural fill materials.

All structural fills shall be placed in loose layers not greater than 300 mm thick and compacted to achieve the recommended minimum 98% maximum modified dry density (MMDD) compaction requirements, up to the finished design levels.

The clay shall be tested prior to being used for the wall construction. Emerson class tests, according to AS 1289.3.8, shall demonstrate that the clay is non-dispersive and suitable for the construction of the dam wall.

During the construction, compaction tests shall be carried out by a NATA certified geotechnical laboratory, and the results to be confirmed by a certified structural or civil engineer if required by the Shire of Toodyay.

### 3 ENVIRONMENTAL CONSIDERATIONS AND REHABILITATION

#### 3.1 ENVIRONMENTAL CONSIDERATIONS

There are no environmental concerns relating to the development of the dams. The dam location is outside the acid sulphate soil risk area, and no threatened flora, fauna and ecological communities are present according to the NatureMap Tool.

#### 3.2 REHABILITATION

To maintain the uniqueness of the landscape, any spoil associated with the construction will be levelled, and the dam sites will be left neat and tidy.

Topsoil spreading on top of the embankment and installation of grass and ground cover vegetation will prevent erosion and dust emissions. This will also reduce any silt material getting washed down into the creek lines.

---

Southconsult – Consulting Engineers prepared this document and all drawings. We hope this information provides good planning management and is to your satisfaction. However, do not hesitate to contact us if you require more details and information on the planning.

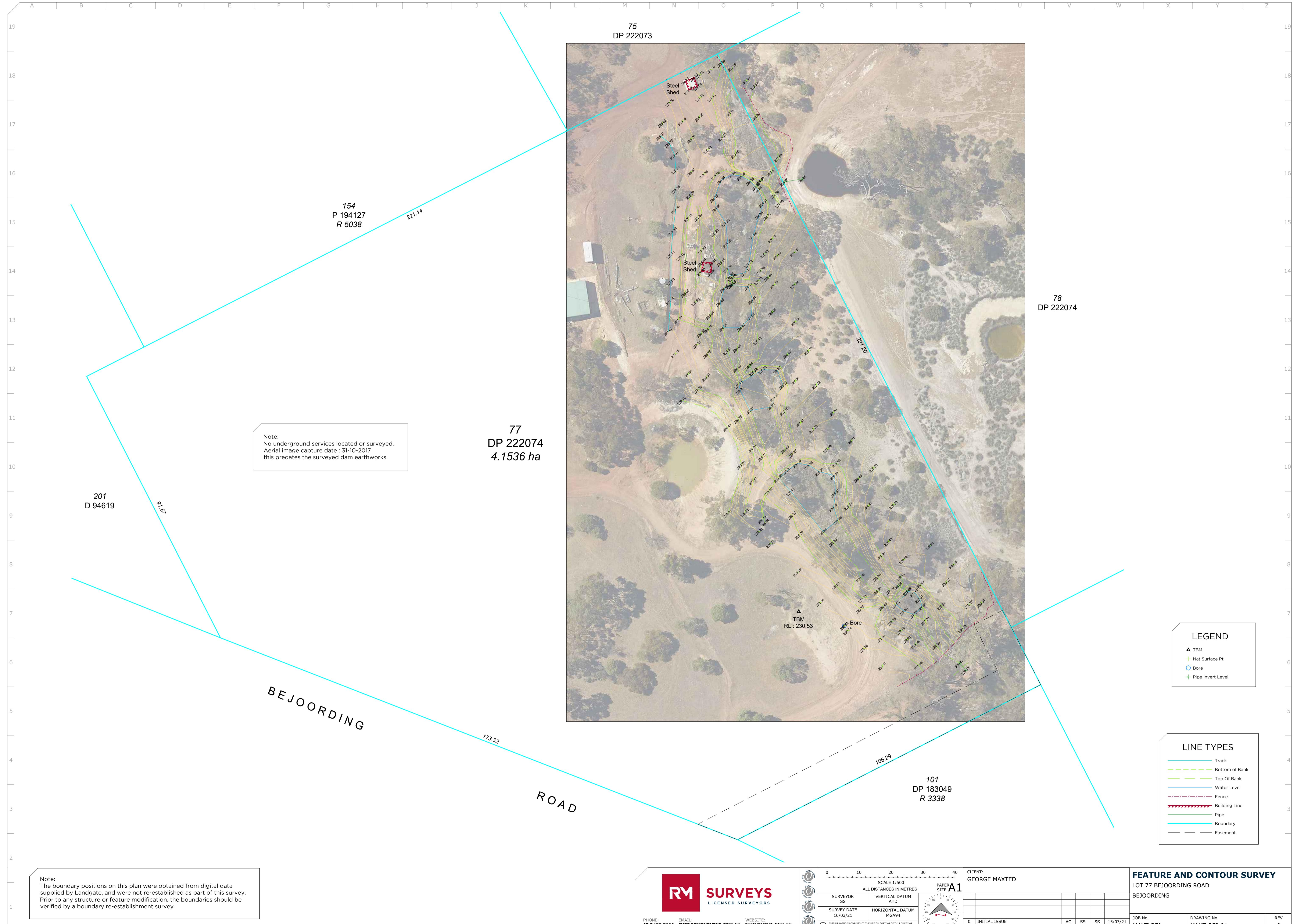
Yours faithfully

Steffen Schulz  
BEng, MIEAust | ID 4118022  
Southconsult - Civil Engineering Consultancy  
Cowaramup WA  
5 May 2021

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## APPENDICES

### APPENDIX A – LOT 77 FEATURE & CONTOUR SURVEY; MARCH 2021



## APPENDIX B – LOCATION AND SHEET LAYOUT PLAN

20

91.67

77  
DP 222074  
4.1536 ha

# BEJOORDING

SHEET INDEX :

GA-LP-001	LOCATION AND SHEET INDEX PLAN
GA-SP-001	DAM 1 - CONSTRUCTION DETAILS
GA-SP-002	HILLSIDE DAM - CONSTRUCTION DETAILS
GA-SP-003	DAM 2 - CONSTRUCTION DETAILS
GA-XS-001	DAM 1 AND 2 - WALL CROSS SECTIONS

**LOCATION AND SHEET LAYOUT PLAN**      **SCALE 1:100**  
**EXISTING GROUND CONTOURS ( INTERVAL 0.25m )**  
**DATE OF SURVEY : 10-03-2021**  
**DATE OF AERIAL : 31-10-2017 ( PREDATES THE SHOWN FEATURE SURVEY ).**

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E : [info@southconsult.com.au](mailto:info@southconsult.com.au)

Drawn : Civil Graphix Client : G. F. MAXTED

Designed : S. Schulz Project Title : Dam Reconstructions - Lot 77 Bejoording Rd, Bejoording - Shire of Toodyay

Date : 30.04.2021

SCALE 1:1000

Wing Number

1

### Description

1

1000

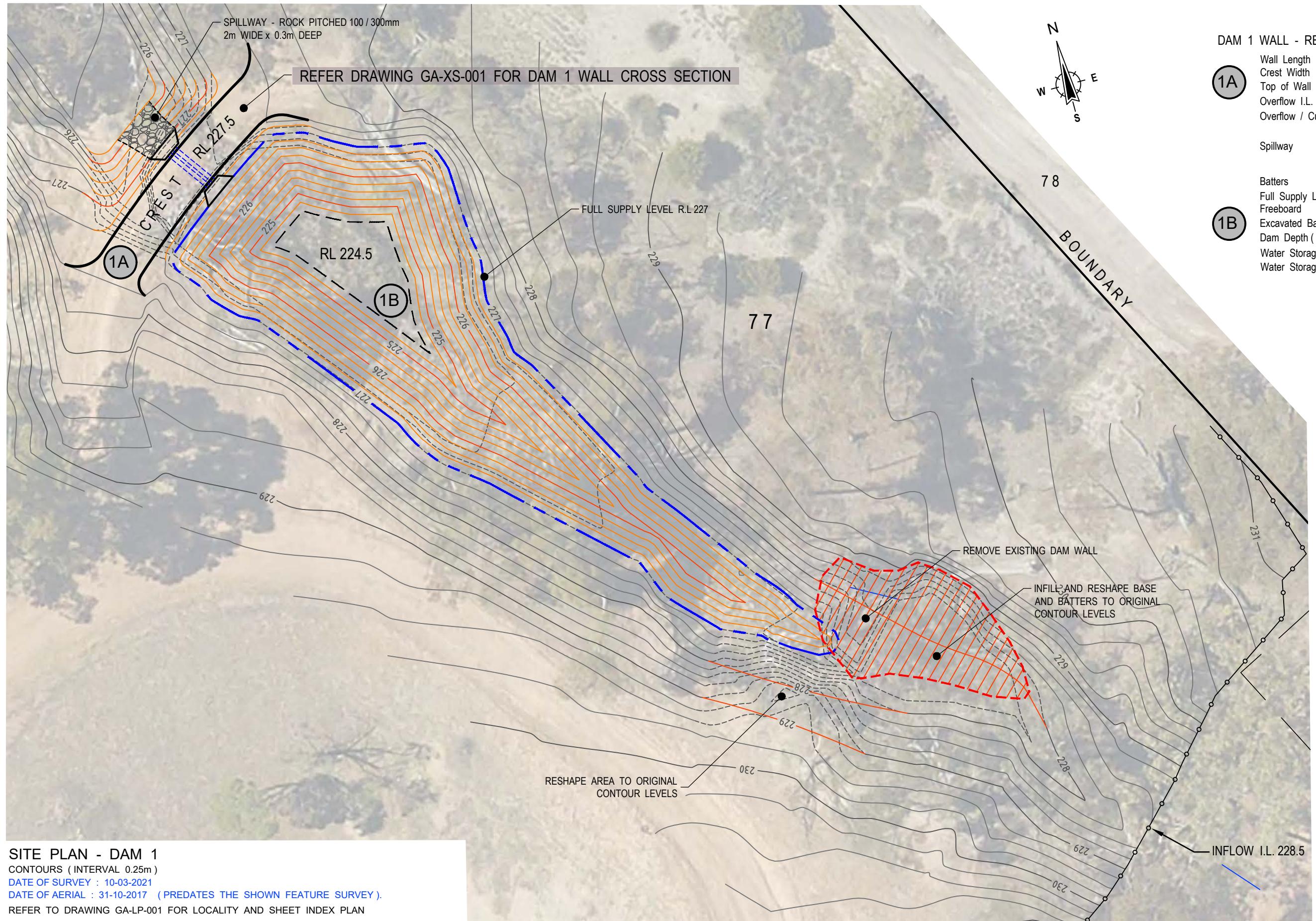
awn

ppr.

≡ : info

10

## APPENDIX C – SITE PLAN/CROSS-SECTION DETAILS



## SITE PLAN - DAM 1

CONTOURS ( INTERVAL 0.25m )

DATE OF SURVEY : 10-03-2021

DATE OF AERIAL : 31-10-2017 ( PREDATES THE SHOWN FEATURE SURVEY )

REFER TO DRAWING GA-LP-001 FOR LOCALITY AND SHEET INDEX PLATE

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Designed : S. Schulz Project Title : Dam Reconstructions - Lot 77 Bejoording Rd, Bejoording - Shire of Toodyay

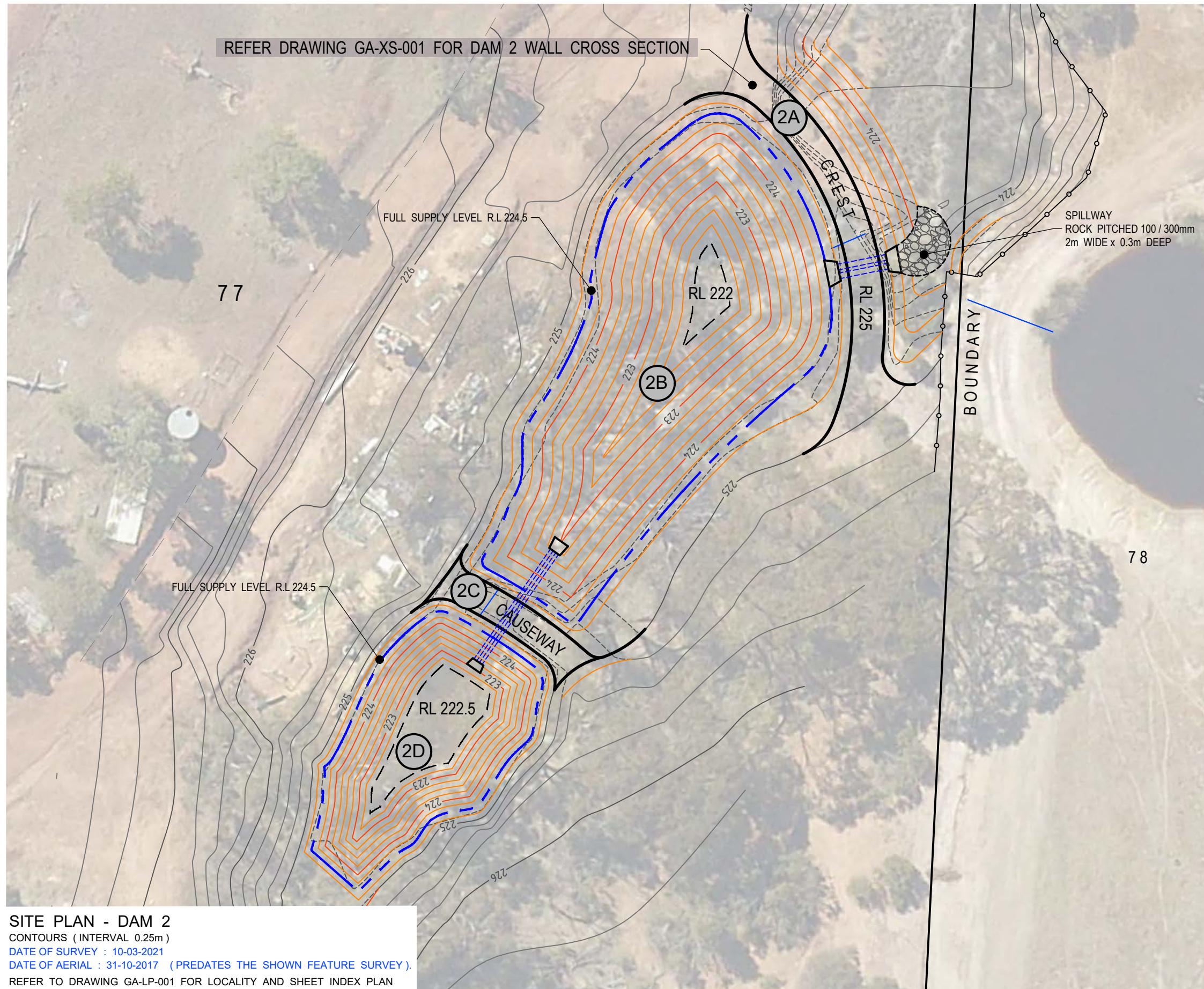
Date : 30.04.2021	Drawing Title	SITE PLAN
Datum : A.H.D.		DAM 1 - CONSTRUCTION DETAIL

## INFLOW HYDROLOGY

A scale bar with markings at 0, 2, 4, 6, 8, and 10. Below the bar, the text 'SCALE 1:250' is printed.

					<p>Southconsult Pty Ltd t/a SLADE AG TECH  17 Holly Place Cowaramup 6284 W.A.  Mob : +61 0474 203 115 E : info@southconsult.com.au</p>	Designed : S. Schulz	Project Title : Dam Reconstructions - Lot 77 Bejoording Rd, Bejoording - Shire of Toodyay	 SCALE 1:250	
						Date : 30.04.2021	<p>Drawing Title  SITE PLAN  DAM 1 - CONSTRUCTION DETAILS</p>		Project No.
						Datum : A.H.D.			Drawing Number
A	03.05.2021	ISSUED FOR APPROVAL.	C. G.	S. S.		100			GA - SP - 001
Rev	Date	Description	Drawn	Appr.			A3	A	





## DAM 2 WALL - REBUILD

2A	Wall Length	20 m
	Crest Width	2 m
	Top of Wall - Crest	R.L. 225.0
	Overflow I.L.	R.L. 224.5
	Overflow / Culverts	2 x Ø350 RCP 3.5 % Grade

2B	Batters	1 v : 2.5 h
	Full Supply Level (FSL)	R.L. 224.5
	Freeboard	0.5 m
	Excavated Base Level	R.L. 222.0
	Dam Depth (@ FSL)	2.5m
	Water Storage Area (FSL)	400 m <sup>2</sup> approx.
	Water Storage Volume	300 kl approx.

## DAM 2 - CAUSEWAY BARRIER

2C	Wall Length	10 m
	Crest Width	2 m
	Top of Causeway	R.L. 225.0
	Culvert - Under Causeway	I.L. 223.0 2 x Ø200
	Batters	1 v : 2.5 h
	Full Supply Level (FSL)	R.L. 224.5
	Freeboard	0.5 m
	Excavated Base Level	R.L. 222.5
	Dam Depth (@ FSL)	2.0 m
	Water Storage Area (FSL)	150 m <sup>2</sup> approx.
	Water Storage Volume	180 kl approx.

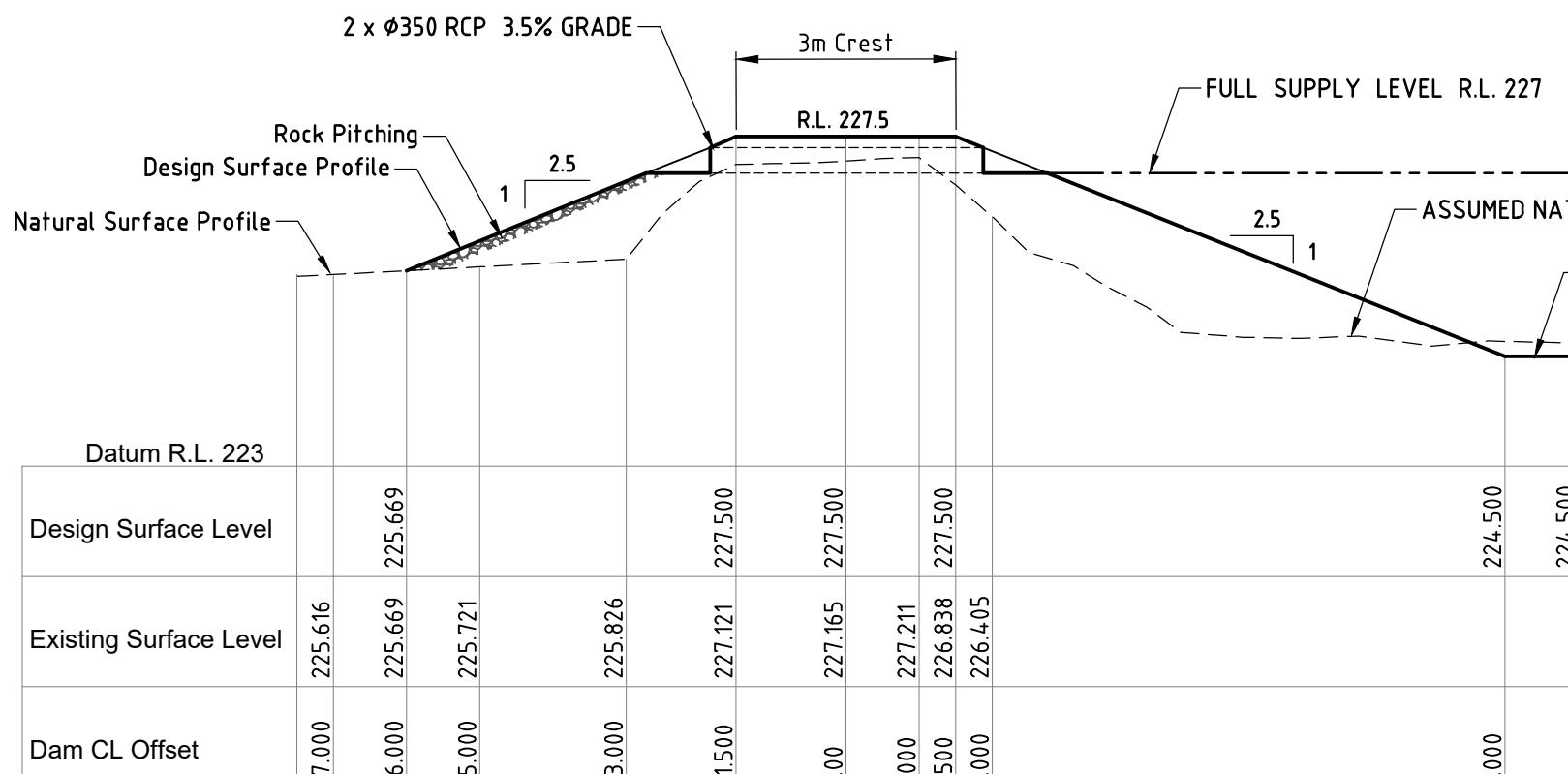
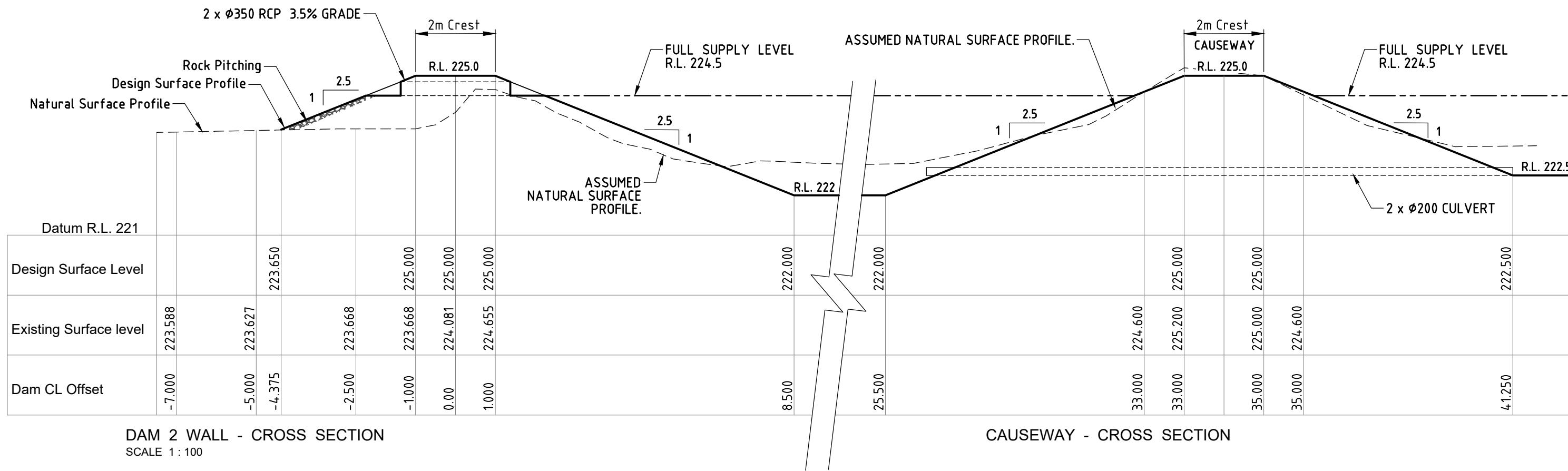
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A	03.05.2021	ISSUED FOR APPROVAL.	C. G.	S. S.
Rev	Date	Description	Drawn	Appr.

Drawn : Civil Graphix Client : G. F. MAXTED.  
Designed : S. Schulz Project Title : Dam Reconstructions - Lot 77 Bejoording Rd, Bejoording - Shire of Toodyay  
Date : 30.04.2021 Drawing Title : SITE PLAN  
Mob : +61 0474 203 115 Project No.  
E : info@southconsult.com.au Datum : A.H.D. Drawing Number : GA - SP - 003  
105

Scale : 0 2 4 6 8 10  
SCALE 1:250  
Sheet Size : A3 Rev No. : A



REFER TO DRAWING GA-LP-001 FOR LOCALITY AND SHEET INDEX PLAN

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Drawn : Civil Graphix

Designed : S. Schulz

Date : 30.04.2021

Datum : A.H.D.

Client : G. F. MAXTED.

Project Title : Dam Reconstructions - Lot 77 Bejoording Rd, Bejoording - Shire of Toodyay

Drawing Title

DAM 1 AND 2  
CROSS SECTIONS

Scale  
0 1 2 3 4 5  
SCALE 1:100

A 03.05.2021 ISSUED FOR APPROVAL.

Rev Date Description C. G. S.S. Drawn Appr.

Drawing Number GA - XS - 001

Sheet Size A3

Rev No. A

## APPENDIX D – DWER – LETTER OF EDUCATION; LOT 77 BEJOORDING RD



George Frederick MAXTED  
Lot 77 Bejoording Road  
BEJOORDING WA 6566

*COPY*

Dear Mr Maxted

**LETTER OF EDUCATION**

**Property(s) Location: LOT 77 ON PLAN 222074 - Volume/Folio 1844/998 - Lot 77  
Bejoording Rd BEJOORDING**

We are writing to advise of you of concerns that were raised with our Department in relation to works recently undertaken at the above-mentioned property, in the vicinity of the watercourse that passes through that site.

Please be advised that your property is located within a proclaimed Surfacewater Area as defined in the *Rights in Water and Irrigation Act (1914)*. Specifically, your property is situated within the proclaimed 'Avon River Catchment' surface water area.

The mapped watercourse on your property, is a tributary of the Bejoording Brook, which it intersects approximately 300 metres downstream of the outflow from your property.

Department officers conducted an inspection of your property on 12 February 2021 and have observed various points along the watercourse, conducted a visual inspection the in-flow and outflow from the site, in addition to inspecting the extent of the activities that have been conducted in connection the watercourse.

It was noted prior to inspecting the site, through a review of aerial imagery, that on-stream dams have existed along the mapped watercourse for an extended period (i.e. more than 10 years) at your property.

During the inspection, officers have observed limited modification of these on-stream dams (i.e. the inter-connected pools) that have been established along the watercourse.

It was concluded that the works appear to have been limited in scope and mainly

seem related to the replacement of culverts which connect each of the dams and the eventual outflow from the site. Furthermore, it appears that the works at the crossings of the watercourse have been for reinstating the integrity of the crossings, along the crest of each dam.

At the field inspection is was noted (from visual observations), that adequate flow was being maintained at the outflow from the property.

We wish to advise however, if concerns relating to a reduction in downstream flow are reported in the future, and through investigation this can be attributed to an obstruction of flow at your property, you may be required to reset the heights of culverts at each of the dams, to promote additional flow from the site. The department will contact you if required to discuss the matter further. We request that you contact the officer listed below to provide your contact details for any future enquiries.

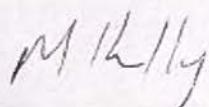
Please also be advised that if in the future, you proposed to undertake more substantial works in and around the watercourse, that a *Rights in Water and Irrigation Act (1914)*, Section 17 permit to interfere or obstruct the bed and banks watercourse may be required, prior to the commencement of those works.

We would encourage you to liaise with the department prior to undertaking any further modification, to discuss details of your plans so that we may determine whether a permit may be required.

At this point however, we consider the current matter closed with no further action to be taken.

If you have any queries relating to this notice or wish to discuss the matter further please contact Brian Giltay on 6250 8009 or via email [brian.giltay@dwer.wa.gov.au](mailto:brian.giltay@dwer.wa.gov.au)

Yours sincerely,



**Michael Kelly**  
**District/Program Manager**  
**Swan Avon Region**  
**30 March 2021**

cc:  
Mr George MAXTED  
28 Croesus Street  
MORLEY WA 6062

## APPENDIX E – HYDROLOGICAL ASSESSMENT

## HYDROLOGICAL ASSESSMENT

LOCATION	Lot 77, Bejoording Rd, BEJOORDING WA 6566
CLIENT	GF Maxted
PROJECT	Constructed/Re-instated Water Storage Dams

### 1 HYDROLOGICAL AREA DISSCRIPTION

CATCHMENT	Toodyay Brook / Swan Avon & Main Avon		
SUBCATCHMENT	Bejoording Brook		
Hydrography Type	Watercourse - minor, non-perennial		
Hydrography Name	21343nwf (DWER source ID)		

### 2 DAM CATCHMENT DISCRIPTION

CATCHMENT TYPE	Upper	Middle	Lower
TOTAL SIZE	35.0	ha	100 %
	0.35	km2	
(1) Pasture/ flatt	23	ha	66 %
(2) Agriculture	0	ha	0 %
(3) Bush parkland cleared/ gentle slopes	12	ha	34 %

### 3 CLIMATE / BOM Station

WATTENING WA # 010134

Precipitation (annual rainfall)	Mean	435 mm/a
	Lowest	245 mm/a
	Apr - Oct mean-winter	363 mm/a
Evaporation		2000-2400 mm/a

### 4 SOILS

Soil map unit	256JcYO	Jelcobine York Subsystem
	Areas of soils derived from freshly exposed rock. This unit is typified by the red soils of the Avon Valley but also includes areas of similar, but often greyer and lighter textured soils to the east of the valley.	
Soil type	Rock	4% of Mapping Unit
	Clay/loam	45%
	Sandy Soil	42%

### 6 RUNOFF / WATER YIELD

Run off coefficent - Kc (Base on soil type, slopes and vegetaion cover)	(1) Pasture/ flatt	0.10	TOTAL 0.07
	(2) Agriculture	0.00	
	(3) Bush parkland	0.02	

Total Runoff at dam location	Mean	11 Mega Litre
	Lowest	6 Mega Litre
	mean-winter	9 Mega Litre

Estimated seepage yield in % of mean annual winter rainfall	1%	1 Mega Litre
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TOTAL lowest annual winter runoff & seepage yield	10 Mega Litre
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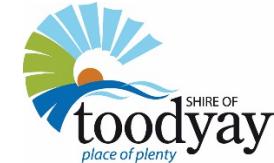
## 7 FLOOD ESTIMATION

Method:	Rational Method > Catchment smaller than 0.5 km <sup>2</sup> (50ha)
Time of Concentration	12 min
IFD Design Rainfall Depth (mm) for Annual Exceedance Probability ( AEP 1%) a 1 in 100 year storm event	20 mm
Calculated flood flow (1%AEP - 1in100 years)	<b>0.71 m<sup>3</sup>/sec</b>

## 8 DAM DESIGN

Storage volume (combined Dam 1&2)	2.48 ML	24.8	% of mean annual winter runoff & seepage yield (<25%)
Free board	0.5 m		
Overflow: Pipe dia 2x	0.35 m		calc. flood flow [m <sup>3</sup> /sec]
Overflow: max pipe capacity at 3.5% grad.	0.9 m <sup>3</sup> /sec	>	0.71
Spillway width at bottom with 1:3 batters	2		
Spillway length	3		
Spillway depth	0.3		
Spill way gradient	30 %		calc. flood flow [m <sup>3</sup> /sec]
Spillway flow capacity (to handle 1% AEP)	8.00 m <sup>3</sup> /sec	>	0.71
Flow velocity	10 m/sec		
flow chararacteristic - Froude Number	6 turbulent		
Spillway erosion protection	rock lined	50	Strickler's roughness coefficient - Kst

**Disclaimer:** All information contained in this report is based on reliable sources. This Consultancy Business accepts no responsibility for resultant errors herein and any damage or loss, suffered by any individual or corporation.



## SCHEDULE OF SUBMISSIONS

### 9.1.4 Lot 77 Bejording Road - Dams

#	NAME	ADDRESS	SUMMARY OF SUBMISSION	APPLICANT COMMENTS ON SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
<b>GOVERNMENT AGENCIES/STAKEHOLDERS</b>					
1	Department of Water and Environmental Regulation  (Included with application)	Swan Avon Region 7 Ellam Street Victoria Park WA 6100	<ul style="list-style-type: none"> <li>Concerns were raised and property was inspected.</li> <li>Evidence that on-stream dams had existed on the property across the watercourse for an extended period of time (i.e. more than 10 years).</li> <li>Noted (from visual observations), that adequate flow was being maintained at the outflow from the property.</li> <li>If future concerns relating to a down-stream flow are reported and an investigation can determine that this can be attributed to these works – then landowner may be required to undertake additional works to promote additional flow.</li> <li>No further action to be taken.</li> </ul>	<ul style="list-style-type: none"> <li>The DWER has inspected the site on 12 Feb 2021; see Appendix D – DWER – Letter of Education; Lot 77 Bejording Rd and confirmed adequate outflow from the property.</li> </ul>	<ul style="list-style-type: none"> <li>Accept the submission</li> <li>Apply the precautionary principle</li> </ul>

## 9.1.4 LOT 77 BEJOORDING ROAD - DAMS

#	NAME	ADDRESS	SUMMARY OF SUBMISSION	APPLICANT COMMENTS ON SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
2	Department of Water and Environmental Regulation	Swan Avon Region 7 Ellam Street Victoria Park WA 6100	<p><u>On-stream dams</u></p> <ul style="list-style-type: none"> <li>• Recommends dams are positioned off-stream.</li> <li>• Potential to impact both up-stream and down-stream users and environment.</li> <li>• On-stream dams should have provision to maintain low stream flows and Environmental Water Provisions.</li> <li>• The property is located within the Avon River Catchment Area, proclaimed under the <i>Rights in Water and Irrigation Act 1914</i> (RiWI Act), where a permit to interfere with the bed and banks of a waterway may be required.</li> <li>• The Department advises that an application for a permit to conduct the proposed dam rectification works has been received and is currently under assessment.</li> </ul> <p><u>Water Licensing</u></p> <ul style="list-style-type: none"> <li>• The property is located within a proclaimed surface water area. In proclaimed areas, the taking or diversion surface water for purposes other than domestic</li> </ul>	<ul style="list-style-type: none"> <li>• Watercourse has been identified as: <b>Watercourse - minor, non-perennial</b></li> <li>• The majority of the creek flow will occur in the winter months of comprising nearly 83% of the annual rainfalls. Therefore, any substantial summer flow is unlikely to occur in the watercourse system on Lot 77.</li> <li>• In the unlikely event of rainfall in the dry season, an automated low flow bypass system can be installed at the direction of the Department of Water and Environmental Regulation given the appropriate flow limits to bypass any low flows at all times around the dam.</li> </ul>	<ul style="list-style-type: none"> <li>• Accept the submission</li> <li>• Apply the precautionary principle</li> </ul>

## 9.1.4 LOT 77 BEJOORDING ROAD - DAMS

#	NAME	ADDRESS	SUMMARY OF SUBMISSION	APPLICANT COMMENTS ON SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
			and/or stock watering may require a licence. The proponent mentions that water from the constructed dams will be used for irrigation of domestic orchard, lawns and gardens, stock watering and potentially firefighting. Should water be required for purposes other than those listed above, a licence will be required.		
<b>PRIVATE</b>					
3	Maxfield	Supplied	<ul style="list-style-type: none"> <li>• Retrospective application</li> <li>• Undesirable precedent</li> <li>• Impact on down-stream properties</li> <li>• Impact on ecosystems</li> </ul>	<ul style="list-style-type: none"> <li>• None sought</li> </ul>	<ul style="list-style-type: none"> <li>• Upheld</li> <li>• Recommend that Council refuse the application as it is inconsistent with the Local Planning Policy 25.</li> <li>• Apply the precautionary principle.</li> </ul>
4	Fairweather	Supplied			
5	Grover	Supplied			
6	Cowell	Supplied			

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Shire of Toodyay  
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021

Pay/Type	Date	Name	Description	Amount
12856	10/06/2021	Mr Jacobus Nieuwoudt	Leaving Gift As Per Council Policy	100.00
12857	17/06/2021	Dept Of Finance - Office Of State Revenue	Refund Of Pensioner Concession Claimed In Error - Not Residing At Residence As At 1 July 2020	446.99
12858	17/06/2021	Shire Of Toodyay	Library Petty Cash Recoup	81.75
12858	17/06/2021	Shire Of Toodyay	VC Petty Cash Recoup - May 2021	193.00
12858	17/06/2021	Shire Of Toodyay	Depot Petty Cash - June 2021	85.10
12859	17/06/2021	Toodyay Locals Care Inc	Funding From Volunteers Of Toodyay Museum Shingle Fund - Christmas In July Dinner	500.00
12860	17/06/2021	Water Corporation	Water Account 9023940768 - Sport & Rec Precinct - 10/03/2021 To 07/04/2021	23,020.45
12861	18/06/2021	Water Corporation	Water Account - Toodyay Showgrounds 12/02/2021 To 13/04/2021	9,840.10
12862	18/06/2021	Department Of Transport	12 Months Registration - 1TIP237	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - 1GQE539	257.70
12862	18/06/2021	Department Of Transport	12 Months Registration - 1EWM806	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7858	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7857	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7030	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T6818	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T6480	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T8035	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7856	214.90
12862	18/06/2021	Department Of Transport	12 Months Registration - T7854	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7855	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7852	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - 1HBW405	257.70
12862	18/06/2021	Department Of Transport	12 Months Registration - 1HBZ025	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - 1HBL817	426.30
12862	18/06/2021	Department Of Transport	12 Months Registration - T7853	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - 1TMZ537	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - 1TIL296	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0005	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0010	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0012	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0019	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0021	81.40

Shire of Toodyay

List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021

Pay/Type	Date	Name	Description	Amount
12862	18/06/2021	Department Of Transport	12 Months Registration - T6782	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7093	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7124	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T7851	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0001	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0002	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0022	397.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T15232	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T15298	116.95
12862	18/06/2021	Department Of Transport	12 Months Registration - T1851	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T4051	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T4500	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T4623	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T4708	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T4776	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T6435	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - 1THY295	24.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T6475	81.40
12862	18/06/2021	Department Of Transport	12 Months Registration - T0011	397.40
12863	18/06/2021	Old Gaol Museum	Old Gaol Honorariums - July 2021	450.00
12864	18/06/2021	Telstra Corporation Ltd	Mobile & Data 2608284176 - 02/06/2021	1,775.85
12864	18/06/2021	Telstra Corporation Ltd	Telstra Account 0293288400 - May 2021	6,915.97
12864	18/06/2021	Telstra Corporation Ltd	Telstra Account 7850085500 - May 2021	314.28
12865	18/06/2021	Water Corporation	Water Account - 9007931837 - Newcastle Park	178.35
12865	18/06/2021	Water Corporation	Water Account 9007933509 - 7 Toodyay St - Parkers Cottage	46.01
12865	18/06/2021	Water Corporation	Water Account 9007933891 - Duke St Toilets	381.36
12865	18/06/2021	Water Corporation	Water Account 9007931976 - Bendigo Bank	401.72
12865	18/06/2021	Water Corporation	Water Account 9007933832 - Memorial Hall	393.25
12865	18/06/2021	Water Corporation	Water Account 9007931917 - Mrs O'Reillys	314.68
12865	18/06/2021	Water Corporation	Water Account 9007938270 - Community Centre & Medical Centre	424.34
12865	18/06/2021	Water Corporation	Water Account 9007932098 - Stirling Park/Bolgart Bridge	5.26
12865	18/06/2021	Water Corporation	Water Account 9007933744 - VC & Connors Mill	557.49
12865	18/06/2021	Water Corporation	Water Account 9007933672 - Old Depot Harper Road	884.77
12865	18/06/2021	Water Corporation	Water Account 9014201672 - Railway Station Lawns	61.23

Shire of Toodyay

List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021

Pay/Type	Date	Name	Description	Amount
12865	18/06/2021	Water Corporation	Water Account 9007933496 - Donegans Cottage	49.66
12865	18/06/2021	Water Corporation	Water Account 9007931909 - Library	54.99
12865	18/06/2021	Water Corporation	Water Account 9007933752 - Connors Cottage	274.19
12865	18/06/2021	Water Corporation	Water Account 9007938289 - Information Bay	90.51
12865	18/06/2021	Water Corporation	Water Account - Toodyay Showgrounds 13/04/2021 To 11/06/2021	4,503.10
12865	18/06/2021	Water Corporation	Water Account - 33-35 Telegraph Road	44.18
12865	18/06/2021	Water Corporation	Water Account - Cemetery 13/04/2021 To 15/06/2021	39.93
12866	18/06/2021	Water Corporation	Water Account 9023940768 - Toodyay Rec Centre 05/05/2021 To 02/06/2021	1,341.38
12867	30/06/2021	Department Of Transport	12 Months Registration - T4573	24.40
12867	30/06/2021	Department Of Transport	12 Months Vehicle Registration - 1HCF585	397.40
12868	30/06/2021	Water Corporation	Water Account - Community Standpipe Stirling Tce 12/04/2021 To 11/06/2021	46.60
12868	30/06/2021	Water Corporation	Water Account - Pelham Reserve Toilets 13/04/2021 To 17/06/2021	5.32
12868	30/06/2021	Water Corporation	Water Account - Duidgee Park 13/04/2021 To 17/06/2021	2,877.62
12868	30/06/2021	Water Corporation	Water Account - Old P&G Depot 13/04/2021 To 17/06/2021	23.96
12868	30/06/2021	Water Corporation	Water Account - 19B Clinton St 15/04/2021 To 17/06/2021	282.89
12868	30/06/2021	Water Corporation	Water Account - Anzac Memorial Park 15/04/2021 To 17/06/2021	409.95
12868	30/06/2021	Water Corporation	Water Account - Admin 15/04/2021 To 17/06/2021	535.06
12868	30/06/2021	Water Corporation	Water Account - Waste Transfer Station 13/04/2021 To 17/06/2021	26.62
12868	30/06/2021	Water Corporation	Water Account - Old Gaol 15/04/2021 To 17/06/2021	348.72
12868	30/06/2021	Water Corporation	Water Account - New Depot 13/04/2021 To 17/06/2021	125.11
12868	30/06/2021	Water Corporation	Water Account - Admin Office 15/04/2021 To 17/06/2021	31.94
12868	30/06/2021	Water Corporation	Water Account - 19A Clinton St 15/04/2021 To 17/06/2021	257.31
12868	30/06/2021	Water Corporation	Water Usage Charges - Toodyay Tennis Courts 19/04/2021 - To Be Recouped From Tennis Club	17.50
CI.2987	17/06/2021	WALGA	2 X Field Tour Of Bushfire Preparedness - 13 May 2021	198.00
CI.3015	17/06/2021	MM Mechanical Pty Ltd	Supply And Manufacture 3 X Sign Stands/Shelters.	2,701.05
CI.3024	17/06/2021	Jason Signmakers	Bulk Freight Charge For Signs	316.80
CI.3055	17/06/2021	Easifleet	Easisalary Deductions For PPE 25/05/2021	852.19
CI.3060	17/06/2021	Mr John Hansen	Reimbursement Of BRPC Expenses	361.90
CI.3066	17/06/2021	The Cola Cafe	Catering - Training For Crs & Staff	298.10

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3068	17/06/2021	Swan Marquees & Party Hire (Swan Events)	Marquee & Equipment Hire For Australia Day 2021		6,000.00
CI.3072	17/06/2021	Landgate	Mining Tenement Valuation Roll		370.70
CI.3073	17/06/2021	Landgate	Rural UV Valuations 2020/2021		11,738.55
CI.3074	17/06/2021	Metropolitan Cash Register Company	Additional Licence For Idealpos At VC		3,914.90
CI.3075	17/06/2021	Toll	Freight Charges To 09/05/2021		16.56
CI.3076	17/06/2021	Toll	Freight Charges To 16/05/2021		133.02
CI.3077	17/06/2021	Raeco	Spine Labels And Contact For Book Covering		147.90
CI.3079	17/06/2021	Professional PC Support Pty Ltd	Two Replacement Monitors For Library And Hands Free Phone		583.00
CI.3080	17/06/2021	Professional PC Support Pty Ltd	Managed Phone Services - Monthly Billing For June 2011		1,050.92
CI.3081	18/06/2021	Officeworks	Admin Order - Velocity Bookcase		189.00
CI.3082	17/06/2021	Toodyay Garden & Outdoor Centre - Alan	4 X Punnets Potted Colour Plants For Main Street & Plants For Citizenship Ceremony		38.50
CI.3086	17/06/2021	Wheatbelt Natural Resource Mgt (Inc)	6 X Birds Of The Avon River Basin - VC Stock		210.54
CI.3087	17/06/2021	Winc Australia P/L	Admin Stationery - Final		0.45
CI.3088	17/06/2021	Winc Australia P/L	Admin Stationery - Part Order		932.11
CI.3093	17/06/2021	Verlindens Electrical Service (WA)	Replace Float Switch On Oil Seperator & Repair Faulty Hot Water System At Admin		1,161.99
CI.3094	17/06/2021	Avon Waste - Stondon Pty Ltd	Rubbish Collection Charges For Fortnight Commencing 26/04/2021		13,781.16
CI.3095	17/06/2021	West Wide Auto Electrics	Electrical Repairs To Holden Colorado Dual Cab		95.00
CI.3096	17/06/2021	West Wide Auto Electrics	Electrical Repairs To Mitsubishi Triton		522.00
CI.3097	17/06/2021	West Wide Auto Electrics	Electrical Repairs To JCB Backhoe		1,559.00
CI.3099	17/06/2021	Avon Earthworks	Installation Of Sand Pad For Fire Emergency Water Tank At Darwinia Cres		3,064.60
CI.3100	17/06/2021	Uniforms @ Work	Uniforms For Sandy Lee		154.00
CI.3101	17/06/2021	Uniforms @ Work	Uniforms For Nolene Kazanski		127.60
CI.3102	17/06/2021	Uniforms @ Work	Uniforms - Sharon Mills		217.80
CI.3103	17/06/2021	Uniforms @ Work	Uniforms - Steph Slater		143.00
CI.3108	17/06/2021	Smart Waste Solutions Australia Pty Ltd	Maintenance Service Of Waste Press At Toodyay Waste Transfer Station		438.90
CI.3109	17/06/2021	Broderick Waste Solutions	Management Of Waste Transfer Station FE 18/05/2021		5,500.00
CI.3110	18/06/2021	Avon Skip Bins	Empty Front Lift Bin - Memorial Hall - May 2021		200.00
CI.3111	18/06/2021	Avon Skip Bins	Front Lift Bin Empty - Showgrounds - May 2021		150.00
CI.3112	18/06/2021	Avon Skip Bins	Front Lift Bin Empty - Depot - May 2021		50.00

Shire of Toodyay					
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3113	18/06/2021	Avon Skip Bins	Front Lift Bin Empty - Toodyay Recreation Centre - May 2021		200.00
CI.3116	2/06/2021	Hot Spot Electrical	Installation Of Cat6 Cable From Server Room To Aerial Mast & Relocation Of Wifi Dish For Museum		800.00
CI.3119	17/06/2021	North Metropolitan Tafe	Enrolment For Two Units - BSBLIB513 And BSBLIB511 For Carrie Skinner		579.00
CI.3121	17/06/2021	Verlindens Electrical Service (WA)	Emergency Repairs To Electrical Power Supply At Toodyay Waste Transfer Station		2,077.13
CI.3124	17/06/2021	Officeworks	Admin Stationery - Big & Bulky Delivery Fee		49.95
CI.3125	17/06/2021	Url Networks Pty Ltd	Sip Trunks - PAYG, Landlines & Mobiles For May 2021		345.45
CI.3126	17/06/2021	Rylan Concrete	Supply And Install Kerbing To Julimar Road & Toodyay St		14,605.03
CI.3127	17/06/2021	Landgate	Online Certificate Of Title Searches - May 2021		106.80
CI.3128	17/06/2021	Avon Valley Windscreens	Replacement Windscreen For Mitsubishi Pajero Sport		429.00
CI.3129	17/06/2021	Avon Valley Windscreens	Chip Repair To Toyota Prado - BRPC		77.00
CI.3130	18/06/2021	Mobile Concrete Services	2 Cubes Of Concrete - Bejoording Fire Emergency Water Tanks		479.60
CI.3131	17/06/2021	Multicon Commercial Constructions (Stallion Homes)	May Progress Claim - Preliminaries Of The Julimar Fire Station Project		37,785.00
CI.3132	1/06/2021	Bendigo & Adelaide Bank Ltd	Transfer Fee		10.00
CI.3133	1/06/2021	Bendigo & Adelaide Bank Ltd	Monthly Service Fee		15.00
CI.3134	1/06/2021	Bendigo & Adelaide Bank Ltd	Overdaft Fee		15.00
CI.3135	1/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		2.96
CI.3136	1/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		0.05
CI.3137	1/06/2021	Bendigo & Adelaide Bank Ltd	Bpay Fee		212.25
CI.3138	17/06/2021	Southern Cross Austereo Pty Ltd	Triple M Advertising Around The Towns - May 2021		88.00
CI.3139	18/06/2021	Veris Australia Pty Ltd - Corporate Office (Head Office)	Survey Set Out, Julimar Road, Spotting For Line Marking, Asphalt And Kerb Works.		858.00
CI.3140	17/06/2021	Landgate	GRV Interim Valuations - Schedule G2021/4		248.71
CI.3141	18/06/2021	MM Electrical Merchandising	Replacement Down Lights For Community Centre.		677.60
CI.3142	17/06/2021	Australia Post	Postage Charges For May 2021		550.71
CI.3143	18/06/2021	Advanced Traffic Management	Supply Traffic Management For Kerbing Works - Julimar Road		1,689.60
CI.3144	18/06/2021	Advanced Traffic Management	Supply Traffic Management For Drainage Works - Toodyay Street Capital Works		782.10
CI.3145	17/06/2021	C & F Building Approvals	5 X NCC Compliance Assessments & Issue Of CDC To 28/05/2021		528.00
CI.31457	17/06/2021	Avon Earthworks	Grader Work To Rip 2.8 Acres On Shire Reserve Lot 1 For		1,628.00

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3146	18/06/2021	Charles Service Company	Final Cleaning Account Of Shire Facilities Before New Contract Starts - 12/04/2021 To 30/04/2021		10,268.09
CI.3147	18/06/2021	Clublinks Management Pty Ltd	Line Marking Of Pitch By Richard Brown T/As Mark My Turf - Toodyay Rec Centre		1,060.00
CI.3148	18/06/2021	Datacom Solutions (Au) Pty Ltd	Datapay Payroll & Direct Access For May 2021		311.30
CI.3149	18/06/2021	Datacom Solutions (Au) Pty Ltd	Datascape Monthly SaaS Fee - May 2021		3,300.00
CI.3151	18/06/2021	Hersey Safety Pty Ltd	Depot Expendables And Small Tools		1,075.22
CI.3152	18/06/2021	Equifax	Fit2Work Integrity Checks For May 2021		72.27
CI.3154	17/06/2021	Avon Concrete	Pavement Rehabilitation - Ellery Place		1,320.00
CI.3156	17/06/2021	Shire Of Gingin	Annual Subscription Velpic - Learning Management System For Osh, Shared With Avon Region Shires		949.18
CI.3158	18/06/2021	Fire Mitigation Services Pty Ltd	MAF 20/21 Hazard Reduction Works - Treatment Id'S 5680/22121, 5679/22121 & 5676/22121		17,336.00
CI.3159	17/06/2021	Public Transport Authority Of WA	TransWA Ticket Sales - May 2021		490.73
CI.3160	17/06/2021	Spacetoco Pty Ltd	Host Parterpro Bundle - Online Bookings For May 2021		165.00
CI.3161	17/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Library 03/02/2021 To 16/03/2021		172.49
CI.3162	17/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Depot 03/02/2021 To 16/03/2021		464.22
CI.3163	17/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - VC 03/02/2021 To 16/03/2021		663.22
CI.3164	17/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Library 16/03/2021 To 09/04/2021		183.90
CI.3165	17/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Depot 16/03/2021 To 09/04/2021		195.02
CI.3166	17/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - VC 16/03/2021 To 09/04/2021		522.49
CI.3167	18/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Library 09/04/2021 To 20/05/2021		171.50
CI.3168	18/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Depot 09/04/2021 To 20/05/2021		308.18
CI.3169	18/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Vc 09/04/2021 To 20/05/2021		1,033.32
CI.3170	17/06/2021	Fivestar Fencing & Pergolas Pty Ltd	Install New Fence At Rear Of 19A Clinton Street (50%)		4,337.50
CI.3171	17/06/2021	Dunning Investments Pty Ltd	6 X Bulk Water Bottles At VC		76.80
CI.3172		Abberfield Technology Pty Ltd	New WD2500 Standpipe Controller - Community Standpipe Stirling Tce		28,468.00

Shire of Toodyay  
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021

Pay/Type	Date	Name	Description	Amount
CI.3173	17/06/2021	Alison B Downie	VC Consignment Sales - May 2021	29.93
CI.3174	17/06/2021	Mr Barry Keens	VC Consignment Sales - May 2021	22.00
CI.3176	17/06/2021	Easifleet	Easisalary Deductions PPE 08/06/2021	852.19
CI.3177	18/06/2021	Fire Mitigation Services Pty Ltd	MAF 20/21 Hazard Reduction Works - Treatment Id'S 8332	15,950.00
CI.3178	18/06/2021	Wright Express Aust Pty Ltd	SES Fuel Card Fees - May 2021	20.64
CI.3179	17/06/2021	Altus Planning & Appeals	Professional Town Planning Services: Dr 209 Of 2020 - Catholic Church V Shire Of Toodyay	968.00
CI.3180	18/06/2021	Autopro Northam	5W 80Ch UHF CB Handheld Radio Twin Pack Kit	528.65
CI.3181	18/06/2021	Mayday Earthmoving	Dry Hire Of Water Truck For Julimar Road & Toodyay Street - May 2021	7,507.50
CI.3182	17/06/2021	Wacwill Landscaping & Earthworks Pty Ltd	Installation Of New Concrete Shared Path And Kerbing - Jarrett Pass	43,120.00
CI.3183	17/06/2021	Mr Jamie Lloyd	Refund Of Excess Rates As Per Ratepayers Request	2,000.00
CI.3184	17/06/2021	John Butler	VC Consign Sales - May 2021	30.80
CI.3185	17/06/2021	Mrs Leah Carvell	VC Consign Sales - April & May 2021	18.00
CI.3186	17/06/2021	June Foote	VC Consign Sales - May 2021	19.92
CI.3187	17/06/2021	Glenoran Leather	VC Consign Sales - May 2021	23.08
CI.3188	17/06/2021	Graham E Mills	VC Consign Sales - May 2021	15.00
CI.3189	17/06/2021	Quilts By Robyn	VC Consign Sales - May 2021	155.00
CI.3190	17/06/2021	Ms Stephanie Slater	VC Consign Sales - May 2021	10.00
CI.3191	17/06/2021	Mrs Tanya Stuart	VC Consign Sales - May 2021	42.34
CI.3192	17/06/2021	Swan Genealogy	VC Consign Sales - May 2021	21.15
CI.3193	17/06/2021	Southern Sharpening Services	VC Consign Sales - May 2021	34.61
CI.3194	17/06/2021	Deborah Termann	VC Consign Sales - May 2021	42.00
CI.3195	17/06/2021	The Toodyay Historical Society Inc	VC Consign Sales - May 2021	45.00
CI.3196	17/06/2021	Robert Van Oosten	VC Consign Sales - May 2021	10.00
CI.3197	17/06/2021	Lindsay Burke	VC Consign Sales - May 2021	11.53
CI.3198	17/06/2021	Wendouree Tearooms	Catering For Shire Representatives And Invited Members 16/05/2021	100.00
CI.3199	17/06/2021	Moore Australia	2021 Management Reporting Workshop - 20 May 2021 B Flaherty	990.00
CI.3200	17/06/2021	Toodyay Hardware & Farm	3 X 10Lt Buckets - Parks & Gardens	6.90
CI.3201	17/06/2021	Toodyay Hardware & Farm	Reticulation Parts - Railway Station Gardens	19.82
CI.3202	18/06/2021	Toll	Freight Charges To 23 May 2021	13.09
CI.3205	18/06/2021	Synergy	Electricity Accounts 802970900 Mar To May 2021	17,895.57
CI.3206	17/06/2021	Kennards Hire	Hire Of Portable Traffic Lights - April & May 2021	7,460.00

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3207	18/06/2021	Broderick Waste Solutions	Cartage Of Waste To Northam For The Month Of May 2021		4,956.60
CI.3208	18/06/2021	Broderick Waste Solutions	Management Of Waste Transfer Station Fortnight Ending 1 June 2021		5,500.00
CI.3209	18/06/2021	Broderick Waste Solutions	Cartage Of Glass For Recycling - 31/05/2021		660.00
CI.3210	18/06/2021	Avon Waste - Stondon Pty Ltd	6 X General Rubbish Bins For Anzac Day		160.00
CI.3211	18/06/2021	Avon Waste - Stondon Pty Ltd	Rubbish Collection Charges For Fortnight Commencing 10/05/2021		13,786.90
CI.3212	17/06/2021	Bitumen Surfacing	Provision To Supply And Install Materials - Julimar Rd Sealing Works		32,968.75
CI.3213	18/06/2021	C & F Building Approvals	2 X NCC Compliance Assessment & Issue Of CDC To 04/06/2021		264.00
CI.3214	18/06/2021	Galaxy Embroidery & Printing	VC Stock - Cloth Badges		146.41
CI.3215	17/06/2021	Landgate	Mining Tenements Schedule M2021/5		40.60
CI.3216	17/06/2021	Northam Paper Products	Paper Bags For VC		154.84
CI.3217	18/06/2021	Professional PC Support Pty Ltd	Technician Hours To Attend Site As Per Management Ict Agreement - Ticket Number 89318		825.00
CI.3218	17/06/2021	Sandra F Harms	Artwork For Indigenous Area Mao With Heritage Sites - Rap		195.00
CI.3219	17/06/2021	Seek Ltd	Seek Advertising - Manager Corporate & Community Services		313.50
CI.3220	17/06/2021	Marketforce	Advertisement - MCCS - Seek& Reversal Of CN 36076		291.36
CI.3221	18/06/2021	Sunny Industrial Brushware	Poly/Wire Brushes For Green Machine		947.98
CI.3222	18/06/2021	Synergy	Electricity Account - Streetlights 03/05/2021 To 01/06/2021		4,018.21
CI.3223	18/06/2021	Synergy	Electricity Account 149993610 - New Depot 12/05/2021 To 09/06/2021		481.31
CI.3224	17/06/2021	Toodyay Hardware & Farm	90mm Pvc Joiner - Rubber		7.51
CI.3225	17/06/2021	Toodyay Hardware & Farm	Combination Master Padlock		34.65
CI.3226	17/06/2021	Toodyay Hardware & Farm	10X Galvanised 1350Mm Star Pickets (Rsn Installation), 10X Plain Black 1350Mm Star Pickets (Wandering Stock Emergency Fencing Repairs) & 2X Galvanised Tie Wire Rolls 2.00Mm X 120M		232.38
CI.3227	17/06/2021	Toodyay IGA	Toodyay IGA - May 2021		418.03
			Admin - Newspapers, Milk, Coffee, Cleaning products	119.18	
			Council - Refreshments - training	13.64	
			VC - Milk, Coffee, Cleaning Products, Stationery	56.31	
			Library - Newspapers , Milk	68.46	
			Health - Water	0.86	
			Rangers - Dog & Cat food, Cat Litter, Hand Sanitisers	66.57	

Shire of Toodyay					
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
			Depot - Milk, Coffee, Sugar, Cleaning products	61.14	
			Museum - Water bottles, Biscuits, Milk & Ice	31.87	
CI.3228	17/06/2021	Toodyay Tyre & Exhaust	Change Tyre On T0023		249.00
CI.3229	17/06/2021	Toodyay Tyre & Exhaust	2X Tyres - Ranger Ute		498.00
CI.3230	30/06/2021	Toodyay Tyre & Exhaust	Tyre Repairs To T0000 & 1TIL296		90.00
CI.3231	18/06/2021	Dunning Investments Pty Ltd	6 X Bulk Water Bottles For VC		76.80
CI.3232	17/06/2021	Uniforms @ Work	Uniforms - Depot Staff		900.90
CI.3234	17/06/2021	Toodyay Tyre & Exhaust	2 Tyres For Side Tipper Trailer		678.00
CI.3235	18/06/2021	Toodyay Tyre & Exhaust	Labour To Strip Heat Shields A & Inspect - Ranger Ute		88.00
CI.3236	17/06/2021	Toodyay Tyre & Exhaust	Tyres, Alignment And Valves - Mitsubishi Triton		573.00
CI.3237	18/06/2021	Vernice Pty Ltd	Provision To Supply And Install Materials To Reconstruct And Prep For Seal 1.8Km Hall Road (SLK 0.00 - 1.80) To Sot Drawings And Specifications		132,284.15
CI.3238	17/06/2021	West Wide Auto Electrics	Replacement Alternator For FSV		532.00
CI.3239	17/06/2021	Uniforms @ Work	2 X United Polo Shirts - T Prater		58.08
CI.3240	17/06/2021	Toodyay Pumps	Plumbing Repairs To Central 1.4		550.00
CI.3241	18/06/2021	Toodyay Pumps	Supply & Install New Ball Valve & Repair Plumbing On Julimar 2.4		1,298.00
CI.3242	18/06/2021	Toodyay Pumps	Ply & Install Plumbing To Darwinia Cres Fire Emergency Water Tank		3,000.00
CI.3243	18/06/2021	Moore Australia	2021 Financial Reporting Workshop		1,925.00
CI.3244	17/06/2021	Vernice Pty Ltd	Supply Screened Gravel To Bridge 700 & Pelham Outlet		18,081.23
CI.3245	18/06/2021	Proform Civil Pty Ltd	Provision To Repair & Restore Storm Damage To Bejoording Rd, Ninth Rd, Long Forrest Rd & Coondle West Rd		24,884.20
CI.3247	17/06/2021	Promomate Australia	Ranger Public Relations - Stubby Holders & Fridge Magnets		767.25
CI.3249	18/06/2021	Toodyay Bakery & Cafe	Morning Tea - Forget Me Not Cafe		75.10
CI.3250	18/06/2021	Transwest WA	Supply Of MRD Spec Gravel For Toodyay St		31,090.40
CI.3251	18/06/2021	Wacwill Landscaping & Earthworks Pty Ltd	Guidepost Install, Kerb Backfill & Driveway Preparation - Julimar Rd		16,500.00
CI.3252	17/06/2021	Toodyay Herald	Advertisement - Folewood Rd Road Closure		88.00
CI.3253	18/06/2021	Afri Equipment Australia Pty Ltd	Backlapping Paste And Training - John Deere Tractor		256.96
CI.3254	17/06/2021	Borrell Rafferty Associates Pty Ltd	Variation RVO114 Storm Damage To Infrastructure Facilities		1,397.00
CI.3255	17/06/2021	Fujifilm Business Innovation Australia Pty Ltd	Admin Photocopier Readings 01/05/2021 To 31/05/2021		2,160.72

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3271	18/06/2021	Synergy	Electricity Account - Coondle Fire Station 31/03/2021 To 03/06/2021		502.91
CI.3272	18/06/2021	WALGA	Procurement In LG - The Basics - Pro-Rata Subscription 14 June To 31 Oct 2021		797.50
CI.3273	18/06/2021	WALGA	Training Course - Dealing With Conflict		4,400.00
CI.3274	18/06/2021	WALGA	Training Course - Meeting Procedures		4,400.00
CI.3275	17/06/2021	Toodyay Traders	Silvan 15L Back Sprayer		93.00
CI.3277	18/06/2021	North Star Security Nominees Pty Ltd	Alarm Monitoring - Admin, Toodyay Rec Pavilion & Swimming Pool - July To Sept 2021		435.60
CI.3292	18/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Library 20/05/2021 To 11/06/2021		71.70
CI.3293	18/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Depot 20/05/2021 To 11/06/2021		79.92
CI.3294	18/06/2021	WOBM - Wheatbelt Office Of Buisness Machines - Northam	Photocopier Readings - Vc 20/05/2021 To 11/06/2021		519.40
CI.3295	18/06/2021	Sandra F Harms	Artwork Supplied For Burial Sites Sign		90.00
CI.3296	18/06/2021	Moore Australia	BBRF Grant Acquittal Audit		3,850.00
CI.3297	18/06/2021	Make Tracks WA Pty Ltd	Parts For Toyota Prado - BRPC Vehicle		1,627.00
CI.3298	18/06/2021	Total Green Recycling	Waste Transfer Station Recycling - June 2021		955.19
CI.3299	18/06/2021	ASV Sales And Service	Service Kit For Possie Track Loader		520.70
CI.3300	18/06/2021	Wacwill Landscaping & Earthworks Pty Ltd	Reinstate Laterite Spray Seal To Crossover At 541 Julimar Road		1,650.00
CI.3301	18/06/2021	Afgri Equipment Australia Pty Ltd	Service Filters		710.56
CI.3302	17/06/2021	Himac Attachments	Double Bevel Bolt-On Edge - Positrack Loader		376.20
CI.3335	18/06/2021	Mr John Hansen	Reimbursement Of BRPC Expenses - June 2021		1,293.25
CI.3336	18/06/2021	The Cola Cafe	Governance Training Refreshments 24/05/2021		298.10
CI.3337	18/06/2021	The Cola Cafe	Audit Committee Meeting Catering 10/06/2021		165.00
CI.3338	18/06/2021	Fulchers Tree Service	Removal Of Roadside Vegetation In Nunile Area		11,220.00
CI.3339	17/06/2021	Open Cities Pty Ltd	Fire Permit Submissions 27/10/2020 To 26/11/2020		7.70
CI.3340	18/06/2021	Open Cities Pty Ltd	Fire Permit Submissions 27/04/2021 To 26/05/2021		12.10
CI.3341	18/06/2021	W J Hardwicke	Vc Stock Plus Freight		316.00
CI.3346	18/06/2021	C & C Conveyancing	Refund Of Excess Rates Due To Sale Of Property		18.00
CI.3347	18/06/2021	Dunning Investments Pty Ltd	4 X Bulk Water Bottles For Library		51.20
CI.3348	30/06/2021	Broderick Waste Solutions	Management Of Waste Transfer Station Fe 15 June 2021		5,500.00

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3349	18/06/2021	Avon Waste - Stondon Pty Ltd	Rubbish Collection Charges For The Fortnight Commencing 24/05/2021		14,611.16
CI.3350	18/06/2021	Australia Day Council Of WA	Annual Membership Subscription Auspire 2021/2022 - Gold Associate		650.00
CI.3351	30/06/2021	Advanced Traffic Management	Supply Of Traffic Management - Toodyay St 01/06/2021 To 04/06/2021		2,240.98
CI.3352	18/06/2021	Datacom Solutions (Au) Pty Ltd	Datacom Erp Implementation - Milestones 9 & 12 Plus Project Variation		9,213.36
CI.3353	30/06/2021	Fire Mitigation Services Pty Ltd	MAF 20/21 Hazard Reduction Works - Treatment Id'S 2672/18977, 5670/18976, 5669/18283		30,690.00
CI.3355	3/06/2021	Commonwealth Bank Of Australia	Merchant Fee		24.17
CI.3356	3/06/2021	Commonwealth Bank Of Australia	Merchant Fee		148.81
CI.3357	3/06/2021	Commonwealth Bank Of Australia	Merchant Fee		173.76
CI.3358	3/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		0.22
CI.3359	7/06/2021	Commonwealth Bank Of Australia	Equigroup - IT Hardware & Software Lease		151.15
CI.3360	8/06/2021	Fujifilm Business Innovation Australia Pty Ltd	Photocopier Lease - Depot/VC/Library		470.34
CI.3361	9/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		7.81
CI.3362	15/06/2021	Commonwealth Bank Of Australia	Bpoint Fee		30.06
CI.3363	15/06/2021	Toyota Finance	BRPC Vehicle Lease		1,359.73
CI.3364	16/06/2021	Fujifilm Business Innovation Australia Pty Ltd	Photocopier Lease - Admin		370.70
CI.3365	15/06/2021	CNH Industrial Capital Aust Pty Ltd	Iveco Truck Lease		3,207.70
CI.3366	16/06/2021	Komatsu Australia Corporate Finance Pty Ltd	Front Wheel Loader Lease		4,901.37
CI.3367	16/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		0.22
CI.3368	17/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		0.45
CI.3369	17/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		8.58
CI.3370	18/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		5.39
CI.3371	21/06/2021	Gear Select	Drum Roller Lease		2,296.91
CI.3372	21/06/2021	Paymate	Community Standpipe Controller		0.33
CI.3373	14/06/2021	Bendigo Bank	Credit Card CESM		4.00
			Monthly card fee	4.00	
CI.3374	14/06/2021	Bendigo Bank	Credit Card MCCS		686.05
			Puma Yanchep - Fuel	30.04	
			Refreshment - Corporate business plan review workshop	42.70	

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
			Puma Yanchep - Fuel	50.40	
			BigW - Headsets for staf	120.00	
			BigW - refund for headset	-20.00	
			Adobe Subscription	462.91	
CI.3375	14/06/2021	Bendigo Bank	Credit Card CEO		329.00
			LG Pro training course finance for non finance - M Lamb	290.00	
			EG fuel Northam - Fuel	35.00	
			Monthly card fee	4.00	
CI.3376	14/06/2021	Bendigo Bank	Credit Card MAS		97.50
			Fuel tagsx5 for shire bowser - E Francis	93.50	
			Monthly card fee	4.00	
CI.3377	30/06/2021	Charles Service Company	Cleaning Of Public Toilets Opposite Shire Depot		290.40
CI.3378	14/06/2021	Bendigo Bank	Credit Card MPD		295.59
			Annual Subscription Aust Museums & Galleries Assoc - M Eberle	150.00	
			Coles Express - Fuel	20.00	
			Coles Express - Fuel	10.00	
			New windshield wiper blades	24.59	
			Business name renewal - Toodyay Visitor Centre - M Ross	87.00	
			Monthly card fee	4.00	
CI.3379	30/06/2021	Fire Mitigation Services Pty Ltd	MAF 20/21 Hazard Reduction Works - Treatment Id'S 5608/17532, 5683/21412, 5681/21412, 5659/21412, 5653/21412, 5654/21412, 5655/21412 & 5657/21412		75,185.00
CI.3380	30/06/2021	Avon Earthworks	MAF 20/21 - Ten05/2020 Treatments Of Fire Access Tracks		132,501.91
CI.3395	30/06/2021	Avon Earthworks	Levelling Of Dumped Material And Improving Access For Management & Fire Mitigation On Shire Owned Land Adjacent To River Hills Estate		3,982.00
CI.3396	30/06/2021	Clublinks Management Pty Ltd	Recovery Of TRC Signage Costs		313.51
CI.3397	30/06/2021	Clublinks Management Pty Ltd	Recovery Of Pool Lane Signs Purchased From Pro-Am Australia - January 2021		1,155.00
CI.3398	30/06/2021	Mrs Rosemary Madacs	June 2021 - Members Monthly Attendance Allowance		3,114.95
CI.3399	30/06/2021	Beth Ruthven	June 2021 - Members Monthly Attendance Allowance		1,484.90
CI.3400	30/06/2021	Brian Rayner	June 2021 - Members Monthly Attendance Allowance		1,022.94
CI.3401	30/06/2021	Mr Benjamin Bell	June 2021 - Members Monthly Attendance Allowance		1,022.94
CI.3402	30/06/2021	Mrs Therese Chitty	June 2021 - Members Monthly Attendance Allowance		1,022.94
CI.3403	30/06/2021	Philip D Hart	June 2021 - Members Monthly Attendance Allowance		1,022.94

Shire of Toodyay					
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3404	30/06/2021	Mrs Susan Pearce	June 2021 - Members Monthly Attendance Allowance		1,022.94
CI.3405	30/06/2021	Michael McKeown	June 2021 - Members Monthly Attendance Allowance		1,022.94
CI.3406	30/06/2021	Mrs Rosemary Madacs	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3407	30/06/2021	Beth Ruthven	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3408	30/06/2021	Brian Rayner	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3409	30/06/2021	Mr Benjamin Bell	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3410	30/06/2021	Mrs Therese Chitty	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3411	30/06/2021	Philip D Hart	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3412	30/06/2021	Mrs Susan Pearce	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3413	30/06/2021	Michael McKeown	Apr - June 2021 Members Quarterly Telecommunications Allowance		100.00
CI.3414	30/06/2021	Paula Greenway	Apr 2021 Members Quarterly Telecommunications Allowance		32.97
CI.3415	30/06/2021	Autopro Northam	Service Filters For Volkswagen Tiguan		122.86
CI.3416	30/06/2021	C & F Building Approvals	NCC Compliance Assessment & Issue Of CDC X 1 As At 18/06/2021		132.00
CI.3417	30/06/2021	C & F Building Approvals	NCC Compliance Assessments & Issue Of CDC X 4 As At 26/06/2021		781.00
CI.3418	30/06/2021	CTI Security	Community Centre Alarm Monitoring 01/07/2021 To 30/09/2021		192.40
CI.3419	30/06/2021	Wade McMillan	Reimbursement For The Purchase Of Trail Camera To Assist With Feral Pig Management In The Shire Of Toodyay		371.86
CI.3420	30/06/2021	Gemma Ringa Civil	Provision To Supply 20T Excavator And Rock Breaker - Julimar Roadworks		3,883.00
CI.3421	30/06/2021	Mcleods Barristers & Solicitors	Commercial Lease - Community Centre - B2B Gymnasium		1,065.98
CI.3422	30/06/2021	Mcleods Barristers & Solicitors	Commercial Lease - Charcoal Lane		894.18
CI.3423	30/06/2021	The Cola Cafe	Catering - Bush Fire Safety Awareness Course 26Th & 27Th June 2021		616.00
CI.3424	30/06/2021	Advanced Traffic Management	Traffic Management For Drainage Works - Toodyay St 08/06/2021 To 17/06/2021		4,229.50
CI.3425	30/06/2021	Advanced Traffic Management	Traffic Management For Toodyay St 22/06/2021		434.78

Shire of Toodyay					
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3426	30/06/2021	Toll	Freight Charges As At 06/06/2021		10.73
CI.3427	30/06/2021	Toll	Freight Charges As At 13/06/2021		71.94
CI.3428	30/06/2021	Toodyay Tyre & Exhaust	Replacement Tyres On T0015 - Mitsubishi Triton Ute		956.00
CI.3429	30/06/2021	CTI Security	VC/Connors Mill Alarm Monitoring 01/07/2021 To 30/09/2021		192.34
CI.3430	30/06/2021	Clinton Long Project Management	Progress Claim #6 - Old Newcastle Gaol Roof Restoration Project		9,892.90
CI.3431	30/06/2021	Clublinks Management Pty Ltd	TRC Entrance Signage Purchased From Imagesource Digital Solutions March 2021		390.50
CI.3432	30/06/2021	Clublinks Management Pty Ltd	Recovery Costs - Line Marking Of Pitch By Richard Brown T/As Mark My Turf May 21		176.00
CI.3433	30/06/2021	Uniforms @ Work	Uniforms - Beth Falherty		266.20
CI.3434	30/06/2021	Blackwell Plumbing	Call Out To Repair Plumbing Issues At Showgrounds Pavilion		1,085.70
CI.3435	30/06/2021	CTI Security	Upgrade To Security System At Connors Mill		1,193.00
CI.3436	30/06/2021	CTI Security	Upgrade To Security System At Community Centre		589.00
CI.3437	30/06/2021	Autopro Northam	Ryco Service Kit - Toyota Hilux Dual Cab		115.83
CI.3438	30/06/2021	Autopro Northam	Oil Stock For Depot		2,202.91
CI.3439	30/06/2021	Northam Betta Home Living	LG Top Load Washing Machine For 19B Clinton St		699.00
CI.3440	30/06/2021	Gemma Ringa Civil	Provision To Supply & Install Drainage Infrastructure & Associated Earthworks As Per SOT Design - Toodyay St		162,547.90
CI.3441	29/06/2021	Bendigo & Adelaide Bank Ltd	Bank Fee		7.59
CI.3442	24/06/2021	Komatsu Australia Corporate Finance Pty Ltd	Grader Lease		4,560.99
CI.3443	28/06/2021	Paymate	Community Standpipe Controller - Subscription Fee		82.50
CI.3444	30/06/2021	Countryside Pest Control	Termite Inspection On Bridges - 4048, 0697, 4080, 4083, 4089		1,045.00
CI.3445	30/06/2021	Countryside Pest Control	Termite Treatment At Bridges - 4084, 4080 & 4089		715.00
CI.3446	30/06/2021	Avon Skip Bins	Empty Of Front Lift Bins - Toodyay Recreation Centre - June 2021		250.00
CI.3447	30/06/2021	Avon Skip Bins	Front Lift Bin Empty - Depot - June 2021		100.00
CI.3448	30/06/2021	Avon Skip Bins	Front Lift Bin Empty - Memorial Hall - June 2021		200.00
CI.3449	30/06/2021	Avon Skip Bins	Front Lift Bin Empty - Showgrounds - June 2021		50.00
CI.3450	30/06/2021	Automatic Gate Solutions	Remaining Payment - Supply & Instal Automatic Gate System At Depot		9,498.05
CI.3452	30/06/2021	Automatic Gate Solutions	Final Payment - Install Of Automatic Gate At Depot Plus Additional Costs		22,508.00
CI.3453	30/06/2021	Corsign (WA) Pty Ltd	Custom Sign - Pelham Brook Restoration Project		170.50
CI.3454	30/06/2021	Jason Signmakers	BFB Muster Point & Parking Signs		288.88
CI.3456	30/06/2021	Jason Signmakers	Community Standpipe Signage		61.17

Shire of Toodyay List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
CI.3457	30/06/2021	Easifleet	Easisalary Payroll Deductions PPE 22/06/2021		852.19
CI.3458	30/06/2021	Blackwell Plumbing	Unblock Unisex Toilets At Rec Centre		391.60
CI.3459	30/06/2021	LGIS Risk Management	Avon/Central Midlands Regional Risk Coordinator Programme - 2Nd Instalment		7,935.54
CI.3460	30/06/2021	Mobile Concrete Services	Supply & Cartage Of Concrete - New Front Gate At Shire Depot		676.28
CI.3461	30/06/2021	Six Seasons Connect	Welcome To Country - Rap Launch 31/05/2021		300.00
CI.3462	30/06/2021	Bartco Traffic Equipment	Registered User EFDRS Auto BOM Updates - WA Annual Fee 2021/2022		346.50
CI.3463	30/06/2021	Stewart & Heaton Clothing Co Pty Ltd	BFB PPE - Part Order		2,448.72
CI.3464	30/06/2021	Clublinks Management Pty Ltd	Venue Hire - Reconciliation Action Plan Launch 31/05/2021		55.00
CI.3465	30/06/2021	Australian Taxation Office - Albury	Refund Of Excess Bas Reporting Payments From Debtor Account A131 For The FY 2020/2021		61,950.24
CI.3466	30/06/2021	Mr John Hansen	Reimbursement Of BRPC Expenses - 28/06/2021		1,106.65
CI.3467	30/06/2021	Kleen West Distributers	Admin Cleaning Products		113.74
CI.3468	30/06/2021	WALGA	Trainer Travel And Accom Expenses For DWC Course		385.00
CI.3469	30/06/2021	WALGA	Trainer Travel & Accom Related Expenses For MP Course 30/04/2021		385.00
CI.3470	30/06/2021	Esri Australia	Project Services - Arcgis Enterprise Software - For May/June 2021		2,090.00
CI.3480	30/06/2021	Finishing WA - Formerly Pritchard Book Binders	Minute Book Binding Plus Freight		1,443.75
CI.3481	30/06/2021	Minuteman Press - Midland	500 Shire Of Toodyay Newsletter Print - April 2021		985.60
CI.3482	30/06/2021	Minuteman Press - Midland	May 2021 Community Newsletter 500 Copies		985.60
CI.3483	30/06/2021	Minuteman Press - Midland	500 Newsletters June 2021 Edition		985.60
CI.3485	30/06/2021	Datacom Solutions (Au) Pty Ltd	Datascape Erp Implementation - Milestones 10 & 11		6,683.36
CI.3486	30/06/2021	Datacom Solutions (Au) Pty Ltd	Domestic Travel & Accommodation - S Wijekoon & S Yuen 17/05/2021 To 28/05/2021		4,931.40
CI.3487	30/06/2021	Broderick Waste Solutions	Management Of Waste Transfer Station Fortnight Ending 29 June 2021		5,500.00
CI.3488	30/06/2021	Officeworks	Depot/Library Stationery		220.39
CI.3489	30/06/2021	Officeworks	Depot/Library Stationery		538.95
3496	11-Jun-21	Commonwealth Bank of Australia	Equigroup - IT Hardware & Software Lease		\$2,635.05
DD24153.1	14/06/2021	Western Australian Treasury Corporation	Loan No. 71 Fixed Component - Loan No. 71 - New Depot Construction		31,168.06
DD24155.1	21/06/2021	Western Australian Treasury Corporation	Loan No. 67 Fixed Component - Library Upgrade		26,508.74
DD24159.1	23/06/2021	Western Australian Treasury Corporation	Loan 72 Interest & Charges - Recreation Precinct		4,658.35

Shire of Toodyay					
List of Payments Presented to Council for Period 1 June 2021 to 30 June 2021					
Pay/Type	Date	Name	Description		Amount
DD24164.1	27/06/2021	Western Australian Treasury Corporation	Loan No. 70 Fixed Component - Footbridge Refurbishment		4,113.87
DD24166.1	29/06/2021	Western Australian Treasury Corporation	Loan No. 65 Interest Payment - Community Centre		6,844.36
EFT28565	01/06/2021	Australian Taxation Office	Amended BAS For Feb 2020		150,827.00
EFT28566	16/06/2021	Construction Training Fund	CTF Levies - May 2021		1,977.96
EFT28567	16/06/2021	Department Mines, Industry Regulation & Safety	BS Levies - May 2021		2,805.84
EFT28568	16/06/2021	Suzette Nola Davis	Refund Of Standpipe Access Card #9479312 - Suzette Davis		250.00
EFT28569	30/06/2021	Construction Training Fund	CTF Levies For June 2021		1,206.56
EFT28570	30/06/2021	Department Mines, Industry Regulation & Safety	BS Levies - June 2021		2,428.22
EFT28571	30/06/2021	Shire Of Toodyay	BS & CTF Commissions For March To June 2021		443.75
EFT28572	30/06/2021	Mark Roy Stuart	Refund - Standpipe Access Card #2482944 - Mark Stuart		250.00
	9/06/2021	Payroll PPE 08/06/2021	Payroll		114,127.60
	11/06/2021	Payroll PPE 11/06/2021	Payroll - J Nieuwoudt		21,240.80
	23/06/2021	Payroll PPE 11/06/2021	Payroll		101,979.82
	9/06/2021	Aware Super	Payroll Supreannuation PPE 08/06/2021		18,814.42
	11/06/2021	Aware Super	Payroll Supreannuation PPE 11/06/2021		109.44
	23/06/2021	Aware Super	Payroll Supreannuation PPE 22/06/2021		19,253.60
					1,846,407.58

Direct Debit	\$	22,111.23
Trust EFT	\$	160,189.33
Muni EFT	\$	1,248,891.92
DD Payroll	\$	237,348.22
DD Super	\$	38,177.46
DD Loans	\$	73,293.38
Muni Chqs	\$	66,396.04
Trust Chqs	\$	-
<b>TOTAL</b>	\$	<b>1,846,407.58</b>

# **SHIRE OF TOODYAY**

## **MONTHLY FINANCIAL REPORT**

**For the Period Ended 30 June 2021**

**LOCAL GOVERNMENT ACT 1995**

**LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996**

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**SHIRE OF TOODYAY**  
**STATEMENT OF FINANCIAL ACTIVITY**  
(Statutory Reporting Program)  
For the Period Ended 30 June 2021

Note	2020/2021 Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
Operating Revenues		\$	\$	\$	%	
Governance		59,500	59,500	303,716	410.45%	▲
General Purpose Funding - Rates	9	6,319,984	6,319,984	6,286,996	(32,988)	(0.52%)
General Purpose Funding - Other		815,041	815,041	1,622,393	807,352	99.06%
Law, Order and Public Safety		649,813	649,813	961,776	311,963	48.01%
Health		67,500	67,500	57,691	(9,810)	(14.53%)
Housing		11,780	11,780	14,456	2,676	22.72%
Community Amenities		758,275	758,275	765,915	7,640	1.01%
Recreation and Culture		110,500	110,500	439,418	328,918	297.66%
Transport		220,985	220,985	732,798	511,813	231.61%
Economic Services		249,866	249,866	314,865	64,999	26.01%
Other Property and Services		186,752	186,752	183,698	(3,054)	(1.64%)
Total Operating Revenue		9,449,996	9,449,996	11,683,722	2,233,726	
Operating Expense						
Governance		(756,240)	(756,240)	(356,654)	399,586	52.84%
General Purpose Funding		(352,322)	(352,322)	(508,732)	(156,410)	(44.39%)
Law, Order and Public Safety		(1,915,647)	(1,915,647)	(2,002,766)	(87,119)	(4.55%)
Health		(309,960)	(309,960)	(206,097)	103,863	33.51%
Education and Welfare		(46,314)	(46,314)	(34,435)	11,879	25.65%
Housing		(37,268)	(37,268)	(25,235)	12,033	32.29%
Community Amenities		(1,183,837)	(1,183,837)	(1,760,381)	(576,544)	(48.70%)
Recreation and Culture		(2,027,379)	(2,027,379)	(1,688,896)	338,483	16.70%
Transport		(4,512,600)	(4,512,600)	(4,265,721)	246,879	5.47%
Economic Services		(1,006,282)	(1,006,282)	(1,222,500)	(216,218)	(21.49%)
Other Property and Services		(285,257)	(285,257)	(880,556)	(595,299)	(208.69%)
Total Operating Expenditure		(12,433,106)	(12,433,106)	(12,951,974)	(518,868)	
Funding Balance Adjustments						
Add back Depreciation		3,529,141	3,529,141	3,617,850	88,709	2.51%
Adjust (Profit)/Loss on Asset Disposal	8	(63,550)	(63,550)	0	63,550	(100.00%)
Adjust Provisions and Accruals		5,000	0	640	640	
Net Cash from Operations		487,481	482,481	2,350,237	1,867,756	
Capital Revenues						
Grants, Subsidies and Contributions	11	6,345,520	6,345,520	4,654,971	(1,690,549)	(26.64%)
Proceeds from Disposal of Assets	8	159,000	159,000	164,112	5,112	3.22%
Total Capital Revenues		6,504,520	6,504,520	4,819,084	(1,685,436)	
Capital Expenses						
Land and Buildings	13	(3,315,361)	(3,315,361)	(70,778)	3,244,583	97.87%
Infrastructure - Roads	13	(1,980,879)	(1,980,879)	(1,836,830)	144,049	7.27%
Infrastructure - Footpaths	13	(52,000)	(52,000)	(47,852)	4,149	7.98%

**SHIRE OF TOODYAY**  
**STATEMENT OF FINANCIAL ACTIVITY**  
(Statutory Reporting Program)  
For the Period Ended 30 June 2021

	Note	2020/2021 Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
Infrastructure - Bridges	13	(465,000)	(465,000)	(605,090)	(140,090)	(30.13%)	▼
Infrastructure - Other	13	(129,208)	(129,208)	(98,208)	31,000	23.99%	▲
Plant and Equipment	13	(1,241,600)	(1,241,600)	(211,621)	1,029,979	82.96%	▲
Infrastructure - Work in Progress	13	0	0	(2,805,009)	(2,805,009)		▼
Total Capital Expenditure		(7,184,048)	(7,184,048)	(5,675,386)	1,508,662		
Net Cash from Capital Activities		(679,528)	(679,528)	(856,302)	(176,774)		
Financing							
Transfer from Reserves	7	431,670	431,670	0	(431,670)	100.00%	▲
Repayment of Debentures	10	(344,167)	(344,167)	(187,594)	156,573	45.49%	▲
Transfer to Reserves	7	(195,100)	(195,100)	(5,150)	189,950	97.36%	▲
Net Cash from Financing Activities		(107,597)	(107,597)	(192,744)	(85,147)		
Net Operations, Capital and Financing		(299,644)	(304,644)	1,301,191	1,605,835		
Opening Funding Surplus/(Deficit)	3	301,670	301,670	342,499	40,829		
Closing Funding Surplus(Deficit)	3	2,026	(2,974)	1,643,690	1,646,664	(55368.67%)	▲

Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold.  
Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

**SHIRE OF TOODYAY**  
**STATEMENT OF FINANCIAL ACTIVITY**  
(By Nature or Type)  
For the Period Ended 30 June 2021

	Note	2020/2021 Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
Operating Revenues		\$	\$	\$	\$	%	
Rates	9	6,319,984	6,319,984	6,286,996	(32,988)	(0.52%)	
Operating Grants, Subsidies and Contributions	11	1,677,906	1,677,906	4,009,358	2,331,452	138.95%	
Fees and Charges		1,357,013	1,357,013	1,382,218	25,205	1.86%	
Interest Earnings		31,543	31,543	5,150	(26,393)	(83.67%)	▼
Profit on Disposal of Assets	8	63,550	63,550	0	(63,550)	(100.00%)	
Total Operating Revenue		9,449,996	9,449,996	11,683,722	2,233,726		
Operating Expense							
Employee Costs		(4,376,502)	(4,357,840)	(4,001,257)	356,583	8.18%	
Materials and Contracts		(3,577,196)	(3,603,358)	(3,934,308)	(330,950)	(9.18%)	
Utility Charges		(346,468)	(346,468)	(557,112)	(210,644)	(60.80%)	▼
Depreciation on Non-Current Assets		(3,529,141)	(3,529,141)	(3,617,850)	(88,709)	(2.51%)	
Interest Expenses		(255,707)	(247,708)	(324,191)	(76,483)	(30.88%)	▼
Insurance Expenses		(253,090)	(253,091)	(278,732)	(25,641)	(10.13%)	▼
Other Expenditure		(95,000)	(95,500)	(238,524)	(143,024)	(149.76%)	▼
Total Operating Expenditure		(12,433,104)	(12,433,106)	(12,951,973)	(518,867)		
Funding Balance Adjustments		(2,983,108)	(2,983,110)	(1,268,251)			
Add back Depreciation		3,529,141	3,529,141	3,617,850	88,709	2.51%	
Adjust (Profit)/Loss on Asset Disposal		(63,550)	(63,550)	0	63,550	(100.00%)	
Adjust Provisions and Accruals		5,000	0	639	639		
Net Cash from Operations		487,483	482,481	2,350,238	1,867,757		
Capital Revenues							
Grants, Subsidies and Contributions	11	6,345,520	6,345,520	4,654,971	(1,690,549)	(26.64%)	▼
Proceeds from Disposal of Assets		159,000	159,000	164,112	5,112	3.22%	
Total Capital Revenues		6,504,520	6,504,520	4,819,084	(1,685,436)		
Capital Expenses							
Land Held for Resale		0	0	0	0		
Land and Buildings	13	(3,315,361)	(3,315,361)	(70,778)	3,244,583	97.87%	▲
Infrastructure - Roads	13	(1,980,879)	(1,980,879)	(1,836,830)	144,049	7.27%	
Infrastructure - Footpaths	13	(52,000)	(52,000)	(47,852)	4,149	7.98%	
Infrastructure - Bridges	13	(465,000)	(465,000)	(605,090)	(140,090)	(30.13%)	▼
Infrastructure - Other	13	(129,208)	(129,208)	(98,208)	31,000	23.99%	▲
Plant and Equipment	13	(1,241,600)	(1,241,600)	(211,621)	1,029,979	82.96%	▲
Infrastructure - Work In Progress		0	0	(2,805,009)	(2,805,009)		
Total Capital Expenditure		(7,184,048)	(7,184,048)	(5,675,386)	1,508,662		
Net Cash from Capital Activities		(679,528)	(679,528)	(856,302)	(176,774)		
Financing							
Transfer from Reserves	7	431,670	431,670	0	(431,670)	(100.00%)	
Repayment of Debentures	10	(344,167)	(344,167)	(187,594)	156,573	45.49%	▲
Transfer to Reserves	7	(195,100)	(195,100)	(5,150)	189,950	97.36%	▲
Net Cash from Financing Activities		(107,597)	(107,597)	(192,744)	(85,147)		
Net Operations, Capital and Financing		(299,644)	(304,644)	1,301,191	1,605,835		
Opening Funding Surplus(Deficit)	3	301,670	301,670	342,499	40,829		▲
Closing Funding Surplus(Deficit)	3	2,026	(2,974)	1,643,690	1,646,664		

Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold.

This statement is to be read in conjunction with the accompanying Financial Statements

Shire of Toodyay  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 2: EXPLANATION OF MATERIAL VARIANCES

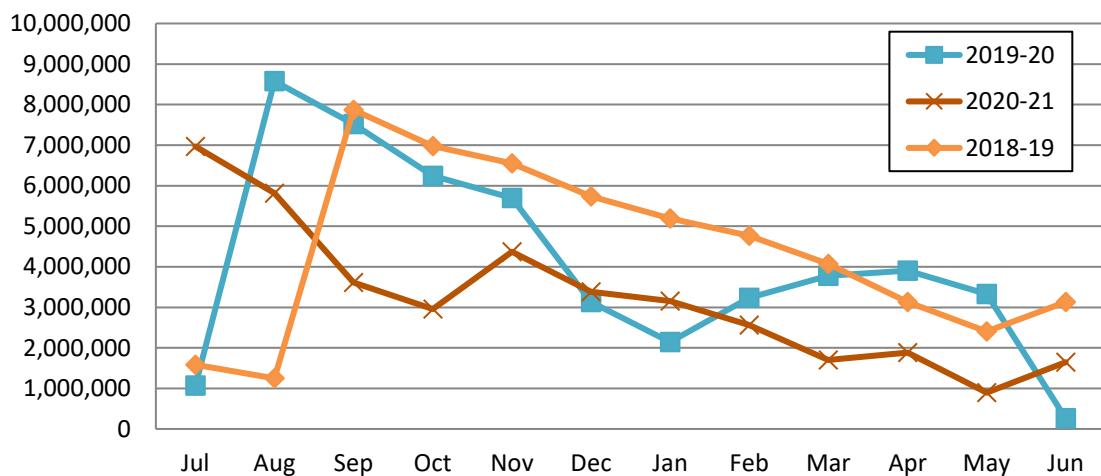
Reporting Program	Var. \$	Var. %	Var.	Timing/ Permanent	Explanation of Variance
Operating Revenues	\$ 244,216	410.45%	▲		Received unbudgeted income
Governance	(32,988)	(0.52%)			
General Purpose Funding - Rates	807,352	99.06%	▲		Received 2021/22 FAGS Grant (\$497k) and 2021/22 Road Improvement Grant (\$342k) - not for 2020/21
General Purpose Funding - Other	311,963	48.01%	▲	Timing	Grant income for Fire Appliances and Buildings more than budgeted to date
Health	(9,810)	(14.53%)	▼	Timing	Rental Income offset not yet processed
Housing	2,676	0.00%			
Community Amenities	7,640	1.01%			
Recreation and Culture	328,918	297.66%	▲		Reallocation of grant money from incorrect account
Transport	511,813	231.61%	▲		More grant income received than budgeted
Economic Services	64,999	26.01%	▲		More grant income received than budgeted
Other Property and Services	(3,054)	(1.64%)			
Operating Expense					
Governance	399,586	52.84%	▲		
General Purpose Funding	(156,410)	(44.39%)	▼		Admin allocation not budgeted for
Law, Order and Public Safety	(87,119)	(4.55%)			
Health	103,863	33.51%	▲		
Education & Welfare	11,879	25.65%			
Housing	12,033	32.29%	▲		
Community Amenities	(576,544)	(48.70%)	▼	Timing	Rubbish Collection and Waste Management requires cost allocation over 12 month period
Recreation and Culture	338,483	16.70%	▲		
Transport	246,879	5.47%			
Economic Services	(216,218)	(21.49%)	▼	Timing	Visitors Centre floor stock, Advertising and Building Maintenance Expense less than budgeted to date.
Other Property and Services	(595,299)	(208.69%)	▼	Timing	Vehicle Registration and Insurance requires cost allocation over 12 month period.
Capital Revenues					
Grants, Subsidies and Contributions	(1,690,549)	(26.64%)	▼		
Proceeds from Disposal of Assets	5,112	3.22%			
Capital Expenses					
Land and Buildings	3,244,583	97.87%	▲	Timing	Recreation centre to be capitalised
Infrastructure - Roads	144,049	7.27%			
Infrastructure - Footpaths	4,149	7.98%			
Infrastructure - Bridges	(140,090)	(30.13%)	▼	Timing	Projects yet to be completed
Infrastructure - Other	31,000	23.99%	▲		
Plant and Equipment	1,029,979	82.96%	▲	Timing	Projects yet to commence/be completed
Work In Progress			▼		
Financing					
Loan Principal	156,573	45.49%	▲		Term of loan, and therefore repayments, for Recreation Precinct changed

Shire of Toodyay  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 3: NET CURRENT FUNDING POSITION

	Note	Positive=Surplus (Negative=Deficit)		
		YTD 30 Jun 2021	30th June 2020	YTD 30 Jun 2020
		\$	\$	\$
Current Assets				
Cash Unrestricted	4	2,080,221	1,310,104	1,310,104
Cash Restricted	4	1,643,812	1,638,663	1,638,663
Receivables - Rates	6	671,213	818,474	818,474
Receivables - Other	6	1,499,507	328,154	328,154
Interest / ATO Receivable/Trust				
Inventories		118,838	81,244	81,244
		6,013,592	4,176,639	4,176,639
Less: Current Liabilities				
Payables		(1,823,082)	(5,979,367)	(5,979,367)
Provisions		(598,130)	(598,130)	(598,130)
Grant Liabilities		(527,306)	(527,306)	0
		(2,948,519)	(7,104,804)	(6,577,498)
Less: Cash Reserves	7	(1,643,812)	(1,638,663)	(1,638,663)
Adjustment for Current Borrowings		0	4,687,594	4,687,594
Adjustment for Cash Backed Liabilities		222,430	221,733	221,733
Net Current Funding Position		1,643,690	342,499	869,805

**Note 3 - Liquidity Over the Year**



Comments - Net Current Funding Position

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 4: CASH AND INVESTMENTS

	Interest Rate	Unrestricted \$	Restricted \$	Trust \$	Investments \$	Total Amount \$	Institution	Maturity Date
(a) Cash Deposits Municipal Trust		1,933,903		143,568		1,933,903 143,568	Bendigo Bank Bendigo Bank	At Call At Call
(b) Term Deposits								
Municipal NCD: 3546421	0.15%							
Trust - T100	0.40%		1,643,812	141,679		1,643,812 141,679	Bendigo Bank Bendigo Bank	16.08.21 27.08.21
Trust - T4	0.40%			125,149		125,149	Bendigo Bank	26.08.21
Trust - T114	0.40%			208,511		208,511	Bendigo Bank	26.08.21
Trust - T214	0.40%			49,497		49,497	Bendigo Bank	26.08.21
Trust - T458	0.45%			452,226		452,226	Bendigo Bank	26.09.21
Trust - T793	0.40%			23,974		23,974	Bendigo Bank	26.08.21
Trust - T797	0.40%			32,901		32,901	Bendigo Bank	26.08.21
Trust - T805	0.50%			24,431		24,431	Bendigo Bank	14.07.21
Trust - T809	0.35%			123,764		123,764	Bendigo Bank	18.07.21
Trust - T811	0.40%			9,547		9,547	Bendigo Bank	16.09..21
Total		1,933,903	1,643,812	1,335,247		4,912,962		

**Comments/Notes - Investments**

The above totals reflect the actual balance of the bank statements held at the Bank at month end. These balances will not include items such as unpresented cheques and payments, and monies received by the Shire on the last day of the month.

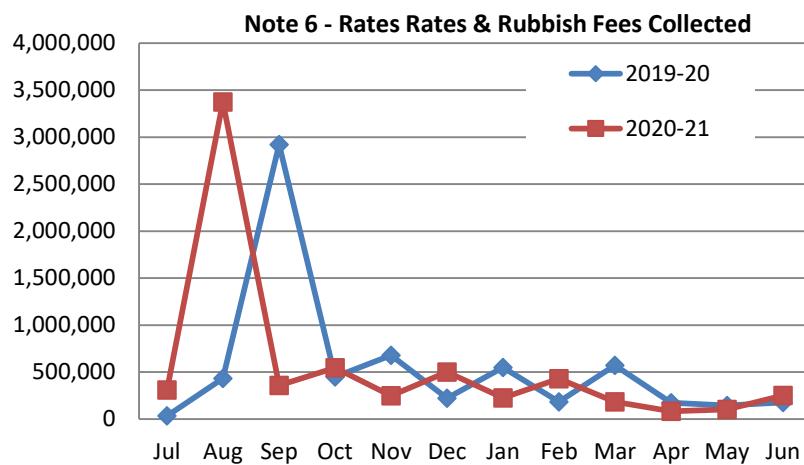
Trust monies held by the Shire of Toodyay are not reflected in Note 3: Net Current Funding Position.

**SHIRE OF TOODYAY**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 30 June 2021

**Note 6: RECEIVABLES**

Receivables - Rates Receivable

	YTD 30 Jun 2021	30 June 2020
	\$ 781,206	\$ 762,557
Opening Arrears Previous Years	6,366,390	6,557,391
Levied this year	(6,476,383)	(6,538,742)
<u>Less</u> Collections to date	671,213	781,206
Equals Current Outstanding	671,213	781,206
Net Rates Collectable	90.61%	89.33%



**Comments/Notes - Receivables Rates**

**Comments/Notes - Receivables Rates and Rubbish**

ESL	30,118
Legal Action	17,157
Services (Rubbish, Waste)	59,843
Penalties	26,310
Rates and Arrears	578,157
Properties in Credit	(145,242)
Other	1670.74
 Total Current	 568,014
 Deferred Pensioners	 274,322
( not collectable till Pensioner property is sold or paid)	
 Total	 842,336

*Please note that deferred pensioners are rates outstanding from previous years and deferral is permitted under the Local Government Rates and Deferral Act.*

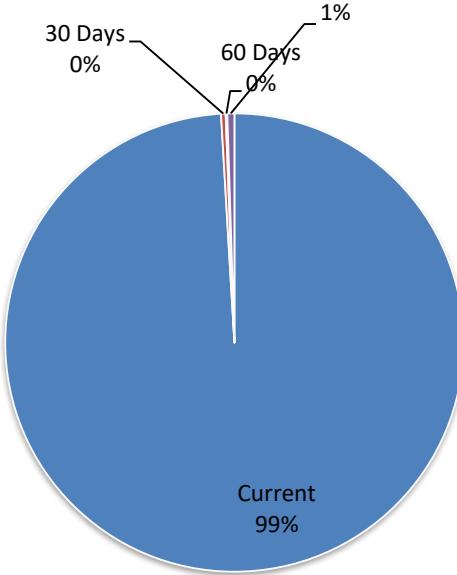
*Please note the figure on Note 3 - Rates Collected refers only to those rates that are the 20/21 current financial year. The figure in Note 6 are for the 20/21 financial year as well as all rate arrear from previous years.*

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Receivables - General	Current	30 Days	60 Days	90+Days
	\$ 760,838	\$ 2,477	\$ 885	\$ 3,802
Total Receivables General Outstanding				<u>768,002</u>

Amounts shown above include GST (where applicable)

**Note 6 - Accounts Receivable (non-rates)** <sup>90+Days</sup> <sub>1%</sub>



**Comments/Notes - Receivables General**

This note reflects Sundry Debors only. It does not include other debtors such as GST due from the ATO & Pensioner Rebates due from the State.

No Action Required 2,267,510

Total Receivables - Other -1,499,507

*Current Balance Explanations:*

\$124,980 ADCO Invoice for recoup of 75% water usage charge at Recreation Centre due to failed equipment

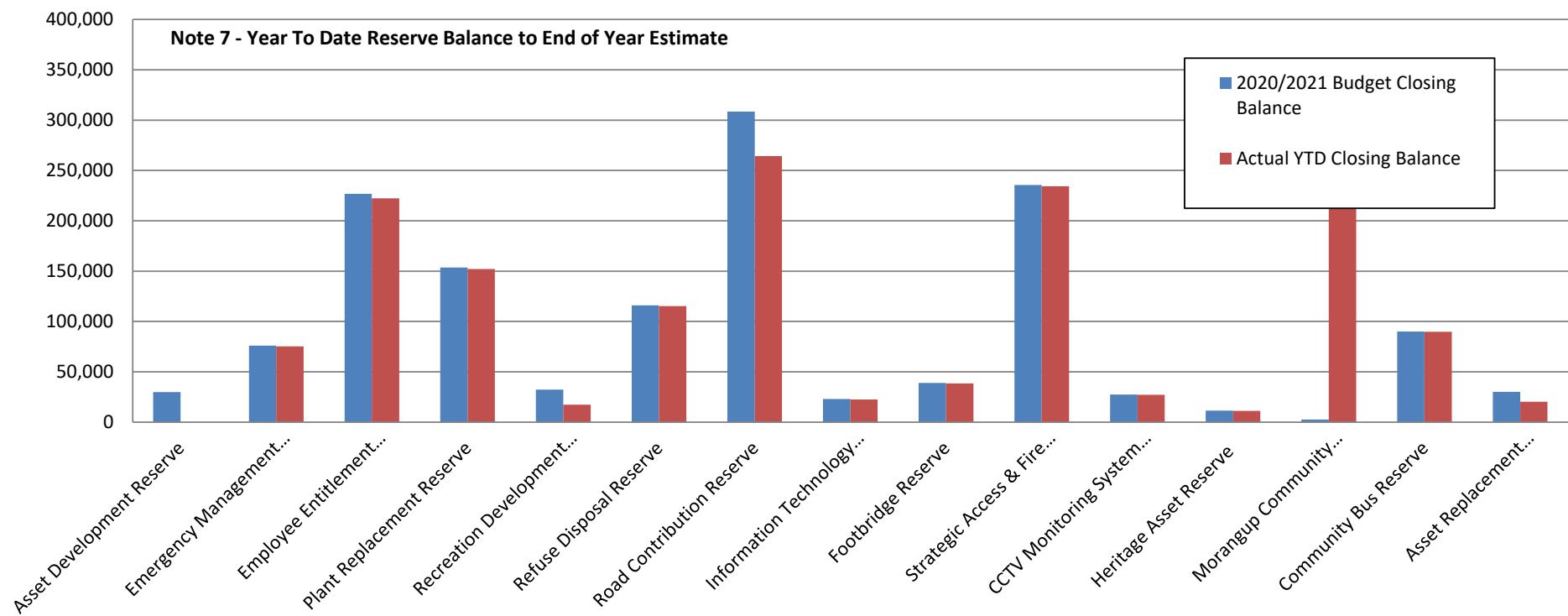
\$176,083 DFES Invoice for final grant progress claim - Coondle Nunile Fire Station

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 7: Cash Backed Reserve

2020-21 Name	Opening Balance	2020/2021 Budget Interest Earned	Actual Interest Earned	2020/2021 Budget Transfers In (+)	Actual Transfers In (+)	2020/2021 Budget Transfers Out (-)	Actual Transfers Out (-)	2020/2021 Budget Closing Balance	Actual YTD Closing Balance
Asset Development Reserve	0	0	0	30,000	0	0	0	30,000	0
Emergency Management & Recovery Reserve	75,114	1,000	236	0	0	0	0	76,114	75,350
Employee Entitlement Reserve	221,733	5,000	697	50,000	0	(50,000)	0	226,733	222,430
Plant Replacement Reserve	151,529	2,000	476	0	0	0	0	153,529	152,005
Recreation Development Reserve	17,299	500	54	14,500	0	0	0	32,299	17,353
Refuse Disposal Reserve	115,017	1,000	361	0	0	0	0	116,017	115,379
Road Contribution Reserve	263,457	5,000	828	70,000	0	(30,000)	0	308,457	264,285
Information Technology Reserve	22,507	500	71	0	0	0	0	23,007	22,578
Footbridge Reserve	38,373	500	121	0	0	0	0	38,873	38,494
Strategic Access & Fire Egress Reserve	233,585	2,000	734	0	0	0	0	235,585	234,319
CCTV Monitoring System Reserve	27,031	350	85	0	0	0	0	27,381	27,116
Heritage Asset Reserve	11,130	250	35	0	0	0	0	11,380	11,165
Morangup Community Centre Reserve	352,199	2,000	1,107	0	0	(351,670)	0	2,529	353,306
Community Bus Reserve	89,499	500	281	0	0	0	0	89,999	89,780
Asset Replacement Reserve - Rec Precinct	20,189	0	63	10,000	0	0	0	30,189	20,252
	1,638,663	20,600	5,150	174,500	0	(431,670)	0	1,402,092	1,643,812

SHIRE OF TOODYAY  
 NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
 For the Period Ended 30 June 2021



**SHIRE OF TODDYAY**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 30 June 2021

Note 9: RATING INFORMATION	Rate in \$	Number of Properties	Rateable Value \$	Rate Revenue \$	Interim Rates \$	Back Rates \$	Total Revenue \$	2020/2021 Budget Rate Revenue \$	2020/2021 Budget Interim Rate \$	2020/2021 Budget Back Rate \$	2020/2021 Budget Total Revenue \$
	RATE TYPE										
Differential General Rate											
GRV Residential	12.9430	555	7,261,388	939,842	41,802	9,430	991,073	1,042,304	0	0	1,042,304
GRV - Commercial	14.0200	28	1,338,282	187,627	(3,827)	0	183,800	179,974	0	0	179,974
GRV - Industrial	12.4383	19	418,800	52,279	0	0	52,279	52,279	0	0	52,279
GRV - Rural	11.8690	100	1,427,920	169,480	(43)	0	169,437	169,395	0	0	169,395
GRV - Rural Residential	11.2600	880	12,858,860	1,447,908	(860)	0	1,447,048	1,446,189	0	0	1,446,189
UV - General	1.1680	405	75,698,000	884,153	268	(275)	884,146	884,139	0	0	884,139
UV - Rural	0.8969	184	161,086,000	1,444,781	(572)	(192)	1,444,016	1,443,251	0	0	1,443,251
				5,126,068	36,769	8,962	5,171,799	5,217,530			5,217,530
Minimum Payment	Minimum \$			0							
GRV Residential	1,351	238	1,353,359	321,538	0	0	321,538	321,538	0	0	321,538
GRV - Commercial	1,351	6	35,200	8,106	0	0	8,106	8,106	0	0	8,106
GRV - Industrial	1,351	10	38,040	13,510	0	0	13,510	13,510	0	0	13,510
GRV - Rural	1,351	43	354,688	58,093	0	0	58,093	58,093	0	0	58,093
GRV - Rural Residential	1,351	528	3,493,132	713,328	0	0	713,328	713,328	0	0	713,328
UV - General	1,351	166	11,111,835	224,266	0	0	224,266	224,266	0	0	224,266
UV - Rural	1,351	0	411,000	0	0	0	0	0	0	0	0
				1,338,841			1,338,841				1,338,841
Concession				6,464,909			6,510,640				6,556,371
Amount from General Rates				(146,198)			(145,779)				0
Ex-Gratia Rates				6,318,711			6,364,862				6,556,371
Totals				1,273			1,528				1,200
				6,319,984			6,366,390				6,557,571

Comments - Rating Information

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

10. INFORMATION ON BORROWINGS

(a) Debenture Repayments

Particulars	Principal 1-Jul-20	New Loans	Principal Repayments		Principal Outstanding		Interest Repayments	
			Actual \$	2020/2021 Budget \$	Actual \$	2020/2021 Budget \$	Actual \$	2020/2021 Budget \$
Recreation & Culture								
Loan 65 - Community Centre	13,016		13,016	13,016	(0)	0	670	722
Loan 67 - Library Upgrade	183,751		41,565	41,565	142,186	142,186	11,453	14,073
Loan 69 - Library Upgrade	0		0	0	0	0	0	0
Loan 72 - Land - Rec Precinct	744,371		43,380	0	700,991	744,371	32,647	35,158
Loan 73 - Refurbish Courts	0		0	0	0	0	0	0
Loan 75 - Recreation Precinct	4,500,000		4,500,000	0	0	0	33,116	0
Loan 75B - Recreation Precinct	0	4,500,000	0	0	4,500,000	0	0	0
Transport								
Loan 68 - Stirling Terrace	0		0	0	0	0	0	0
Loan 70 - Footbridge	15,889		15,889	15,889	(0)	0	566	623
Loan 71 - Depot Stage 2	590,337		36,056	36,056	554,281	554,281	26,280	28,282
Economic Services								
Loan 64 - Visitor Centre	19,945		19,945	19,945	0	0	984	1,046
Other Property & Services								
Loan 63 - Bank Building	17,744		17,744	17,744	0	0	827	1,010
Loan 74 - Refurbish Bank Building	0		0	0	0	0	0	0
	6,085,053	4,500,000	4,687,595	144,215	5,897,458	1,440,838	106,542	80,914

Loan 75B replaced loan 75 - relates to changing the loan for the Recreation Centre from a short term loan to a 20 year loan

**SHIRE OF TOODYAY**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 30 June 2021

Note 11: GRANTS AND CONTRIBUTIONS

	Program/Details GL	Grant Provider	Approval (Y/N)	2020-21 Budget	Variations Additions (Deletions)	Operating	Capital	Recoup Status	
								Received	Not Received
Operating	GENERAL PURPOSE FUNDING								
Operating	GENERAL PURPOSE GRANT	Federal Government	Yes	450,202				962,150	(511,948)
Operating	ROAD IMPROVEMENT GRANT	Federal Government	Yes	273,796				612,913	(339,117)
Operating	Rates - Legal Expenses Recovered	Local Government	Yes	35,000				1,860	33,140
Operating	GOVERNANCE								
Operating	Recoups - Contributions, Donations & Reimbursements	Local Government		7,500				0	7,500
Operating	LEGAL EXPENSES RECOVERED	Local Government		1,000				0	1,000
Operating	Grants - Governance	Local Government		1,000				0	1,000
Operating	Income Protection	LGIS		0				10,793	(10,793)
Operating	Administration - Income	Local Government		30,000				32,583	(2,583)
Operating	Administration - Income - GST Free	Local Government		20,000				246,627	(226,627)
Operating	Income Protection	LGIS							
Capital	LAW, ORDER, PUBLIC SAFETY								
Operating	Fire Prevention - Grants	DFES	Yes	1,766,215				383,341	1,382,874
Operating	ESL Levy Recoup	DFES	Yes	224,011				224,912	(901)
Operating	Fire Mitigation Grant	DFES	Yes	462,600				231,300	231,300
Operating	CESM Recoups	DFES & Shire of Goomalling	Yes	112,826				69,192	43,634
Operating	Bushfire Risk Management Coordinator	DFES		176,083				176,083	0
Operating	Toodyay Districts SES	DFES	Yes	49,019				77,925	(28,906)
Operating	Generator			0				0	0
Operating	HEALTH								
Operating	Health Inspections Recoup	Local Government		500				0	500
Operating	HOUSING								
Operating	Recoups/Reimbursements - Aged Housing	Local Government	Yes	0				443	(443)
Operating	Recoups - Staff Housing	Local Government		1,500				1,773	(273)

**SHIRE OF TOODYAY**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 30 June 2021

Note 11: GRANTS AND CONTRIBUTIONS

	Program/Details GL	Grant Provider	Approval	2020-21 Budget	Variations Additions (Deletions)	Operating	Capital	Recoup Status	
								Received	Not Received
Operating	COMMUNITY AMENITIES Community Sponsorship	Local Government		5,000				0	5,000
Operating	RECREATION AND CULTURE Community Centre Recoups		No	1,500				1,188	312
Operating	Club Insurance		Yes	3,000				1,662	1,338
Operating	Toodyay Race Club Reimbursements		Yes	2,500				1,017	1,483
Operating	Sport & Rec Grants	Lotterywest	Yes	1,000				363,244	(362,244)
Operating	Grant Income - Writers Festival		Yes	1,500				2,578	(1,078)
Operating	Grants Income	East Metropolitan Reg Council	Yes	3,000				0	3,000
Operating	Sport & Rec Grants	Dept Sport & Rec		2,500				2,273	227
Operating	Events Misc			1,500				1,100	400
Capital	Recreation Precinct	BBRF & Lotterywest		2,100,246				2,715,541	(615,295)
	TRANSPORT								
Operating	Operating Grants - Roads	MRWA	Yes	144,485				590,195	(445,710)
Operating	MRWA Street Light Subsidy	MRWA	Yes	1,500				1,570	(70)
Operating	Road Maintenance Contributions	Private	Yes	75,000				131,832	(56,832)
Operating	Road Safety	Office of Road Safety		0				9,201	(9,201)
Capital	Bridge	MRWA	Yes	465,000				0	465,000
Capital	Footpath			26,000				0	26,000
Capital	Road Program Grant	Main Roads	Yes	826,604				838,815	(12,211)
Capital	Roads to Recovery Grant	Dept of Infrastructure	Yes	698,855				829,315	(130,460)
	ECONOMIC SERVICES								
Operating	Community Directory	Avon Valley Advocate		3,000				0	3,000
Operating	Tourism & Area Promotion			3,000				44,868	(41,868)

30/06/21

**SHIRE OF TOODYAY**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 30 June 2021

Note 11: GRANTS AND CONTRIBUTIONS

Operating	Program/Details GL	Grant Provider	Approval	2020-21	Variations Additions (Deletions)	Operating	Capital	Recoup Status	
				Budget				Received	Not Received
<b>OTHER PROPERTY &amp; SERVICES</b>									
Operating	Public Works Overheads			1,000				118	882
Operating	Workers Compensation	LGIS		15,000				83,611	(68,611)
Operating	Fuel Tax Credits	ATO		28,784				0	28,784
Operating	Bank Building Recoups	Bendigo Bank		2,200				2,560	(360)
Operating	Reimbursement - Parenting Payment Scheme	Centrelink		0				6,050	(6,050)
Operating	Insurance Reimbursement	LGIS		0				5,698	(5,698)
<b>TOTALS</b>				<b>8,023,426</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>8,664,330</b>	<b>(640,904)</b>

**SHIRE OF TOOODYAY**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**

For the Period Ended 30 June 2021

Note 12: TRUST FUND

Funds held at balance date over which the Shire has no control and which are not included in this statement are as follows:

Description	Opening Balance 1 Jul 20	Amount Received	Amount Paid	Closing Balance 30-Jun-21
Quarry rehabilitation Bonds	\$ 1,863,800	\$ 28,004	\$ (698,145)	\$ 1,193,659
Housing bonds	0	0	0	0
Kerb Bonds	0	0	0	0
Key bonds	6,361	18,525	(4,010)	20,876
Venue Hire Bonds	0	0	0	0
Crossover Bonds	0	0	0	0
BCITF	0	0	0	0
Building Services	0	38,453	(25,225)	13,228
Library Bonds	0	0	0	0
Standpipe bonds	20,710	68,142	(1,750)	87,102
Road Construction Bonds	27,998	6,200	0	34,198
Other Bonds	3,715	0	(3,066)	649
Planning Bonds	35,040	213	(25,706)	9,547
Aged Housing Grant Funds	0	0	0	0
Swimming Pool Funds	0	0	0	0
	1,957,624	159,537	(757,903)	1,359,258

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Annual Budget 2020/21	YTD Budget	YTD Actual	Variance (Under)/Over	YTD Actual (Renewal Exp)	Strategic Reference / Comment
		0	0	0	0	0	
Land Total		0	0	0	0	0	
<b>Total Land</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
BUILDINGS							
Governance							
Admin Brickwork Remediation	Q191	5,000	5,000	0	(5,000)		
Governance Total		5,000	5,000	0	(5,000)	0	
Law, Order, Public Safety							
Julimar Fire Shed	Q209	559,414	559,414	50,683	(508,731)		
Toodyay Co-location PPE Cleaning Facilities	Q211	9,600	9,600	11,985	2,385		
Law, Order, Public Safety Total		569,014	569,014	62,668	(506,346)		
Recreation And Culture							
Showgrounds Pavilion - Kitchen	Q148	5,000	5,000	0	(5,000)		
Morangup Community Centre	Q165	351,670	351,670	0	(351,670)		
Recreation Precinct Buildings	Q199	2,355,677	2,355,677	0	(2,355,677)		
Library Brickworks	J038	5,000	5,000	0	(5,000)		
Donegans Cottage	Q135	16,500	16,500	0	(16,500)		
Toodyay Race Club - Approx 10 buildings, 173 Racecourse Road (BLG037)				8,110	8,110		31/12/2020 Correct cost allocations since July - JE
Recreation And Culture Total		2,733,847	2,733,847	8,110	(2,725,737)	0	
Housing							
Clinton Street Duplex	Q009	7,500	7,500	0	(7,500)		
Other Property & Services Total		7,500	7,500	0	(7,500)		

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Annual Budget 2020/21	YTD Budget	YTD Actual	Variance (Under)/Over	YTD Actual (Renewal Exp)	Strategic Reference / Comment
<b>Buildings Total</b>		<b>3,315,361</b>	<b>3,315,361</b>	<b>70,778</b>	<b>(3,244,583)</b>	<b>0</b>	
Plant , Equip. & Vehicles							
Photocopier - Morangup BFB & Toodyay SES		5,500	5,500		(5,500)		
SES Ute Fitout		18,100	18,100	26,600	8,500		
4.4B Bejoording Fire Tender		569,000	569,000		(569,000)		
4.4B Julimar Fire Tender		569,000	569,000		(569,000)		
John Deere 7200A cylinder mower		35,000	35,000	33,469	(1,531)		
John Deere 1570 Front Deck mower with catcher		45,000	45,000	47,440	2,440		
Volkswagen Tiguan				24,224	24,224		This expense was accrued in the 2019/20 Financial Year
CESM Vehicle				50,718	50,718		This expense was accrued in the 2019/20 Financial Year
Custom Canopy for Ranger Vehicle				13,380	13,380		This expense was accrued in the 2019/20 Financial Year
Lights and Sirens for CESM Vehicle				15,791	15,791		This expense was accrued in the 2019/20 Financial Year
<b>Transport Total</b>		<b>1,241,600</b>	<b>1,241,600</b>	<b>211,621</b>	<b>(1,134,091)</b>	<b>0</b>	
<b>Plant , Equip. &amp; Vehicles Total</b>		<b>1,241,600</b>	<b>1,241,600</b>	<b>211,621</b>	<b>(1,134,091)</b>	<b>0</b>	
Roads							
Transport							
Bejoording Road	A0001	612,156	612,156	639,494	27,338		
Julimar Road	A0004	418,500	418,500	347,080	(71,420)		
Toodyay West Road inc Footpath	B0011	300,160	300,160		(300,160)		
River Road	D0010	44,096	44,096	52,973	8,877		
Lovers Lane	D0012	39,899	39,899	58,085	18,186		
Toodyay Street	D0071	7,562	7,562	209,966	202,404		
McKnoe Drive	D0134	91,979	91,979	127,083	35,104		
Timber Creek Crescent	D0177	67,832	67,832	107,122	39,290		
Clinton Street - Footpath	B0064	48,695	48,695	47,852	(844)		

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Annual Budget 2020/21	YTD Budget	YTD Actual	Variance (Under)/Over	YTD Actual (Renewal Exp)	Strategic Reference / Comment
Toodyay Bindi Bindi Road	B0197	115,000	115,000	0	(115,000)		works now involve bridgeworks
Morangup Road				6,401			
Hall Road	B0168	235,000	235,000	217,433	(17,567)		
Sinclair Place	B0121	0	0	31,993	31,993		
Transport Total		1,980,879	1,980,879	1,845,482	(173,791)	0	
<b>Roads Total</b>		<b>1,980,879</b>	<b>1,980,879</b>	<b>1,845,482</b>	<b>(173,791)</b>	<b>0</b>	
Infrastructure - Bridges							
Transport							
Bridge Works - Toodyay Bindi Bindi Bridge		465,000	465,000	605,090	140,090		
Transport Total		465,000	465,000	605,090	140,090		
<b>Infrastructure Bridges - Total</b>		<b>465,000</b>	<b>465,000</b>	<b>605,090</b>	<b>140,090</b>	<b>0</b>	
Infrastructure - Other							
Law, Order & Public Safety							
Emergency Fire Water Tanks	Q210	100,208	100,208	70,574	(29,634)	0	
Law, Order & Public Safety Total		100,208	100,208	70,574	(29,634)	0	
Economic Services							
Community Standpipe	Q206	29,000	29,000	27,634	(1,366)		
Community Amenities Total		29,000	29,000	27,634	(1,366)	0	
<b>Infrastructure Other - Total</b>		<b>129,208</b>	<b>129,208</b>	<b>98,208</b>	<b>(31,000)</b>	<b>0</b>	
Footpaths							
Jarrat Pass	112122	52,000	52,000	39,200	12,800	0	
		52,000	52,000	39,200	12,800	0	
<b>Infrastructure Footpaths - Total</b>		<b>52,000</b>	<b>52,000</b>	<b>39,200</b>	<b>12,800</b>	<b>0</b>	
Infrastructure - Work in Progress							
Works in Progress		0	0	2,805,009	2,805,009		Recreation Centre Precinct project. This will be capitalised for

SHIRE OF TOODYAY  
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
For the Period Ended 30 June 2021

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Annual Budget 2020/21	YTD Budget	YTD Actual	Variance (Under)/Over	YTD Actual (Renewal Exp)	Strategic Reference / Comment
Recreation & Culture Total		0	0	2,805,009	2,805,009		the 2020/21 financial statements.
Infrastructure Parks & Recreation - Total		0	0	2,805,009	2,805,009	0	
Capital Expenditure Total		7,184,048	7,184,048	5,675,386	(1,765,656)	0	

Shire of Toodyay - Bank Reconciliation As At 30 June 2021

Reserve

Balance as per

- Financial Statement - Reserve - 10075510 1,643,812.36

Total

1,643,812.36

Balance as per

- Bendigo - NCD: 3546421 1,643,812.36

**Details:**

Asset Development Reserve	0.00
Emergency Management & Recovery Reserve	75,350.00
Employee Entitlement Reserve	222,429.53
Plant Replacement Reserve	152,004.73
Recreation Development Reserve	17,353.47
Refuse Disposal Reserve	115,378.70
Road Contribution Reserve	264,285.19
Information Technology Reserve	22,577.59
Footbridge Reserve	38,493.93
Strategic Access & Fire Egress Reserve	234,319.08
CCTV Monitoring System Reserve	27,115.81
Heritage Asset Reserve	11,165.44
Morangup Community Centre Reserve	353,306.20
Community Bus Reserve	89,780.25
Asset Replacement Reserve - Rec Precinct	20,252.45

Difference 0.00

Subtotal 1,643,812.36

Adjustments (See Below)	0.00
Plus Outstanding Deposits - Current Month	0.00
Plus Outstanding Cheques - Current Month	0.00
Plus Outstanding Deposits - Previous Periods	0.00
Plus Outstanding Cheques - Previous Periods	0.00

Total 1,643,812.36

Adjustment Breakdown

0.00

*E. Hather*

Signed: Finance Coordinator

*6/7/21*

Date

*J. M. Warden*

Signed: Manager Corporate & Community Services

*8/7/2021*

Date

Shire of Toodyay - Bank Reconciliation As At 30 June 2021

Trust

**Balance as per**

- Financial Statement - Trust - Unrestricted - 100617100	1,359,506.84
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<b>Total</b>	<b>1,359,506.84</b>
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**Balance as per**

- Bendigo - 110482783	143,568.29
- Bendigo - Term Deposit No: 137945127 - T100	141,678.68
- Bendigo - Term Deposit No: 152237145 - T214	49,497.31
- Bendigo - Term Deposit No: 152238135 - T4	125,148.75
- Bendigo - Term Deposit No: 152238176 - T114	208,511.42
- Bendigo - Term Deposit No: 152238218 - T458	452,225.76
- Bendigo - Term Deposit No: 152240818 - T793	23,973.62
- Bendigo - Term Deposit No: 152240834 - T797	32,900.82
- Bendigo - Term Deposit No: 158622798 - T805	24,431.07
- Bendigo - Term Deposit No: 165467309 - T809	123,763.99
- Bendigo - Term Deposit No: 173945890 - T811	9,547.24
- Bendigo - Term Deposit No: 184647550 - T820	0.00
Roundings	(0.03)

<b>Difference</b>	<b>0.00</b>
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<b>Subtotal</b>	<b>1,335,246.92</b>
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Adjustments (See Below)	0.00
Plus Outstanding Deposits - Current Month	12,661.23
Plus Outstanding Cheques - Current Month	(4,328.53)
Plus Outstanding Deposits - Previous Periods	15,927.22
Plus Outstanding Cheques - Previous Periods	0.00

<b>Total</b>	<b>1,359,506.84</b>
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Adjustment Breakdown

Trust transfer	0.00
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14/7/21

Signed: HR/Finance Officer

Date



14/7/21

Signed: Finance Manager

Date

Shire of Toodyay - Bank Reconciliation As At 30 June 2021

Municipal

**Balance as per**

- Financial Statement - Muni - Unrestricted - 10060010	456,844.48
- Financial Statement - Muni - Unrestricted - 10060050	947,711.65

**Total**

**1,404,556.13**

**Balance as per**

- Bendigo - 110482809	1,933,902.80
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Roundings

**Difference** 0.00

**Subtotal**

**1,933,902.80**

Adjustments (See Below)

Plus Outstanding Deposits - Current Month	(19,109.79)
Plus Outstanding Cheques - Current Month	88,882.20
Plus Outstanding Deposits - Previous Periods	(598,840.88)
Plus Outstanding Cheques - Previous Periods	0.00
	(278.20)

**Total**

**1,404,556.13**

Adjustment Breakdown

Reject payments to be transferred	(521.34)
Trust transfer from Muni	(18,588.45)
T820 Trust TD Transfer	(10,000.00)
Receipting error - Receipt #194987	(450.00)
	<b>(19,109.79)</b>

*C Murray*

*14/7/21*

Signed: HR/Finance Officer

Date

*E. Hart*

*14/7/21*

Signed: Finance Coordinator

Date

**BUTTERLY COTTAGES ASSOCIATION INC.**

**P.O Box 37**

**TOODYAY W.A. 6566**

To; The CEO,  
Shire of Toodyay,  
15 Fiennes St.,  
TOODYAY W.A. 6566

Dear Ms Haslehurst,

Butterly Cottages Association Inc. herewith ask Council to consider a Request For Rates Exemption in accord with s.6.26( 2)(g) of the Local Government Act 1995.

The request for rates exemptions are for 15 Anzac Avenue, Toodyay; Lot 11 Harper Road, Toodyay and Lot 55 Henry Street, Toodyay. All these properties are owned by or in the control of Butterly Cottages Association Inc.

Rates exemptions have been granted for these properties in the past with the latest resolution of council on this matter being No 259/10/18 passed by absolute majority 7/0.

The officers report concluded that Butterly Cottages Association Inc. met the definition of charitable purposes however to add further clarification please find attached an excerpt from WA.gov.au titled "Apply for a Charitable Exemption" which clarifies the common law definition of Charitable purposes.

The First Head of Charity references "**Providing low cost accommodation to persons in needy circumstances.**"

All current residents of Butterly are Centrelink pension recipients and pay a rental that is considerably less than the rate charged for similar premises within the Toodyay Townsite. The rental charged is aligned with the WA Government Community Housing Rent Setting Policy 2009/27013 (amended). This policy states that Providers must charge an affordable rent of no less than 25% and no higher than 30% of a households *net* (after tax) income.

All Butterly Cottages applicants are required to provide Centrelink Statements of Assets and Income to ensure that they are in need of low cost accommodation, ie. needy circumstances.

Butterly Cottages Inc. is also registered under the Charitable collections act 1946; License No. CC 23005.

A copy of our Rules of Association is attached and I draw your attention to Part 2 - ASSOCIATION TO BE NOT FOR PROFIT BODY and in particular sub clause (1) that specifies [quote] *The property and income of the Association must be applied solely towards the promotion of the Objects or Purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes* [unquote].

The associations executive committee is grateful for rates exemptions previously granted by Council and trust that the current Council will give due consideration to this request as per s6.26(2)(g) of LGA.

Yours Sincerely,



Judith Dow  
President  
Butterly Cottages Association Inc.  
Phone 9574 2342

13<sup>th</sup> June, 2021



## Charitable Exemptions Duties – Payroll Tax – Land Tax

*Duties Act 2008 – Pay-roll Tax Assessment Act 2002 – Land Tax Assessment Act 2002*

**As at 1 January 2019**

### Introduction

The *Duties Act 2008* ('Duties Act'), the *Land Tax Assessment Act 2002* ('LTA Act') and the *Pay-roll Tax Assessment Act 2002* ('PTA Act') ('the Acts') each provide an exemption from tax for certain charitable bodies, institutions or transactions. However, an exemption cannot apply if the taxpayer is a relevant body unless a beneficial body determination is in force in respect of that relevant body.

Separate eligibility criteria apply for each tax, and an individual charitable exemption application must be made for each tax liability. This means that being eligible for an exemption for one tax does not result in an automatic exemption from the other taxes.

A determination about whether a body or transaction is charitable requires significant analysis and the consideration of complex legal principles. This fact sheet is intended to provide only an overview of the charitable exemptions, and taxpayers should refer to the Acts and Revenue Ruling [DA/PT/LA 18 'Charitable Exemptions'](#) for further information about how the Commissioner will determine a charitable exemption application.

### Charitable purposes

The Commissioner may grant an exemption from tax for certain charitable bodies. The Commissioner may also exempt a transaction that has been entered into or occurred for a charitable or similar public purpose.

A body will be charitable if its main or dominant purpose is a charitable purpose. The term 'charitable purpose' is not defined in the Acts. For a body or transaction to have a charitable purpose, the purpose must be recognised by common law in Australia as being charitable. Charitable purposes are divided into four categories, commonly referred to as the four heads of charity.

The following table describes the four heads of charity and includes examples of charitable purposes that may fall within each head:

Heads of charity	Examples of charitable purposes
<b>First head</b> Relief of the aged, impotent and poor	<ul style="list-style-type: none"><li>• providing low cost accommodation to persons in needy circumstances</li><li>• providing health and welfare services</li><li>• caring for the physically disabled or mentally afflicted</li></ul>
<b>Second head</b> Advancement of education	<ul style="list-style-type: none"><li>• establishing teaching positions or providing student accommodation</li><li>• increasing public appreciation for art, music or literature</li><li>• conducting scientific research</li></ul>

<b>Third head</b> Advancement of religion	<ul style="list-style-type: none"> <li>the construction of churches and other places of worship</li> <li>providing accommodation, support, aid or relief for clergy, ministers, nuns or teachers of religion</li> </ul>
<b>Fourth head</b> Other purposes beneficial to the community	<ul style="list-style-type: none"> <li>increasing the safety and protection of the community</li> <li>conservation of the environment</li> <li>advocating for animal welfare</li> <li>promotion of trade, industry and commerce, such as an organisation formed for the general improvement of agriculture</li> </ul>

The fact that a taxpayer may be recognised as a charity by another agency, such as the Australian Charities and Not-for-profits Commission (ACNC), will not independently satisfy the Commissioner that the taxpayer is a charitable body.

## Duties

### Overview

The Duties Act provides an exemption from transfer duty for a dutiable transaction, such as a contract for the purchase of land, where it has been entered into or occurred for charitable or similar public purposes.

A landholder acquisition is exempt from duty where transfer duty would not have been chargeable if the landholder's land had instead been acquired directly. Further information about landholder duty is [available from the website](#).

A similar public purpose differs from a charitable purpose in that the purpose does not have to be characterised as being 'charitable' under common law principles. 'Similar public purpose' is generally accepted to mean a purpose of providing some service, utility or benefit to the public that would not otherwise be provided and which is not provided with the primary purpose of producing a profit.

To determine if a dutiable transaction or acquisition was entered into or occurred for a charitable or similar public purpose, the Commissioner will focus on the purposes for which the property was acquired. This means the taxpayer does not necessarily have to be charitable body.

### How to Apply

An application for charitable exemption must be made each time a transaction is lodged for assessment.

Apply to the Commissioner for an exemption from duty by submitting the relevant transaction record (for example, contract for sale or transfer of land) with the completed application form [FDA2 'Application for Charitable Exemption'](#) and all required supporting information. Where a taxpayer has made a landholder acquisition, completed form [FDA22 'Landholder Acquisition'](#) must also be lodged.

If the taxpayer is applying for a reassessment of transfer duty, the transaction record on which the original duty stamp is printed, or to which the Certificate of Duty is attached, must be provided. For a reassessment of duty to be considered by the Commissioner, an application must be made within five years of the original date of assessment.

Dutiable transactions involving land (or any interest in land), must be lodged with [Form FDA41 'Foreign Transfer Duty Declaration'](#).

## Land tax

### Overview

The LTA Act provides an exemption for land owned by, vested in or held in trust for a public charitable or benevolent institution and used solely for the purposes for which the institution was established. An exemption will not apply for a public charitable or benevolent institution that is a relevant body, unless a beneficial body determination is in force for that relevant body.

A taxpayer is a public charitable or benevolent institution if its main purpose is charitable. To establish this, the Commissioner will have regard to the taxpayer's purpose at the time it was established and to the taxpayer's activities on 30 June in the financial year before the assessment year.

To determine if land is used for charitable purposes, the focus is on the use of the land as at 30 June in the financial year before the assessment year. Use of the land for charitable purposes is determined by comparing the charitable purposes of the taxpayer with the actual use of the land. The taxpayer's intended future use of the land is not relevant. A partial exemption may apply where only part of the land is used solely for the taxpayer's charitable purposes.

### How to Apply

Apply to the Commissioner for an exemption for land tax by submitting form [FLT37 'Application for Charitable Exemption'](#) and all required supporting information. An application for exemption must be made each time the taxpayer acquires a new piece of land.

## Payroll tax

### Overview

Under the PTA Act, wages paid by a charitable body or organisation are exempt if they are paid for doing work in connection with a charitable purpose for which the body is carried on.

A charitable body or organisation is defined in the PTA Act to mean a body established or carried on for charitable purposes except:

- a body whose sole or principal purpose is the provision of tertiary education; or
- a college or other vocational education and training institution under the *Vocational Education and Training Act 1996*.

An exemption will not apply to a charitable body if it is a relevant body, unless a beneficial body determination is in force for that relevant body.

### Public Benevolent Institutions

The PTA Act also exempts wages paid by a Public Benevolent Institution ('PBI'). A PBI's wages are automatically exempt and the taxpayer is not required to apply for an exemption, however they may seek confirmation from the Commissioner that it is exempt from payroll tax as a PBI.

To confirm whether a taxpayer is a PBI, the Commissioner will determine if the following requirements are met:

- its main or principal object is the direct relief of poverty, sickness, suffering, distress, misfortune, destitution or helplessness;
- it is carried on without purpose of private gain for particular persons;
- it is established for the benefit of the general public, or a large section or class of the public; and

- relief is available without discrimination to every member of the public which the organisation aims to benefit.

## How to Apply

Apply to the Commissioner for an exemption from payroll tax by submitting form [FPRT41 'Application for Charitable Exemption'](#) and all required supporting information.

An exemption from payroll tax will commence:

- if the taxpayer has been registered for payroll tax – at the start of the financial year in which the application was made; or
- if the taxpayer has never been registered for payroll tax – at the start of the financial year that is five years before the financial year in which the application was made.

## Relevant bodies

Under the Acts, a charitable exemption is not available to a taxpayer that is, or for duties purposes is related to, a relevant body, unless a beneficial body determination is in force for that relevant body. If the Commissioner determines that a taxpayer is not a charitable body or a transaction does not have a charitable purpose, the relevant body provisions will not be considered.

A relevant body includes:

- political parties, industrial associations and professional associations;
- a body (other than a political party, industrial association or professional association) that promotes trade, industry or commerce, unless its main purposes are the relief of poverty, advancement of education or advancement of religion;
- a body that:
  - is a member of a payroll tax group with a relevant body; or
  - is a related body corporate of a relevant body; or
  - has a sole or dominant purpose or object to confer a benefit on a relevant body.

For further information about the relevant body provisions, please refer to Revenue Ruling [DA/PT/LT 18 'Charitable Exemptions'](#).

For duties, the exemption will also not apply if the taxpayer is related to a relevant body, unless a beneficial body determination is in force for that body. A taxpayer is related to a relevant body if the taxpayer holds the acquired property as trustee of a trust under which a relevant body is a beneficiary. The Commissioner has the discretion to determine in any particular case that a trustee of a discretionary trust is not related to a relevant body who is a beneficiary of that trust. Information about the exercise of this discretion can be found in the ruling.

## Beneficial body determination

Subject to certain conditions, an application may be made to the Minister for Finance for a determination that a relevant body is a beneficial body for the purposes of the Acts. A beneficial body determination reinstates the taxpayer's entitlement to the charitable exemptions. A relevant body that is an industrial association or political party is not entitled to apply for a beneficial body determination.

The Minister for Finance may, with the Treasurer's concurrence, make a beneficial body determination when he considers it is in the public interest to do so and after considering any information he considers relevant.

For further information regarding beneficial body determinations, please refer to the Acts and the 'Application for a Beneficial Body Determination'.

## Contact the Office of State Revenue

<b>Office</b>	Office of State Revenue 200 St Georges Terrace PERTH WA 6000	<b>Telephone</b>	Duties - 9262 1100 Land Tax - 9262 1200 Payroll Tax - 9262 1300
<b>Office hours</b>	8:30 am – 4:30 pm Monday to Friday	<b>Web Enquiry</b>	<u><a href="#">Duties Enquiry</a></u> <u><a href="#">Land Tax Enquiry</a></u> <u><a href="#">Payroll Tax Enquiry</a></u>
<b>Postal</b>	Office of State Revenue GPO Box T1600 PERTH WA 6845	<b>Website</b>	<u><a href="http://www.osr.wa.gov.au">www.osr.wa.gov.au</a></u>

**Note:** The information contained in this FACT SHEET is issued for guidance purposes only. It is not an exhaustive explanation of the provisions of the Acts and reference should be made to those Acts for additional details.

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# **CHARITABLE COLLECTIONS LICENCE**

**CHARITABLE COLLECTIONS ACT 1946 (WA)**

Section 12

**LICENCE NO. CC23005**

This is to certify that, in accordance with the provisions of the *Charitable Collections Act 1946* (CC Act), a licence has been granted to **Butterly Cottages Association Inc.**, to collect money or goods for a charitable purpose.

Date of issue: **09 JUNE 2021**

## **APPLICATION**

All licences issued under the CC Act are subject to Standard Conditions imposed by the Commissioner in accordance with section 12(2) of the CC Act. These are in addition to, and do not derogate from, any additional specific conditions that may be imposed on a licence under that section.

A breach of the conditions may result in revocation of the licence, or prosecution for an offence under any applicable offence provision in the CC Act.

## **CONDITIONS ON LICENCE**

### **Disqualified Persons**

1. The Licence Holder must not, without the written consent of the Commissioner:

- a. permit a person who is a member of the Governing Body and who is, or becomes, a Disqualified Person, to continue to be a member of the Governing Body; or
- b. appoint a Disqualified Person to be a member of the Governing Body.

### **Reporting**

2. If the Licence Holder is registered with the ACNC, it does not have to give Collection Records to the Commissioner unless the Commissioner issues notice in writing pursuant to section 15(3) of the CC Act.

3. If the Licence Holder is not registered with the ACNC, it must, within six (6) months of the end of any financial year in which it holds a licence, give to the Commissioner in the Approved Form:

- a. if the total annual revenue from collections for a financial year is less than \$250,000, copies of the Collection Records for that financial year;
- b. if the total annual revenue from collections for a financial year is \$250,000 or over but less than \$1,000,000, copies of the Collection Records for that financial year reviewed or audited by an auditor approved by the Commissioner; or
- c. if the total annual revenue from collections for a financial year is \$1,000,000 or over, copies of the Collection Records for that financial year audited by an auditor approved by the Commissioner.

*... continued on page 2*

## Cessation or Revocation

4. Subject to Condition 5, if the Licence Holder does not, for a continuous period of 12 months, undertake any charitable collection with the meaning of section 6 of the CC Act, the Licence Holder shall surrender its licence forthwith by notifying the Commissioner in writing.
5. A Licence Holder is not required to surrender its licence under Condition 4 if it gives to the Commissioner notice in writing that it intends, within the period of 12 months from the date of the notice, to undertake a charitable collection.
6. If a Licence Holder who has given notice under Condition 5 does not, within the period of 12 months from the date of the notice, undertake a charitable collection, it shall surrender its licence forthwith by notifying the Commissioner in writing.
7. If a licence is surrendered by the Licence Holder, or revoked by the Commissioner, the Licence Holder must, within six (6) months of the date of surrender or revocation, give to the Commissioner in the Approved Form:
  - a. if the Licence Holder has previously given Collection Records in accordance with Condition 3, copies of the Collection Records for the period since the Licence Holder last gave Collection Records under Condition 5; or
  - b. if the Licence Holder has not previously given Collection Records in accordance with Condition 3, copies of the Collection Records for the period of twelve (12) months preceding the surrender or revocation, or such other period as the Commissioner notifies in writing.

## DEFINITIONS

**ACNC** is the Australian Charities and Not-for-profit Commission.

**Approved Form** is the form approved by the Commissioner for Consumer Protection. The Approved Form will vary for different categories of licence holders based on annual revenue.

**CC Act** is *the Charitable Collections Act 1946 (WA)*.

**Commissioner** is the Commissioner for Consumer Protection.

**Collection Records** has the definition at section 15(1) of the CC Act.

**Disqualified Person** is any person who:

- is disqualified from managing corporations under the *Corporations Act 2001* (Cth) Part 2D.6, or
- must not accept appointment or act as a member of a management committee of an incorporated association under the *Associations Incorporation Act 2015* (WA) Division 1, or
- has been disqualified from acting as a responsible person of a charity by the Commissioner of the ACNC under the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth) Subdivision 45-B – Governance Standards.

**Governing Body** is the body responsible for management of the Licence Holder and may be a committee, board of management or trustee.

**Licence Holder** is the entity named on the Charitable Collections licence granted by the Commissioner for Consumer Protection.



**GARY NEWCOMBE**  
**COMMISSIONER, CONSUMER PROTECTION**



# BUTTERLY COTTAGES ASSOCIATION INC

## RULES OF ASSOCIATION

2019

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## PART 1 — PRELIMINARY

### 1. Name of Association

The name of the Association is Butterly Cottages Association Incorporated.

### 2. Objects of Association

- (a) To raise funds for the purpose of erecting (or modifying existing), equipping, furnishing, and generally establishing affordable homes for older residents of Toodyay or those with connections to Toodyay.
- (b) To administer or arrange for the administration of these homes (units) and to provide further units as finance and need dictates.

### 3. Quorum at General Meetings

Any members personally present, being **20%** of members entitled to vote under these rules at a General Meeting will constitute a quorum for the conduct of business at a General Meeting.

### 4. Quorum at Committee Meetings

Any **five (5)** Committee of Management members constitute a quorum for the conduct of business at a Committee of Management meeting.

### 5. Financial year

The Association's financial year will be the period of **12** months commencing on the first day of July in each year and ending on the last day of June in the following year.

### 6. Powers of Association

Under section **14** of the Act the Association may do all things necessary or convenient for carrying out its objects or purposes.

### 7. Terms used

In these rules, unless the contrary intention appears -

**Act** means the *Associations Incorporation Act 2015*;

**Association** means the incorporated association to which these rules apply;

**Books**, of the Association, includes the following -

- (a) A Register; of members
- (b) Financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) A document;
- (d) Any other record of information;

**By laws** means by-laws made by the Association under rule 0;

**President** means the Committee Member holding office as the President of the Association;

**Commissioner** means the person for the time being designated as the Commissioner under section **153** of the Act;

**Committee** means the Committee of Management of the Association (**COM**);

**Committee meeting** means a meeting of the Committee of Management;

**Committee member** means a member of the Committee of Management;

**Financial records** includes -

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and
- (b) documents of prime entry; and

- (c) working papers and other documents needed to explain -
  - (i) the methods by which financial statements are prepared; and
  - (ii) adjustments to be made in preparing financial statements;

**Financial report**, of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

**Financial statements** means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

**Financial year**, of the Association, has the meaning given in rule 5;

**General Meeting**, of the Association, means a meeting of the Association that all members are entitled to receive notice of and to attend;

**Immediate Family** means a person's parents, siblings, spouse or children;

**Member** means a person who is an ordinary member of the Association;

**Ordinary Committee Member** means a committee member who is not an office holder of the Association under rule 32(1)(b);

**Ordinary Member** means a member with the rights referred to in rule 13(2);

**Register of Members** means the register of members referred to in section 53 of the Act;

**Rules** means these rules of the Association, as in force for the time being;

**Secretary** means the Committee of Management member holding office as the Secretary of the Association;

**Special General Meeting** means a General Meeting of the Association other than the Annual General Meeting;

**Special Resolution** means a resolution passed by the members at a General Meeting in accordance with section 51 of the Act;

**Sub-Committee** means a Sub-Committee appointed by the committee under rule 54(1)(a);

**Tier 1 association** means an Incorporated Association to which section 64(1) of the Act applies;

**Tier 2 association** means an Incorporated Association to which section 64(2) of the Act applies;

**Tier 3 association** means an Incorporated Association to which section 64(3) of the Act applies;

**Treasurer** means the Committee of Management member holding office as the Treasurer of the Association.

## PART 2 — ASSOCIATION TO BE NOT FOR PROFIT BODY

### 8. Not-for-profit body

- (1) The property and income of the Association must be applied solely towards the promotion of the Objects or Purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- (2) A payment may be made to a member out of the funds of the Association only if it is authorised under subrule (3).
- (3) A payment to a member out of the funds of the Association is authorised if it is -
  - (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
  - (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - (c) the payment of reasonable rent to the member for premises leased by the member to the Association;
  - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

## PART 3 — MEMBERS

### Division 1 — Membership

#### 9. Eligibility for Membership

- (1) All Butterfly Cottage Tenants may apply to become members of the Association, with the obligation to pay the annual membership fee but cannot serve on the Committee of Management but may have access to the authorised minutes of Committee of Management and Annual General Meetings . Membership of the Association is open to any other person who supports the objects or purposes of the Association and pays the applicable annual membership fee.
- (2) An individual who has not reached the age of **18** years is not eligible to apply for a class of membership that confers full voting rights.

#### 10. Applying for Membership

- (1) Butterfly Cottage tenants may become members of the Association under this rule;
- (2) Any person who wants to become a member must apply in writing to the Association;
- (3) The application must include a member's nomination of the applicant for membership; and
- (4) The application must be signed by the applicant and the member nominating the applicant together with another member to second the nomination.

#### 11. Dealing with Membership Applications

- (1) The Committee of Management must consider each application for membership of the Association and decide whether to accept or reject the application;
- (2) Subject to subrule (3), the Committee of Management must consider all applications in the order in which they are received by the Association;
- (3) The Committee of Management may delay its consideration of any application if the Committee of Management considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application;

- (4) The Committee of Management must not accept an application unless the applicant -
  - (a) is eligible under rule 9; and
  - (b) has applied under rule **10**.
- (5) The Committee of Management may reject an application even if the applicant -
  - (a) is eligible under rule 9; and
  - (b) has applied under rule 10.
- (6) The Committee of Management must notify the applicant of the committee's decision to accept or reject the application as soon as practicable after making the decision.
- (7) If the Committee of Management rejects the application, the Committee of Management is not required to give the applicant its reasons for doing so.

## 12. Becoming a member

- (1) A new Tenant of Butterfly Cottages may become a member.
- (2) An applicant for membership of the Association becomes a member when -
  - (a) the Committee of Management accepts the application; and
  - (b) the applicant pays any membership fees payable to the Association under rule 17.

## 13. Classes of membership

- (1) The Association consists of ordinary members provided for under subrule (2).
- (2) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the Committee of Management.
- (3) The number of members is not limited unless otherwise approved by resolution at a General Meeting.

## 14. When membership ceases

- (1) A person ceases to be a member when any of the following takes place -
  - (a) for a member who is an individual, the individual dies;
  - (b) the person resigns from the Association under rule **15**;
  - (c) the person is expelled from the Association under rule **20**;
  - (d) the person ceases to be a member under rule **17(3)**;
- (2) The Secretary must keep a record, for at least two years after a person ceases to be a member, of -
  - (a) the date on which the person ceased to be a member; and
  - (b) the reason why the person ceased to be a member.

## 15. Resignation

- (1) A member may resign from membership of the Association by giving written notice of the resignation to the Secretary.
- (2) The resignation takes effect -
  - (a) when the Secretary receives the notice; or
  - (b) if a later time is stated in the notice, at that later time.
- (3) A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the **owed amount**) at the time of resignation.
- (4) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association only if the management committee resolves to proceed with debt recovery.

## 16. Rights not transferable

The rights of a member are not transferable and end when membership ceases.

## Division 2 — Membership fees

### 17. Membership fees

- (1) The Association at an Annual General Meeting must determine the annual membership fee to be paid for membership of the Association.
- (2) A member must pay the annual membership fee to the Treasurer, or another person authorised by the committee to accept payments, by the 30th June of each year.
- (3) If a member has not paid the annual membership fee within the period of 3 months after the due date, the member ceases to be a member on the expiry of that period.
- (4) If a person who has ceased to be a member under subrule (3) offers to pay the annual membership fee after the period referred to in that subrule has expired -
  - (a) the committee may, at its discretion, accept that payment; and
  - (b) if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.
  - (c) The association will not pay the membership fees of any person or organisation

## Division 3 — Register of members

### 18. Register of members

- (1) The Secretary, or another person authorised by the Committee of Management, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (2) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the date on which each member becomes a member.
- (3) The register of members must be kept at the Secretary's place of residence, or at another place determined by the Committee of Management.
- (4) A member who wishes to inspect the register of members must contact the Secretary to make the necessary arrangements.
- (5) If -
  - (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - (b) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,

the Committee of Management may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

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## PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

### Division 1 — Term used

#### 19. Term used: member

In this Part -

**member**, in relation to a member who is expelled from the Association, includes former member.

### Division 2 — Disciplinary action

#### 20. Suspension or expulsion

- (1) The Committee of Management may decide to suspend a member's membership or to expel a member from the Association if -
  - (a) the member contravenes any of these rules; or
  - (b) the member acts detrimentally to the interests of the Association.
- (2) The Secretary must give the member written notice of the proposed suspension or expulsion at least **28** days before the Committee of Management meeting at which the proposal is to be considered by the Committee of Management.
- (3) The notice given to the member must state -
  - (a) when and where the Committee of Management meeting is to be held; and
  - (b) the grounds on which the proposed suspension or expulsion is based; and
  - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee of Management about the proposed suspension or expulsion;
- (4) At the Committee of Management meeting, the Committee of Management must -
  - (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee of Management about the proposed suspension or expulsion; and
  - (b) give due consideration to any submissions so made; and
  - (c) decide -
    - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
    - (ii) whether or not to expel the member from the Association.
- (5) A decision of the Committee of Management to suspend the member's membership or to expel the member from the Association takes immediate effect.
- (6) The Committee of Management must give the member written notice of the committee's decision, and the reasons for the decision, within **7** days after the Committee of Management meeting at which the decision is made.
- (7) A member whose membership is suspended or who is expelled from the Association may, within **14** days after receiving notice of the Committee of Management's decision under subrule (6), give written notice to the secretary requesting the appointment of a mediator under rule **28**.
- (8) If notice is given under subrule (7), the member who gives the notice and the Committee of Management are the parties to the mediation.

## 21. Consequences of suspension

- (1) During the period a member's membership is suspended, the member -
  - (a) loses any rights (including voting rights) arising as a result of membership; and
  - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- (2) When a member's membership is suspended, the Secretary must record in the register of members -
  - (a) that the member's membership is suspended; and
  - (b) the date on which the suspension takes effect; and
  - (c) the period of the suspension.
- (3) When the period of the suspension ends, the Secretary must record in the register of members that the member's membership is no longer suspended.

## Division 3 — Resolving disputes

### 22. Terms used

In this Division -

**grievance procedure** means the procedures set out in this Division;

**party to a dispute** includes a person -

- (a) who is a party to the dispute; and
- (b) who ceases to be a member within **6** months before the dispute has come to the attention of each party to the dispute.

### 23. Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes -

- (a) between members; or
- (b) between one or more members and the Association.

### 24. Parties to attempt to resolve dispute

The parties to a dispute must attempt to resolve the dispute between themselves within **14** days after the dispute has come to the attention of each party.

### 25. How grievance procedure is started

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule **24**, any party to the dispute may start the grievance procedure by giving written notice to the Secretary of -
  - (a) the parties to the dispute; and
  - (b) the matters that are the subject of the dispute.
- (2) Within **28** days after the Secretary is given the notice, a Committee of Management meeting must be convened to consider and determine the dispute.
- (3) The Secretary must give each party to the dispute written notice of the Committee of Management meeting at which the dispute is to be considered and determined at least **7** days before the meeting is held.
- (4) The notice given to each party to the dispute must state —
  - (a) when and where the Committee of Management meeting is to be held; and

- (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee of Management about the dispute.

(5) If -

- (a) the dispute is between one or more members and the Association; and
- (b) any party to the dispute gives written notice to the Secretary stating that the party —
  - (i) does not agree to the dispute being determined by the Committee of Management; and
  - (ii) requests the appointment of a mediator under rule **28**,

the Committee of Management must not determine the dispute.

## 26. Determination of dispute by committee

- (1) At the Committee of Management meeting at which a dispute is to be considered and determined, the Committee of Management must -
  - (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee of Management about the dispute; and
  - (b) give due consideration to any submissions so made; and
  - (c) determine the dispute.
- (2) The Committee of Management must give each party to the dispute written notice of the Committee of Management's determination, and the reasons for the determination, within **7** days after the Committee of Management meeting at which the determination is made.
- (3) A party to the dispute may, within **14** days after receiving notice of the Committee of Management's determination under subrule (1)(c), give written notice to the Secretary requesting the appointment of a mediator under rule **28**.
- (4) If notice is given under subrule (3), each party to the dispute is a party to the mediation.

## Division 4 — Mediation

### 27. Application of Division

- (1) This Division applies if written notice has been given to the Secretary requesting the appointment of a mediator -
  - (a) by a member under rule 19; or
  - (b) by a party to a dispute under rule 25(5)(b)(ii) or 26(3).
- (2) If this Division applies, a mediator must be chosen or appointed under rule 28.

### 28. Appointment of mediator

- (1) The mediator must be a person chosen -
  - (a) if the appointment of a mediator was requested by a member under rule 20(7) - by agreement between the member and the Committee of Management; or
  - (b) if the appointment of a mediator was requested by a party to a dispute under rule 25(5)(b)(ii) or 26(3) - by agreement between the parties to the dispute.
- (2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the Committee of Management must appoint the mediator.
- (3) The person appointed as mediator by the Committee of Management must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by -
  - (a) a member under rule 20(7); or
  - (b) a party to a dispute under rule 25(5)(b)(ii); or
  - (c) a party to a dispute under rule 26(3) and the dispute is between one or more members and the Association.
- (4) The person appointed as mediator by the Committee of Management may be a member or former member of the Association but must not -
  - (a) have a personal interest in the matter that is the subject of the mediation; or
  - (b) be biased in favour of or against any party to the mediation.

### 29. Mediation process

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must -
  - (a) give each party to the mediation every opportunity to be heard; and
  - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

(7) Section **182(1)** of the Act provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the incorporated association's rules.

### **30. If mediation results in decision to suspend or expel being revoked**

If -

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule **20(7)**; and
- (b) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,

that revocation does not affect the validity of any decision made at a committee meeting or general meeting during the period of suspension or expulsion.

## PART 5 — COMMITTEE

### Division 1 — Powers of committee

#### 31. Committee

- (1) The Committee of Management members are the persons who, as the management committee of the Association, have the power to manage the affairs of the Association.
- (2) Subject to the Act, these rules, the by-laws and any resolution passed at a General Meeting, the Committee of Management has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- (3) The Committee of Management must take all reasonable steps to ensure that the Association complies with the Act, these rules and the by-laws.

### Division 2 — Composition of committee and duties of members

#### 32. Committee members

- (1) The Committee of Management members consist of -
  - (a) the office holders (executive) of the Association; and
  - (b) at least **three (3)** ordinary committee members.
- (2) The Committee of Management must determine the maximum number of members who may be ordinary committee members.
- (3) The following are the office holders of the Association -
  - (a) the President;
  - (b) the Vice-President;
  - (c) the Secretary;
  - (d) the Treasurer.
- (4) A person may be a committee member if the person is -
  - (a) an individual who has reached **18** years of age; and
  - (b) an ordinary member.
- (5) A person must not hold **2** or more of the offices mentioned in subrule (3) at the same time.
- (6) Two people from the same household or immediate family, may not be on the executive of the Association however one executive office holder and one committee person from the same household or immediate family is permitted.
- (7) If there are insufficient nominations to fill the executive positions then clause (6) shall not apply.
- (8) One tenant representative nominated by the tenants and confirmed by the Committee of Management may be present at all committee meetings but shall have no voting rights in accordance with subclause 9(1)

#### 33. President and/or vice-president

- (1) The President and/or the Vice-President shall provide leadership and encourage members to progress within the guidelines of the rules of the Association;
- (2) The President and/or the Vice-President shall promote the image of the Association, to ensure the support of the local community;

- (3) It is the duty of the President, or in their absence the Vice-President, to consult with the Secretary regarding the business to be conducted at each Committee of Management meeting and General Meeting;
- (4) The President, or in their absence the Vice-President, has the powers and duties relating to convening and presiding at Committee of Management meetings and presiding at General Meetings provided for in these rules; and
- (5) The Vice-President may be allocated specific duties by the President or by the Committee of Management, and shall take responsibility for ensuring such duties are carried out.
- (6) The President or in their absence the Vice-President are the only persons authorised to speak, or issue media statements on behalf of the association unless the President or Vice-President authorises the Secretary to do so.
- (7) The President may hold office for (3) three years and must vacate the position for (1) one year before becoming eligible to be nominated as President for a further term.

#### 34. Secretary

The Secretary has the following duties -

- (1) dealing with the Association's correspondence;
- (2) consulting with the President regarding the business to be conducted at each Committee of Management meeting and General Meeting;
- (3) preparing the notices required for meetings and for the business to be conducted at meetings;
- (4) unless another member is authorised by the Committee of Management to do so, maintaining on behalf of the Association the Register of members, and recording in the Register any changes in the membership, as required under section **53(1)** of the Act;
- (5) maintaining on behalf of the Association an up-to-date copy of these Rules, as required under section **35(1)** of the Act;
- (6) unless another member is authorised by the Committee of Management to do so, maintaining on behalf of the Association a record of Committee of Management members and other persons authorised to act on behalf of the Association, as required under section **58(2)** of the Act;
- (7) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- (8) maintaining full and accurate Minutes of Committee of Management meetings and General Meetings;
- (9) carrying out any other duty given to the Secretary under these rules or by the Committee of Management.

#### 35. Treasurer

The Treasurer has the following duties -

- (1) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
- (2) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the Committee of Management;
- (3) ensuring that any payments to be made by the Association that have been authorised by the Committee of Management or at a General Meeting are made on time;
- (4) ensuring that the Association complies with the relevant requirements of Part **5** of the Act;
- (5) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
- (6) if the Association is a tier **1** association, coordinating the preparation of the Association's financial statements before their submission to the Association's Annual General Meeting;
- (7) Arrange for an audit or review to be carried out if the Association is a tier **2** association or tier **3** association, coordinating the preparation of the Association's financial report before its submission to the Association's Annual General Meeting;
- (8) providing any assistance required by an Auditor or Reviewer conducting an audit or review of the Association's financial statements or financial report under Part **5** Division **5** of the Act;
- (9) carrying out any other duty given to the Treasurer under these rules or by the Committee of Management.

## Division 3 — Election of committee members and tenure of office

### 36. How members become committee members

A member becomes a Committee of Management member if the member -

- (1) is elected to the Committee of Management at a General Meeting; or
- (2) is appointed to the Committee of Management by the Committee of Management to fill a vacancy under rule 43

### 37. Nomination of committee members

- (1) At least **28** days before an Annual General Meeting, the Secretary must send written notice to all the members -
  - (a) calling for nominations for election to the Committee of Management; and
  - (b) stating the date by which nominations must be received by the Secretary to comply with subrule (2).
- (2) A member who wishes to be considered for election to the Committee of Management at the Annual General Meeting must nominate for election by sending written notice of the nomination to the secretary at least **7** days before the Annual General Meeting.
- (3) The written notice must include a statement by another member in support of the nomination.
- (4) A member may nominate for one specified position of office holder of the Association or to be an ordinary committee member.
- (5) A member whose nomination does not comply with this rule is not eligible for election to the Committee of Management unless the member is nominated under rule **38(2)** or **39(2)(b)**.

### 38. Election of office holders

- (1) At the Annual General Meeting, a separate election must be held for each position of office holder of the Association.
- (2) If there is no nomination for a position, the Chairperson of the meeting may call for nominations from the ordinary members at the meeting.
- (3) If only **one** member has nominated for a position, the Chairperson of the meeting must declare the Member elected to the position.
- (4) If more than **one** member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Committee of Management to decide who is to be elected to the position.
- (5) Each ordinary member present at the meeting may vote for **one** member who has nominated for the position.
- (6) A member who has nominated for the position may vote for himself or herself.
- (7) On the member's election, the new President of the Association will then take over as the Chairperson of the meeting.

### 39. Election of ordinary committee members

- (1) At the Annual General Meeting, the Association must decide by resolution the number of ordinary Committee of Management members (if any) to hold office for the next year.
- (2) If the number of members nominating for the position of ordinary committee member is not greater than the number to be elected, the Chairperson of the meeting -
  - (a) must declare each of those members to be elected to the position; and
  - (b) may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).
- (3) If -
  - (a) the number of members nominating for the position of ordinary committee member is greater than the number to be elected; or
  - (b) the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled,

the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Committee of Management to decide the members who are to be elected to the position of ordinary Committee of Management member.
- (4) A member who has nominated for the position of ordinary Committee of Management member may vote in accordance with that nomination.

### 40. Term of office

- (1) The term of office of a Committee of Management member begins when the member -
  - (a) is elected at an Annual General Meeting or under subrule 39(3)(b); or
  - (b) is appointed to fill a casual vacancy under rule 43.
- (2) Subject to rule 43, a Committee of Management member holds office until the positions on the Committee of Management are declared vacant at the next Annual General Meeting.
- (3) A committee member may be re-elected.

### 41. Resignation and removal from office

- (1) A Committee of Management member may resign from the Committee of Management by written notice given to the Secretary or, if the resigning member is the Secretary, given to the President.
- (2) The resignation takes effect -
  - (a) when the notice is received by the Secretary or President; or
  - (b) if a later time is stated in the notice, at the later time.
- (3) At a General Meeting, the Association may by resolution -
  - (a) remove a Committee of Management member from office; and
  - (b) elect a member who is eligible under rule 32(4) to fill the vacant position.
- (4) A Committee of Management member who is the subject of a proposed resolution under subrule (3)(a) may make written representations (of a reasonable length) to the Secretary or President and may ask that the representations be provided to the members.
- (5) The Secretary or President may give a copy of the representations to each member or, if they are not so given, the Committee of Management member may require them to be read out at the General Meeting at which the resolution is to be considered.

## **42. When membership of committee ceases**

A person ceases to be a Committee of Management member if the person -

- (a) dies or otherwise ceases to be a member; or
- (b) resigns from the Committee of Management or is removed from office under rule **41**; or
- (c) becomes ineligible to accept an appointment or act as a Committee of Management member under section **39** of the Act;
- (d) becomes permanently unable to act as a Committee of Management member because of a mental or physical disability; or
- (e) fails to attend **3** consecutive Committee of Management meetings, of which the person has been given notice, without having notified the committee that the person will be unable to attend.

## **43. Filling casual vacancies**

- (1) The Committee of Management may appoint a member who is eligible under rule **32(4)** to fill a position on the Committee of Management that —
  - (a) has become vacant under rule 41 (1) or rule 42
  - (b) was not filled by election at the most recent Annual General Meeting or under rule **41(3)(b)**.
- (2) If the position of Secretary becomes vacant, the Committee of Management must appoint a member who is eligible under rule **32(4)** to fill the position within **14** days after the vacancy arises.
- (3) Subject to the requirement for a quorum under rule **50**, the Committee of Management may continue to act despite any vacancy in its membership.
- (4) If there are fewer Committee of Management members than required for a quorum under rule **50**, the Committee of Management may act only for the purpose of —
  - (a) appointing Committee of Management members under this rule; or
  - (b) convening a General Meeting.

## **44. Validity of acts**

The acts of a Committee of Management or Sub-Committee, or of a Committee of Management member or member of a Sub-Committee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Committee of Management member or member of a Sub-Committee.

## 45. Payments to committee members

(1) In this rule -

**committee member** includes a member of a subcommittee;  
**committee meeting** includes a meeting of a subcommittee.

(2) A Committee of Management member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred -

(a) in attending a Committee of Management meeting or  
(b) in attending a General Meeting; or  
(c) otherwise in connection with the Association's business.

(3) Any payment to a committee member can only occur if the payment is authorised by a resolution of the Association.

## Division 4 — Committee meetings

### 46. Committee meetings

(1) The Committee of Management must meet at least **4** times (quarterly) in each year on the dates and at the times and places determined by the Committee of Management.

(2) Special Committee of Management meetings may be convened by the President or any **2** Committee of Management members.

### 47. Notice of committee meetings

(1) Notice of each Committee of Management meeting must be given to each Committee of Management member at least **48** hours before the time of the meeting.

(2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.

(3) Unless subrule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.

(4) Urgent business that has not been described in the notice may be conducted at the meeting if the Committee of Management members at the meeting unanimously agree to treat that business as urgent.

### 48. Procedure and order of business

(1) The President or, in the President's absence, the Vice-President must preside as Chairperson of each Committee of Management meeting.

(2) If the President and Vice-President are absent or are unwilling to act as Chairperson of a meeting, the Committee of Management members at the meeting must choose one of them to act as Chairperson of the meeting.

(3) The procedure to be followed at a Committee of Management meeting must be determined from time to time by the Committee of Management.

(4) The order of business at a Committee of Management meeting may be determined by the Committee of Management members at the meeting.

(5) A member or other person who is not a committee member may attend a Committee of Management meeting if invited to do so by the Committee of Management.

(6) A person invited under subrule (5) to attend a Committee of Management meeting -

- (a) has no right to any Agenda, Minutes or other document circulated at the meeting; and
- (b) must not comment about any matter discussed at the meeting unless invited by the Committee of Management to do so; and
- (c) cannot vote on any matter that is to be decided at the meeting.

#### 49. Use of technology to be present at committee meetings

- (1) The presence of a Committee of Management member at a Committee of Management meeting need not be by attendance in person but may be by that committee member and each other committee member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a Committee of Management meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

#### 50. Quorum for committee meetings

- (1) Subject to rule 43(4), no business is to be conducted at a Committee of Management meeting unless a quorum is present.
- (2) If a quorum is not present within 30 minutes after the notified commencement time of a Committee of Management meeting -
  - (a) in the case of a Special Meeting - the meeting lapses; or
  - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (3) If -
  - (a) a quorum is not present within 30 minutes after the commencement time of a Committee of Management meeting held under subrule (2)(b); and
  - (b) at least 5 Committee of Management members are present at the meeting, those members present are taken to constitute a quorum.

#### 51. Voting at committee meetings

- (1) Each Committee of Management member present at a Committee of Management meeting has one vote on any question arising at the meeting.
- (2) A motion is carried if a majority of the Committee of Management members present at the committee meeting vote in favour of the motion.
- (3) If the votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (4) A vote may take place by the Committee of Management members present indicating their agreement or disagreement by a show of hands, unless the committee decides that a secret ballot is needed to determine a particular question.
- (5) If a secret ballot is needed, the Chairperson of the Committee of Management meeting must decide how the ballot is to be conducted.

#### 52. Solvency statement

- (1) The Committee of Management must pass a solvency statement by resolution not more than 30 days before each Annual General Meeting.
- (2) The solvency statement must:
  - (a) state that, the Committee of Management has examined the affairs of the Association; and

- (b) show, whether or not the Committee of Management is of the opinion there are reasonable grounds for believing that the Association will be able to pay or meet its debts and liabilities as and when they become payable

### 53. Minutes of committee meetings

- (1) The Committee of Management must ensure that Minutes are taken and kept of each Committee of Management meeting.
- (2) The Minutes must record the following -
  - (a) the names of the Committee of Management members present at the meeting;
  - (b) the name of any person attending the meeting under rule 48(5);
  - (c) the business considered at the meeting;
  - (d) any motion on which a vote is taken at the meeting and the result of the vote.
- (3) The Minutes of a Committee of Management meeting must be entered in the Association's Minute book/file within **30** days after the meeting is held.
- (4) The President must ensure that the Minutes of a Committee of Management meeting are reviewed and signed as correct by -
  - (a) the Chairperson of the meeting; or
  - (b) the Chairperson of the next Committee of Management meeting.
- (5) When the Minutes of a Committee of Management meeting have been signed as correct they are, until the contrary is proved, evidence that -
  - (a) the meeting to which the Minutes relate was duly convened and held; and
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any appointment purportedly made at the meeting was validly made.

## Division 5 — Subcommittees

### 54. Subcommittees

- (1) To help the Committee of Management in the conduct of the Association's business, the Committee of Management may, in writing, do the following -
  - (a) appoint one or more Sub-Committees;
- (2) A Sub-Committee may consist of the number of people, whether or not members, that the Committee of Management considers appropriate.
- (3) Subject to any directions given by the Committee of Management -
  - (a) a Sub-Committee may meet and conduct business as it considers appropriate.

### 55. Delegation to subcommittees

- (1) In this rule -
 

**non-delegable duty** means a duty imposed on the Committee of Management by the Act or another written law.
- (2) The Committee of Management may, in writing, delegate to a Sub-Committee the exercise of any power or the performance of any duty of the Committee of Management other than -
  - (a) the power to delegate; and
  - (b) a non-delegable duty.

- (3) A power or duty, the exercise or performance of which has been delegated to a Sub-Committee under this rule, may be exercised or performed by the Sub-Committee or holder in accordance with the terms of the delegation.
- (4) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Committee of Management specifies in the document by which the delegation is made.
- (5) The delegation does not prevent the Committee of Management from exercising or performing at any time the power or duty delegated.

Any act or thing done by a Sub-Committee, under the delegation has the same force and effect as if it had been done by the Committee of Management.

- (6) The Committee of Management may, in writing, amend or revoke the delegation.

## PART 6 — GENERAL MEETINGS OF ASSOCIATION

### 56. Annual general meeting

- (1) The Committee of Management must determine the date, time and place of the Annual General Meeting.
- (2) If it is proposed to hold the Annual General Meeting more than **6** months after the end of the Association's financial year, the Secretary must apply to the Commissioner for permission under section **50(3)(b)** of the Act within **4** months after the end of the financial year.
- (3) The ordinary business of the Annual General Meeting is as follows -
  - (a) to confirm the Minutes of the previous Annual General Meeting and of any Special General Meeting held since then if the Minutes of that meeting have not yet been confirmed;
  - (b) to receive and consider -
    - (i) the Committee of Management's annual report on the Association's activities during the preceding financial year; and
    - (ii) if the Association is a tier **1** association, the financial statements of the Association for the preceding financial year presented under Part **5** of the Act; and
    - (iii) if the Association is a tier **2** association or a tier **3** association, the financial report of the Association for the preceding financial year presented under Part **5** of the Act;
    - (iv) if required to be presented for consideration under Part **5** of the Act, a copy of the report of the Reviewer or Auditor's report on the financial statements or financial report;
  - (c) to elect the office holders of the Association and other committee members;
  - (d) if applicable, to appoint or remove a Reviewer or Auditor of the Association in accordance with the Act;
  - (e) to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by members.
- (4) Any other business of which notice has been given in accordance with these rules may be conducted at the Annual General Meeting.

### 57. Special general meetings

- (1) The Committee of Management may convene a Special General Meeting.
- (2) The Committee of Management must convene a Special General Meeting if at least **20%** of the members require a Special General Meeting to be convened.
- (3) The members requiring a Special General Meeting to be convened must -
  - (a) make the requirement by written notice given to the Secretary; and
  - (b) state in the notice the business to be considered at the meeting; and

- (c) each sign the notice.
- (4) The Special General Meeting must be convened within **21** days after notice is given under subrule (3)(a).
- (5) If the Committee of Management does not convene a Special General Meeting within that **21** day period, the members making the requirement (or any of them) may convene the Special General Meeting.
- (6) A Special General Meeting convened by members under subrule **57** -
  - (a) must be held within **3** months after the date the original requirement was made; and
  - (b) may only consider the business stated in the notice by which the requirement was made.
- (7) The Association must reimburse any reasonable expenses incurred by the members convening a Special General Meeting under subrule **57**

## 58. Notice of general meetings

- (1) The Secretary or, in the case of a Special General Meeting convened under rule **57** the members convening the meeting, must give to each member -
  - (a) at least **21** days' notice of a General Meeting if a Special Resolution is to be proposed at the meeting; or
  - (b) at least **14** days' notice of a General Meeting in any other case.
- (2) The notice must -
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if the meeting is the Annual General Meeting, include the names of the members who have nominated for election to the Committee of Management under rule **33(2)**; and
  - (d) if a Special Resolution is proposed -
    - (i) set out the wording of the proposed resolution as required by section **51(4)** of the Act; and
    - (ii) state that the resolution is intended to be proposed as a Special Resolution; and
    - (iii) comply with rule **57**.

## 59. Proxies

- (1) Subject to subrule (2), an ordinary member may appoint an individual who is an ordinary member as his or her proxy to vote and speak on his or her behalf at a General Meeting.
- (2) An ordinary member may be appointed the proxy for not more than **5** other members.
- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (5) If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (6) If the Committee of Management has approved a form for the appointment of a proxy, the member may use that form or any other form -
  - (a) that clearly identifies the person appointed as the member's proxy; and
  - (b) that has been signed by the member.
- (7) Notice of a General Meeting given to an ordinary member under rule **53** must —
  - (a) state that the member may appoint an individual who is an ordinary member as a proxy for the meeting; and
  - (b) include a copy of any form that the Committee of Management has approved for the appointment of a proxy.
- (8) A form appointing a proxy must be given to the Secretary before the commencement of the General Meeting for which the proxy is appointed.

(9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than **24** hours before the commencement of the meeting.

## 60. Use of technology to be present at general meetings

- (1) The presence of a member at a General Meeting need not be by attendance in person but may be by that member and each other member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a General Meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

## 61. Presiding member and quorum for general meetings

- (1) The President or, in the President's absence, the Vice-President must preside as Chairperson of each General Meeting.
- (2) If the President and Vice-President are absent or are unwilling to act as Chairperson of a General Meeting, the Committee of Management members at the meeting must choose one of them to act as Chairperson of the meeting.
- (3) No business is to be conducted at a General Meeting unless a quorum is present.
- (4) If a quorum is not present within **30** minutes after the notified commencement time of a General Meeting-
  - (a) in the case of a Special General Meeting - the meeting lapses; or
  - (b) in the case of the Annual General Meeting - the meeting is adjourned to -
    - (i) the same time and day in the following week; and
    - (ii) the same place, unless the President specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (5) If -
  - (a) a quorum is not present within **30** minutes after the commencement time of an Annual General Meeting held under subrule (4)(b); and
  - (b) at least **9** ordinary members are present at the meeting,

those members present are taken to constitute a quorum.

## 62. Adjournment of general meeting

- (1) The Chairperson of a General Meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned —
  - (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for **14** days or more, in which case notice of the meeting must be given in accordance with rule 0.

## 63. Voting at general meeting

- (1) On any question arising at a General Meeting -
  - (a) subject to subrule (6), each ordinary member has **one** vote unless the member may also vote on behalf of a Body Corporate under subrule (2); and

- (b) ordinary members may vote personally or by proxy.
- (2) An ordinary member that is a Body Corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the Body Corporate on any question at a particular General Meeting or at any General Meeting, as specified in the document by which the appointment is made.
- (3) A copy of the document by which the appointment is made must be given to the Secretary before any General Meeting to which the appointment applies.
- (4) The appointment has effect until -
  - (a) the end of any General Meeting to which the appointment applies; or
  - (b) the appointment is revoked by the Body Corporate and written notice of the revocation is given to the Secretary.
- (5) Except in the case of a Special Resolution, a motion is carried if a majority of the ordinary members present at a General Meeting vote in favour of the motion.
- (6) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (7) If the question is whether or not to confirm the Minutes of a previous General Meeting, only members who were present at that meeting may vote.
- (8) For a person to be eligible to vote at a General Meeting as an ordinary member, or on behalf of an ordinary member that is a Body Corporate under subrule (2), the ordinary member -
  - (a) must have been an ordinary member at the time notice of the meeting was given under rule 0; and
  - (b) must have paid any fee or other money payable to the Association by the member.

#### **64. When special resolutions are required**

- (1) A Special Resolution is required if it is proposed at a General Meeting -
  - (a) to affiliate the Association with another body; or
  - (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a Statutory Manager.
- (2) Subrule (1) does not limit the matters in relation to which a Special Resolution may be proposed.

#### **65. Determining whether resolution carried**

- (1) In this rule -

***poll*** means the process of voting in relation to a matter that is conducted in writing.

- (2) Subject to subrule (4), the Chairperson of a General Meeting may, by a show of hands or secret ballot, declare that a resolution has been -
  - (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost.
- (3) If the resolution is a Special Resolution, the declaration under subrule (2) must identify the resolution as a Special Resolution.
- (4) If a poll is demanded on any question by the Chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy -
  - (a) the poll must be taken at the meeting in the manner determined by the Chairperson;
  - (b) the Chairperson must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the Chairperson or on a question of an adjournment, the poll must be taken immediately.

- (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the Chairperson.
- (7) A declaration under subrule (2) or (4) must be entered in the Minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

## 66. Minutes of general meeting

The Secretary, or a person authorised by the Committee of Management from time to time, must take and keep Minutes of each General Meeting.

- (1) The Minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (2) In addition, the Minutes of each Annual General Meeting must record -
  - (a) the names of the ordinary members attending the meeting; and
  - (b) any proxy forms given to the Chairperson of the meeting under rule 0(8); and
  - (c) the financial statements or financial report presented at the meeting, as referred to in rule **Error! Reference source not found.(3)(b)(ii)** or **(3)(b)(iii)**; and
  - (d) any report of the Reviewer or Auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule **Error! Reference source not found.(3)(b)(iv)**.
- (3) The Minutes of a General Meeting must be entered in the Association's Minute book/file within **30** days after the meeting is held.
- (4) The President must ensure that the Minutes of a General Meeting are reviewed and signed as correct by -
  - (a) the Chairperson of the meeting; or
  - (b) the Chairperson of the next General Meeting.
- (5) When the Minutes of a General Meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that -
  - (a) the meeting to which the Minutes relate was duly convened and held; and
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any election or appointment purportedly made at the meeting was validly made.

## PART 7 — FINANCIAL MATTERS

### 67. Source of funds

The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the committee.

### 68. Control of funds

- (1) The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) Subject to any restrictions imposed at a General Meeting, the Committee of Management may approve expenditure on behalf of the Association.
- (3) The Committee of Management may authorise the Treasurer to make payments from the funds of the Association using electronic means, subject to sub rule (5);
- (4) The Committee of Management may authorise the Treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the Committee of Management for each item on which the funds are expended.
- (5) All cheques, direct deposits, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must, be signed by —
  - (a) **Two executive** committee members with bank signatory authority; or
  - (b) **one** committee member and a person authorised by the committee; both to have bank signatory authority
- (6) All funds of the Association must be deposited into the Association's account within **5** working days after their receipt.

### 69. Financial statements and financial reports

- (1) For each financial year, the Committee of Management must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.
- (2) Without limiting subrule (1), those requirements include -
  - (a) if the Association is a tier 1 association, the preparation of the financial statements; and
  - (b) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
  - (c) if required, the review or audit of the financial statements or financial report, as applicable; and
  - (d) the presentation to the Annual General Meeting of the financial statements or financial report, as applicable; and
  - (e) if required, the presentation to the Annual General Meeting of the copy of the report of the Reviewer or Auditor's report, as applicable, on the financial statements or financial report; correctly record and explain its transactions and financial position and performance; and
  - (f) enable true and fair financial statements to be prepared in accordance with Part 5 Division 3 of the Act.

## PART 8 — GENERAL MATTERS

### 70. By-laws

- (1) The Association may, by resolution at a General Meeting, make, amend or revoke by-laws.
- (2) By-laws may -
  - (a) provide for the rights and obligations that apply to the membership approved under rule 13(2); and
  - (b) impose restrictions on the committee's powers, including the power to dispose of the association's assets; and
  - (c) impose requirements relating to the financial reporting and financial accountability of the association and the auditing of the association's accounts; and
  - (d) provide for any other matter the association considers necessary or convenient to be dealt with in the by-laws.
- (3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
- (4) Without limiting subrule (3), a by-law made for the purposes of subrule (2)(c) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- (5) At the request of a member, the Association must make a copy of the by-laws available for inspection by the member.

### 71. Executing documents and common seal

- (1) The Association may execute a document without using a Common Seal if the document is signed by
  - (a) The President or Vice President and 1 Committee of Management executive member or
  - (b) The President or Vice President and 1 Committee of Management member or a person authorised by the Committee of Management.
- (2) If the Association has a Common Seal -
  - (a) the name of the Association must appear in legible characters on the Common Seal; and
  - (b) a document may only be sealed with the Common Seal by the authority of the Committee of Management and in the presence of -
    - (i) The President or Vice President and 1 Committee of Management executive member or
    - (ii) The President or Vice President and 1 Committee of Management member or a person authorised by the Committee of Management.

and each of them is to sign the document to attest that the document was sealed in their presence.

- (3) The Secretary must make a written record of each use of the Common Seal.
- (4) The Common Seal must be kept in the custody of the Secretary or another Committee of Management member authorised by the Committee of Management.

### 72. Giving notices to members

- (1) In this rule -

**recorded** means recorded in the register of members.

- (2) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and -
  - (a) delivered by hand to the recorded address of the member; or
  - (b) sent by prepaid post to the recorded postal address of the member; or
  - (c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

### 73. Custody of books and securities

- (1) Subject to subrule (2), the books and any securities of the Association must be kept in the Secretary's custody or under the Secretary's control.
- (2) The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the Treasurer's custody or under the Treasurer's control.
- (3) Subrules (1) and (2) have effect except as otherwise decided by the committee.
- (4) The books of the Association must be retained for at least 7 years.

### 74. Record of office holders

The record of Committee of Management members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the Secretary's custody or under the Secretary's control.

### 75. Inspection of records and documents

- (1) Subrule (2) applies to a member who wants to inspect —
  - (a) the Register of members under section 54(1) of the Act; or
  - (b) the record of the names and addresses of Committee of Management members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
  - (c) any other record or document of the association.
- (2) The member must contact the Secretary to make the necessary arrangements for the inspection.
- (3) The inspection must be free of charge.
- (4) If the member wants to inspect a document that records the Minutes of a Committee of Management meeting, the right to inspect that document is subject to any decision the Committee of Management has made about Minutes of Committee of Management meetings generally, or the Minutes of a specific committee meeting, being available for inspection by members.
- (5) The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.
- (6) The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose -
  - (a) that is directly connected with the affairs of the Association; or
  - (b) that is related to complying with a requirement of the Act.

### 76. Publication by committee members of statements about Association business prohibited

A Committee of Management member must not publish, or cause to be published, any statement about the business conducted by the Association at a General Meeting or Committee of Management meeting unless -

- (a) Committee of Management member has been authorised to do so at a Committee of Management meeting; and
- (b) the authority given to the committee member has been recorded in the Minutes of the Committee of Management meeting at which it was given.

### 77. Distribution of surplus property on cancellation of incorporation or winding up

- (1) In this rule -

**surplus property**, in relation to the Association, means property remaining after satisfaction of -

- (a) the debts and liabilities of the Association; and

- (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,  
but does not include books relating to the Management of the Association.

(2) On the cancellation of the Incorporation or the winding up of the Association, its surplus property must be distributed as determined by Special Resolution by reference to the persons mentioned in section **24(1)** of the Act.  
Specifically that of;

- a) An Incorporated Association or Associations registered in the Shire of Toodyay who share the ethos of Butterly Cottages Association Inc. in that Toodyay is a good place to live.

## **78. Alteration of rules**

If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by Special Resolution and by otherwise complying with Part **3** Division **2** of the Act.

## APPENDIX 1

### Act Requirements and Guidance Notes for members

Guidance Note – Information provided to the Commissioner under section 29(5) – This information is part of the rules of association and must be attached to the copy of the rules provided to members.

The information provided to the Commissioner should be inserted here:

The name of the Association is: **Butterly Cottages Association Incorporated**

The objects of the Association are:

- (a) **To raise funds for the purpose of erecting (or modifying existing), equipping, furnishing, and generally establishing affordable homes for older residents of Toodyay or those with connections to Toodyay.**
- (b) **To administer or arrange for the administration of these homes (units) and to provide further units as finance and need dictates.**

Any **nine** members personally present (being members entitled to vote under these rules at a general meeting) will constitute a quorum for the conduct of business at a general meeting.

Any **five** committee members constitute a quorum for the conduct of the business of a committee meeting.

The association's financial year will be the period of 12 months **commencing on the first day of July in each year and ending on the last day of June in the following year.**

**Act Requirements – Powers of Incorporated Association** - Under section 14 of the Act the Association may do all things necessary or convenient for carrying out its objects or purposes. Section 14(1)(a)-(g) provides particular examples.

**Act Requirements-Membership** - Under sections 4 and 17 of the Act an association must always have at least 6 members with full voting rights.

**Act Requirements – Liabilities of the association** - Under section 19 of the Act member of the management committee, trustee or a member of the association is not liable in respect of the liabilities of the association. This does not apply to liabilities incurred by or on behalf of the association prior to incorporation.

**Guidance Note – Liability of Members** - A member is only liable for their own outstanding membership fees (if any) payable under rule 17

#### **Guidance Note – Eligibility for membership**

The by-laws may require members to hold specified educational, trade or professional qualifications.

The association must comply with all legal and regulatory obligations that may apply to the association under any other law when assessing eligibility of an applicant for membership.

**Guidance Note – Becoming a member** - The applicant immediately becomes a member, when rule 12 has been fulfilled, and is entitled to exercise all the rights and privileges of membership, including the right to vote (if applicable), and must comply with all of the obligations of membership under these rules.

**Act requirement – Member to receive rules** – section 36(1)(b) of the Act provides that the association must give each person who become a member of the association of copy of the rules in force at the time their membership commences.

**Guidance note – Format of rules provided** - It is acceptable for the association to provide a copy of the rules to new members by electronic transmission or providing the details for the website whether the rules may be downloaded. A hard copy must be provided if the member requests that the rules be provided in that manner.

#### **Guidance Note - Voting rights of Members**

Each ordinary member of the Association has one vote at a general meeting of the Association.

Each ordinary member of the Association that is a body corporate has one vote at a general meeting of the Association.

#### **Act Requirements – Register of members**

Section 53 of the Act requires an incorporated association to maintain a register of its members and record in the register any change in the membership of the association. Any change to the register must be recorded within 28 days after the change occurs.

Under section 53(2) of the Act the register of members must include each member's name and a residential, postal or email address.

Under section 54 of the Act a member is entitled to inspect the register free of charge. The member may make a copy of, or take an extract from, the register but has no right to remove the register for that purpose.

Under section 56 of the Act the management committee is authorised by to determine a reasonable charge for providing a copy of the register.

**Guidance Note – Suspension or expulsion of a Member** - Once the committee has decided to suspend or expel a member under rule 20(5) the member is immediately suspended or expelled.

**Guidance Note - Resolving disputes**

For the purposes of rules 22 and 23, the term **this Division** relates to rules 24 – 26.

**Guidance Note - Mediation**

For the purposes of rule 27, the term **this Division** relates to rules 27-30.

Act Requirements – Persons who are not to be members of Committee

Under section 39 of the Act the following persons must not, without leave of the Commissioner, accept an appointment or act as a member of a management committee of an association:

a person who is, according to the Interpretation Act 1984 section 13D, a bankrupt or person whose affairs are under insolvency laws;

a person who has been convicted, within our outside the State, of-

an indictable offence in relation to the promotion, formation or management of a body corporate; or

an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or

an offence under Part 4 Division 3 or section 127 of the Act

Section 39 only applies to a person who has been convicted of the above offences only for a period of 5 years from the time of the person's conviction, or if the conviction results in a term of imprisonment, from the time of the person's release from custody.

Act Requirements - Duties of Committee Members and Officers

Section 3 of the Act provides a definition of "officer". The duties provisions will apply to committee members and to those persons who have the ability to influence the management committee but who do not hold a formal committee position

Under section 44 of the Act an officer of an association must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise if that person-  
were an officer of the association in the association's circumstances; and

occupied the office held by, and had the same responsibilities within the association as, the officer.

Under section 45 of the Act an officer of an association must exercise his or her powers and discharge his or her duties-  
in good faith in the best interests of the Association; and  
for a proper purpose.

Under section 46 an officer of an association must not improperly use his or her position to-  
gain an advantage for the officer or another person; or  
cause detriment to the Association.

Under section 47a person who obtains information because the person is, or has been, an officer of an association must not improperly use the information to-  
gain an advantage for the person or another person; or  
cause detriment to the Association.

Guidance note – Record of Office Holders - detailed information about what must be included in the record of office holders is included under rule 0.

Act requirements – handing over documents and records – where a person ceases to be a member of the association's committee section 41 of the Act requires that person to, as soon as practicable after their membership ceases, deliver to a member of the committee all of the relevant documents and records they hold pertaining to the management of the association's affairs.

Act Requirements -Material Personal Interests of Committee Members

Under section 42 of the Act a member of the committee who has a material personal interest in a matter being considered at a committee meeting must:

as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Committee;

disclose the nature and extent of the interest at the next general meeting of the association

Under section 42(3) of the Act this rule does not apply in respect of a material personal interest  
that exists only because the member-

is an employee of the incorporated association; or

is a member of a class of persons for whose benefit the association is established; or

that the member has in common with all, or a substantial proportion of, the members of the Association.

Under section 43 of the Act a member of the management committee who has a material personal interest in a matter being considered at a meeting of the management committee must not be present while the matter is being considered at the meeting or vote on the matter.

<p>Under section 42(6) of the Act the association must record every disclosure made by a committee member of a material personal interest in the minutes of the committee meeting at which the disclosure is made.</p>
<p>Act requirements – Notice to be given to reviewer or auditor – For Tier 2 and 3 associations – under section 86 of the Act a reviewer or auditor of an incorporated association is entitled to receive all notices of and other communications relating to any general meetings of the association that a member is entitled to receive.</p>
<p>Guidance Note – Status of By-laws - A by-law must be consistent with the Act, the regulations and these rules. The rules of an association bind the association and the members as an enforceable contract between them. By-laws may not have that status. Therefore, the use of by-laws should be reserved for more procedural or administrative matters.</p>
<p><b>Act Requirements – Record of office holders</b></p> <p>Under section 58 of the Act an association must maintain a record of –</p> <p>the names and addresses of the persons who are members of its management committee; or hold other offices of the association provided for by its rules;</p> <p>the name and address of any person who is authorised to use the common seal of the association (if it has a common seal); and</p> <p>the name and address of any person who is appointed or acts as trustee on behalf of the association.</p> <p>Under section 58 of the Act the association must, upon the request of a member of the association, make available the record for the inspection of the member. The member may make a copy of or take an extract from the record but does not have a right to remove the record for that purpose.</p>
<p><b>Act Requirements – Distribution of surplus property</b></p> <p>Under section 24(1) of the Act surplus property can only be distributed to one or more of the following –</p> <p>an incorporated association;</p> <p>a company limited by guarantee that is registered as mentioned in the Corporations Act section 150;</p> <p>a company holding a licence that continues in force under the Corporations Act section 151;</p> <p>a body corporate that at the time of the distribution is the holder of a licence under the Charitable Collections Act 1946;</p> <p>a body corporate that –</p> <p>is a member or former member of the incorporated association; and</p> <p>at the time of the distribution of surplus property, has rules that prevent the distribution of property to its members;</p> <p>a trustee for a body corporate referred to in paragraph (e);</p> <p>a co-operative registered under the Co-operatives Act 2009 that, at the time of the distribution of surplus property, is a non-distributing co-operative as defined in that Act.</p>
<p>Guidance Note – Alteration of Rules. Amendments to the rules do not take effect until required documents are lodged with the Commissioner, even if the amendments do not require the approval of the Commissioner under section 31 or section 33. The required documents must be lodged within one month after the special resolution is passed.</p>

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## G.6 Related Party Disclosures

### Introduction

This policy has been developed to provide guidance in complying with s.62 of the *Financial Management Act 2006*, which requires *local government authorities* prepare financial statements referred to in section 61(1)(a) in accordance with the accounting standards and other requirements issued by the Australian Accounting Standards Board (AASB).

s.6.4 of the *Local Government Act 1995* and r.5A of the *Local Government (Financial Management) Regulations 1996*, requires that all local governments in Western Australia must produce annual financial statements that comply with Australian Accounting Standards.

### Objective

The objective of the policy is to ensure that the existence of certain related party relationships, related party transactions and information about the transactions, necessary for users to understand the potential effects on the financial statements are properly identified, recorded in the Shire of Toodyay systems, and disclosed to achieve compliance with the Australian Accounting Standard AASB 124 – Related Party Disclosures.

### Application

This policy applies to all key management personnel of the Shire of Toodyay including the CEO, Elected Members, Senior Management Officers, and other Officers who have delegated authority, if any.

### Policy Intent including Legislative and Strategic Context

To meet the requirements of the following legislative provisions:

- s.6.4 of the *Local Government Act 1995* requires local governments prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed and by 30 September following each financial year or such extended time as the Minister allows, submit to its auditor the accounts of the local government, balanced up to the last day of the preceding financial year; and the annual financial report of the local government for the preceding financial year.
- r.5A of the *Local Government (Financial Management) Regulations 1996* requires that all local governments in Western Australia must produce, subject to regulation 4, the annual budget, the annual financial report and other financial reports of the local government that comply with Australian Accounting Standards.
- The Australian Accounting Standards Board determined that from 1 July 2016, AASB 124 (Related Party Disclosures) will apply to government entities, including local governments. The Shire is required to disclose Related Party Relationships and Key Management Personnel compensation in its Annual Financial Statements.

## 1. Definitions

The definitions in terms of this policy, some of which are directly out of the AASB 124 Related Party Disclosures Standard dated December 2009 obtainable at this link: [https://www.aasb.gov.au/admin/file/content105/c9/AASB124\\_12-09.pdf](https://www.aasb.gov.au/admin/file/content105/c9/AASB124_12-09.pdf) are below:

Term	Definition										
AASB	<i>Australian Accounting Standards Board</i>										
Arm's Length	<p><i>Terms between parties that are reasonable in the circumstances of the transaction that would result from:</i></p> <p>(a) <i>Neither party bearing the other any special duty or obligation; and</i></p> <p>(b) <i>The parties being unrelated and uninfluenced by the other; and</i></p> <p>(c) <i>Each party having acted in its own interests.</i></p>										
Associate	<p><i>In relation to an entity (the first entity), an entity over which the first entity has significant influence. It includes subsidiaries of the associate.</i></p> <p><i>For example, an associate's subsidiary and the investor that has significant influence over the associate are related to each other.</i></p>										
Close members of the family of a person	<p><i>Close members of the family of a person are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity and include:</i></p> <p>(a) <i>That person's children and spouse or domestic partner;</i></p> <p>(b) <i>Children of that person's spouse or domestic partner; and</i></p> <p>(c) <i>Dependants of that person or that person's spouse or domestic partner.</i></p> <p><i>The following table may assist you in identifying your close family members:</i></p> <table border="1"> <tbody> <tr> <td><i>Definitely a close family member</i></td><td><i>May be a close family member</i></td></tr> <tr> <td><i>Your spouse/domestic partner</i></td><td><i>Your brothers and sisters, if they could be expected to influence or be influenced by you in their dealings with council</i></td></tr> <tr> <td><i>Your children</i></td><td><i>Your aunts, uncles and cousins, if they could be expected to influence or be influenced by you in their dealings with council</i></td></tr> <tr> <td><i>Your dependants</i></td><td><i>Your parents and grandparents, if they could be expected to influence or be influenced by you in their dealings with council</i></td></tr> <tr> <td><i>Children of your spouse/domestic partner</i></td><td><i>Your nieces and nephews, if they could be expected to influence or be influenced by you in their dealings with council</i></td></tr> </tbody> </table>	<i>Definitely a close family member</i>	<i>May be a close family member</i>	<i>Your spouse/domestic partner</i>	<i>Your brothers and sisters, if they could be expected to influence or be influenced by you in their dealings with council</i>	<i>Your children</i>	<i>Your aunts, uncles and cousins, if they could be expected to influence or be influenced by you in their dealings with council</i>	<i>Your dependants</i>	<i>Your parents and grandparents, if they could be expected to influence or be influenced by you in their dealings with council</i>	<i>Children of your spouse/domestic partner</i>	<i>Your nieces and nephews, if they could be expected to influence or be influenced by you in their dealings with council</i>
<i>Definitely a close family member</i>	<i>May be a close family member</i>										
<i>Your spouse/domestic partner</i>	<i>Your brothers and sisters, if they could be expected to influence or be influenced by you in their dealings with council</i>										
<i>Your children</i>	<i>Your aunts, uncles and cousins, if they could be expected to influence or be influenced by you in their dealings with council</i>										
<i>Your dependants</i>	<i>Your parents and grandparents, if they could be expected to influence or be influenced by you in their dealings with council</i>										
<i>Children of your spouse/domestic partner</i>	<i>Your nieces and nephews, if they could be expected to influence or be influenced by you in their dealings with council</i>										

Term	Definition	
	<i>Dependants of your spouse/domestic partner</i>	<i>Any other member of your family if they could be expected to influence or be influenced by you in their dealings with council</i>
Compensation	<p><i>Compensation includes all employee benefits (as defined in AASB 119 Employee Benefits) including employee benefits to which AASB 2 Share-based Payment applies. Employee benefits are all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity. It also includes such consideration paid on behalf of a parent of the entity in respect of the entity.</i></p> <p><b><u>Compensation includes:</u></b></p> <ul style="list-style-type: none"> <li>(a) short-term employee benefits, such as wages, salaries and social security contributions, paid annual leave and paid sick leave, profit-sharing and bonuses (if payable within twelve months of the end of the period) and non-monetary benefits (such as medical care, housing, cars and free or subsidised goods or services) for current employees;</li> <li>(b) post-employment benefits such as pensions, other retirement benefits, post-employment life insurance and post-employment medical care;</li> <li>(c) other long-term employee benefits, including long-service leave or sabbatical leave, jubilee or other long-service benefits, long-term disability benefits and, if they are not payable wholly within twelve months after the end of the period, profit-sharing, bonuses and deferred compensation;</li> <li>(d) termination benefits; and</li> <li>(e) share-based payment.</li> </ul>	
Control	<p><i>Control is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.</i></p>	
Director	<p><i>Director means:</i></p> <ul style="list-style-type: none"> <li>(a) a person who is a director under the Corporations Act; and</li> <li>(a) in the case of entities governed by bodies that are not named a board of directors, a person who, regardless of the name that is given to the position, is appointed to the position of member of the governing body, council, commission or authority.</li> </ul>	
Entity	<p><i>Entities include companies, trusts, incorporated and unincorporated associations such as clubs and charities, joint ventures and partnerships.</i></p> <p><b><u>You control an entity if you have:</u></b></p> <ul style="list-style-type: none"> <li>(a) power over the entity;</li> <li>(b) exposure, or rights, to variable returns from involvement with the entity; and</li> </ul>	

Term	Definition
	(c) <i>the ability to use your power over the entity to affect the amount of your returns.</i>
<i>Financial benefit</i>	<p><i>A financial benefit includes giving a financial benefit indirectly through an interposed entity, making an informal, oral or non-binding agreement to give the benefit, and giving a benefit that does not involve paying money.</i></p> <p><i>Examples of “giving a financial benefit” to a related party may include but is not limited to:</i></p> <ul style="list-style-type: none"> <li data-bbox="446 631 1283 664">(a) <i>Giving or providing the Related Party finance or property.</i></li> <li data-bbox="446 676 1327 709">(b) <i>Buying an asset from or selling an asset to the Related Party.</i></li> <li data-bbox="446 720 1394 754">(c) <i>Supplying services to or receiving services from the Related Party.</i></li> <li data-bbox="446 765 1292 799">(d) <i>Issuing securities or granting an option to the Related Party.</i></li> <li data-bbox="446 810 1271 844">(e) <i>Taking up or releasing an obligation of the Related Party.</i></li> </ul>
<i>Government</i>	<i>Government refers to government, government agencies and similar bodies whether local, national or international.</i>
<i>Government-related entity</i>	<i>A government-related entity is an entity that is controlled, jointly controlled or significantly influenced by a government.</i>
<i>Joint control</i>	<i>Joint control is the contractually agreed sharing of control over an economic activity/arrangement which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control.</i>
<i>Joint Venture</i>	<i>An arrangement of which 2 or more parties have joint control and have right to the net assets of the arrangement. It includes subsidiaries of the joint venture.</i>
<i>Key Management Personnel (KMP)</i>	<p><i>Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.</i></p> <p><i>KMPs having authority and responsibility for planning, directing and controlling activities of the Shire of Toodyay either directly or indirectly are as follows:</i></p> <ul style="list-style-type: none"> <li data-bbox="446 1635 1319 1668">(a) <i>Shire President / Deputy Shire President / Elected Members.</i></li> <li data-bbox="446 1680 1208 1713">(b) <i>Chief Executive Officer/ Senior Executive Managers.</i></li> <li data-bbox="446 1724 1192 1758">(c) <i>Other Officers with delegated authority or influence.</i></li> </ul>
<i>Management</i>	<i>Where “management” is mentioned in this policy it means the Chief Executive Officer and Senior Executive Officers responsible to the CEO.</i>
<i>Materiality</i>	<i>The assessment of whether the transaction, either individually or in aggregate with other transactions, could influence decisions that users</i>

Term	Definition
	<i>makes with regard to financial matters of the Shire. In assessing materiality, management will consider both the size and nature of the transaction, individually and collectively.</i>
Ordinary Citizen Transaction (OCT)	<i>Transactions that are provided on terms and conditions no different to those applying to the general public and which have been provided in the course of delivering public service objectives, are unlikely to influence the decisions that users of the Shire of Toodyay's financial statements make.</i>
Related Party	<p><i>A related party is a person or entity that is related to the entity that is preparing its financial statements (in this Standard referred to as the 'reporting entity').</i></p> <p>(a) <i>A person or a close member of that person's family is related to a reporting entity if that person:</i></p> <ul style="list-style-type: none"> <li><i>i. has control or joint control over the reporting entity;</i></li> <li><i>ii. has significant influence over the reporting entity; or</i></li> <li><i>iii. is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.</i></li> </ul> <p>(b) <i>An entity is related to a reporting entity if any of the following conditions applies:</i></p> <ul style="list-style-type: none"> <li><i>i. The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).</i></li> <li><i>ii. One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).</i></li> <li><i>iii. Both entities are joint ventures of the same third party.</i></li> <li><i>iv. One entity is a joint venture of a third entity and the other entity is an associate of the third entity.</i></li> <li><i>v. The entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity.</i></li> <li><i>vi. The entity is controlled or jointly controlled by a person identified in (a).</i></li> <li><i>vii. A person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).</i></li> </ul>
Related Party Transactions	<i>A related party transaction is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.</i>

Term	Definition
<i>Remuneration</i>	<i>Consideration or benefit received or receivable by the person but excludes any reimbursement of out of pocket</i>
<i>Significant Influence</i>	<i>Significant influence is the power to participate in the financial and operating policy decisions of an entity but is not control over those policies. Significant influence may be gained by share ownership, statute or agreement.</i>

If you are unsure about these definitions and how they may or may not affect you please contact the Manager Corporate and Community Services on (08) 9574 9300 for a confidential discussion.

## 2. Disclosures

To comply with AASB124, for annual periods beginning on or after 1 July each year, the Chief Executive Officer (Director) will ensure that the following disclosures are included in the Shire of Toodyay Annual Financial Statements:

- (a) Relationships between the Shire of Toodyay and its subsidiaries, irrespective of whether there have been transactions between them.
- (b) Key Management Personnel (KMP) compensation in total and for each of the following categories:
  - i. Short-term employee benefits;
  - ii. Post-employment benefits;
  - iii. Other long-term benefits;
  - iv. Termination benefits.
- (c) Amounts incurred by the Shire of Toodyay for the provision of KMP services that are provided by a separate management entity.
- (d) Information specified at (3) for related party transactions with the following persons during the periods covered by the Financial Statement:
  - i. Council subsidiaries;
  - ii. Entities who are associates of Council or of a Council subsidiary;
  - iii. Joint ventures in which Council or a Council subsidiary is a joint venturer;
  - iv. Key management Personnel (KMP) of the Shire;
  - v. Other related parties comprising:
    - Close members of the family of any person listed above, including that person's child, spouse or domestic partner, children of a spouse or domestic partner, dependents of that person or persons' spouse or domestic partner;
    - Entities that are controlled or jointly controlled by a KMP or their close family members.

- Entities include companies, trusts, joint ventures, partnerships and non-profit associations such as sporting clubs).

### 3. Disclosed Information

For each category of related party transactions the Shire of Toodyay will disclose the following information in the Shire of Toodyay annual Financial Statements:

- The nature of the related party relationship;
- The amount of the transactions;
- The amount of outstanding balances, including commitments, and
  - their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement; and
  - details of any guarantees given or received;
- Provisions for doubtful debts related to the amount of outstanding balances; and
- The expense recognised during the period in respect of bad or doubtful debts due from related parties.

### 4. Disclosures in aggregate or separate

For each related party category, the Shire of Toodyay will disclose items of a similar nature in aggregate (one lump sum), except when a separate disclosure is necessary for an understanding of the effect of a related party transaction on the financial statements and having regard to the following criteria:

- the nature of the related party relationship.
- the significance of the transaction (individually or collectively in terms of size or value (including where the materiality arises due to the fact that no consideration for the transaction is given or received by the Shire of Toodyay));
- whether the transaction is carried out on non-arm's length terms;
- whether the nature of the transaction is outside normal day-to-day business operations.

based on the factors and thresholds under the direction of the Manager Corporate and Community Services in consultation with the Chief Executive Officer and the Shire's external Auditor.

## 5. Identifying Council Related Party Relationships and Transactions

### 5.1 Responsibility

The Manager Corporate and Community Services is responsible for:

- identifying Shire subsidiaries, associates and joint ventures (incorporated and unincorporated) from the Related Entities Register, a document which is prepared to substantiate any notes made within the financial statements related to "interests in other entities."
- Determining whether Council has control or joint control of an entity;

- Determining whether an entity is an associate of, or in a joint venture with, the Shire of Toodyay or a subsidiary of the Shire.
- Investigating through the Shire's systems whether any identified Shire subsidiaries, associates or joint ventures have an existing related party transaction with the Shire.
- Identifying and extracting information specified in (3) of this policy against each existing related party transaction in the Shire's business systems for the purpose of recording the related party transaction and associated information in a register of related party transactions.
- Manually reviewing the transactional documentation for related party transactions that are not captured by the Shire's business systems and recording the information specified in (3) for the subject transaction in the register of related party transactions.

## 5.2 Identification of related party transactions

For the purposes of determining whether a related party transaction has occurred, examples of transactions or provision of services have been identified as meeting the criteria as follows:

- (a) Paying of Rates;
- (b) Fines;
- (c) Use of Shire owned facilities such as halls, pavilions, other buildings, library, arks, ovals and other public open spaces (whether charged a fee or not);
- (d) Attending Council functions that are open to the public;
- (e) Employee compensation whether it is for KMP or close family members of KMP;
- (f) Application fees paid to the Shire for licences, approvals or permits;
- (g) Lease agreements for housing rental (whether for a Shire owned property or property sub-leased by the Shire through a Real Estate Agent);
- (h) Lease agreements for commercial properties;
- (i) Monetary and non-monetary transactions between the Shire and any business or associated entity owned or controlled by the related party (including family) in exchange for goods and/or services provided by/to the Shire (trading arrangement);
- (j) Sale or purchase of any property owned by the Shire to a person identified above;
- (k) Sale or purchase of any property owned by a person identified above, to the Shire;
- (l) Loan Arrangements;
- (m) Contracts and agreements for construction, consultancy or services.

**Some of the transactions listed above occur on terms and conditions no different to those applying to the general public and have been provided in the course of delivering public service objectives that are unlikely to influence the decisions that users of the Council's financial statements make. These transactions are those that an ordinary citizen would undertake with the Shire of Toodyay and are referred to as an Ordinary Citizen Transactions (OCT).**

Where these services were not provided at arm's length and under the same terms and conditions applying to the general public, elected Council members and KMP will be required to make a declaration in the Related Party Disclosures - Declaration form about the nature of any discount or special terms received.

## **6. Identifying Related Party Relationships with KMP and their close family members**

### **6.1 Related Party Disclosure form (RPD)**

The Manager Corporate and Community Services and/or Finance Coordinator is responsible for providing the KMP, at least 30 days *before the specified notification period*, with an RPD Form (Attachment A).

### **6.2 Frequency and specified notification period**

KMP must provide a related party disclosure in the form set out in Attachment A, notifying any existing or potential related party transactions between the Shire of Toodyay and either themselves, their close family members or entities controlled or jointly controlled by them or any of their close family members, subject to exclusions mentioned below, at 6.5, to the Manager Corporate and Community Services no later than 30 days after 30 April each calendar year.

Disclosures will also be required in the following instances:

- (a) 30 days after a KMP has commenced employment;
- (b) When staff movements occur for an KMP role; and
- (c) after elections of Council in October of relevant year and or after any extraordinary election held

### **6.3 Other Related Party Transactions**

If a KMP suspects that a transaction may constitute a related party transaction outside of the notification period, the KMP should provide a related party disclosure to the Manager Corporate and Community Services.

### **6.4 Other notifications**

These requirements are in addition to the notifications a KMP must make to comply with their Code of Conduct and disclosure of interests in a written return in accordance with the sections 5.70, 5.71, 5.75, 5.76 (1), and 5.76(2) of the *Local Government Act 1995*.

## 6.5 Exclusions

The notification requirements do not apply to:

- Related party transactions that are ordinary citizen transactions not assessed as being material as determined under section 5.2 of this policy; and
- The Member sitting fees provided and reimbursable expenses incurred, during the financial year under members policy "Sitting Fees and Reimbursable expenses", the particulars of which are contained in councils annual report pursuant to r.19B of the *Local Government (Administration) Regulations 1996*.

## 6.6 Other Sources of information

To ensure all related party transactions are captured and recorded the responsible Manager Corporate and Community Services and/or Finance Coordinator is responsible for reviewing, if required, other sources of information held by the Shire of Toodyay including, but not limited to:

- (a) A register of interests of a KMP and of persons related to the KMP;
- (b) Minutes of Council and Committee Meetings; and
- (c) Council's Contracts Register.

## 6.7 Confidentiality

All information contained in a disclosure return, will be treated in confidence. Generally, related party disclosures in the annual financial reports are reported in aggregate and as such, individuals are not specifically identified.

Notwithstanding, management is required to exercise judgement in determining the level of detail to be disclosed based on the nature of a transaction or collective transactions and materiality. Individuals may be specifically identified if the disclosure requirements of AASB 124 so demands.

## 6.8 Materiality

Management will apply professional judgement to assess the materiality of transactions disclosed by related parties and their subsequent inclusion in the financial statements.

In assessing materiality, management will consider both the size and nature of the transaction, individually and collectively.

## 6.9 Assessment Process

Where the assessment of transactions made with key management personnel or entities is required, the assessment panel will comprise of the Chief Executive Officer, the Manager Corporate and Community Services and/or the Finance Coordinator.

Where there may be an impartiality issue (perceived or otherwise), either the Manager Assets and Services or the Manager Planning and Development may be selected at the discretion of the Chief Executive Officer.

### Reference Information

*DLG&C AASB124 Related Parties Implementation guide June 2017.*

*WALGA (Moore Stephens) Info Bulletin dated 22 June 2017.*

*DLG&C Related Party Disclosures – Fact Sheet.*

*AASB 124 Related Party Disclosures Standard published by the Australian Government in December 2009 [https://www.aasb.gov.au/admin/file/content105/c9/AASB124\\_12-09.pdf](https://www.aasb.gov.au/admin/file/content105/c9/AASB124_12-09.pdf)*

<b>Related Documents</b>	<i>AASB 124 Related Party Disclosures (July 2015)</i>										
<b>Related Legislation</b>	<p>Associated Regulatory Framework</p> <p><i>AASB 10 Consolidated Financial Statement</i></p> <p><i>AASB 11 Joint Arrangement and</i></p> <p><i>AASB 128 Investments in Associates and Joint Ventures</i></p> <p><i>AASB119 Employee Benefits</i></p> <p><i>AASB2 Share-based Payment (if applicable)</i></p> <p><i>AASB12 Disclosure of Interest in Other Entities</i></p> <p><i>Local Government Act 1995</i></p> <p><i>Local Government (Financial Management) Regulations 1996</i></p>										
<b>Associated Forms and Attachments</b>	<i>Related Party Disclosures - Declaration form</i>										
<b>Version Control Information</b>	<table border="1"> <thead> <tr> <th>Version No.</th> <th>Issue Date</th> <th>Nature of amendment</th> <th>Developed By</th> <th>Approved By</th> </tr> </thead> <tbody> <tr> <td>V0</td> <td>01/07/2021</td> <td>Creation of Policy</td> <td>Executive Services</td> <td>t.b.a.</td> </tr> </tbody> </table>	Version No.	Issue Date	Nature of amendment	Developed By	Approved By	V0	01/07/2021	Creation of Policy	Executive Services	t.b.a.
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### Document Control Information

<b>Document Theme</b>	Governance
<b>Document Category</b>	Governance
<b>Document Title</b>	Related Party Disclosures
<b>Document ID</b>	G.6
<b>Document Owner (position title)</b>	Chief Executive Officer
<b>Author (position title)</b>	Executive Services Officer
<b>Date of approval</b>	27/07/2021 Res. No. 150/07/21
<b>Approving authority</b>	Council
<b>Access restrictions</b>	Nil
<b>Date Published</b>	29/07/2021
<b>Date of last review</b>	27/06/2021
<b>Date of next review</b>	30/06/2023
<b>Archived antecedent documents and previous versions</b>	Related Party Disclosure Procedure and Guidance Notes (Area of Impact – Finance)

**Attachment A**

## Related Party Transactions and Disclosure by Key Management Personnel

Name of Key Management Personnel:	
Position of Key Management Personnel:	

Please read the Shire of Toodyay Related Party Disclosures Policy provided with this notification, which explains what is a related party transaction and the purposes for which the Shire of Toodyay is collecting and will use and disclose, the related party information provided by you in this notification.

Please complete the tables below for each related party transaction with the Shire of Toodyay that you, or a close member of your family, or an entity related to you or a close member of your family:

- (a) has previously entered into and which will continue in the current financial year; or
- (b) has entered into, or is reasonably likely to enter into, in the 2021/2022 financial year including and which may / may not continue into future years.

If a particular area is not applicable, do not leave question areas blank. Please answer 'Nil' for the purpose of removing doubt with regard to completion of the form.

Description of Related Party Transaction	Is transaction existing / potential?	Related Party's Name (Individual or entity name)	Related Party's relationship / reasons why related	Description of Transaction. Documents or changes to the related party relationship.

Please refer to the definitions contained in the Related Party Disclosures Policy.

If there has been no change since your last declaration, please complete "no change".

## 1. CLOSE MEMBERS OF THE FAMILY

Name of Family Member	Relationship to you

## 2. ENTITIES THAT I, OR CLOSE FAMILY MEMBER CONTROLS OR JOINTLY CONTROLS

Name of Entity	Name of person who has control/nature of control

## 3. ORDINARY CITIZEN TRANSACTIONS – NOT PROVIDED AT ARMS LENGTH.

Did you or any member of your close family use any council facilities AND you received a discount or special terms that would not otherwise be offered to any other member of the public?

Name of person using the facility	Service/facility used	Nature of transaction	Nature of discount or special conditions received.

## 4. LEASING AGREEMENTS – DOMESTIC RESIDENTIAL

Did you, a close family member or related entity, enter into a lease agreement with the Shire of Toodyay (either as lessee or lessor) for the provision of a domestic rental property (includes properties owned by the Shire of Toodyay and privately owned properties sub-leased through the Shire of Toodyay from a real estate agent)? Did you receive or provide a discount or special terms that would not otherwise be offered to any other member of the public?

Name of person party to the lease	Property Address	Term of Lease & Weekly rent.	Detail of any non-arms-length conditions

## 5. LEASING AGREEMENTS – COMMERCIAL

Did you, a close family member or related entity, enter into a commercial lease agreement with the Shire of Toodyay for the provision of a commercial property?

Did you receive a discount or special terms that would not otherwise be offered to any other member of the public?

Name of person party to the lease	Property Address	Term of Lease & Weekly rent.	Detail of any non-arms-length conditions

## 6. TRADING ARRANGEMENTS

Were you or a close family member (as defined above) the owner of any business (or in a position to substantially control the business) that provided goods or services to the Shire of Toodyay?

Were those goods or services provided on the same terms and conditions to those available to any other customer?

If not, please provide details of the specific terms provided to the Shire of Toodyay.

Business name	Goods or Services Provided	Approximate value for the reporting period	Terms and Conditions

## 7. OTHER AGREEMENTS (Construction, Consultancy, Service Contracts)

Did you, a close family member or related entity, enter into any other agreement/arrangements with the Shire of Toodyay (whether or not a price was charged)?

This may include (but is not limited to): construction contracts, consultancy services, service contracts (such as cleaning, maintenance, security).

For example: A company that a close family member controls was awarded a contract with the Shire of Toodyay for building a new office or facility.

Name of person or business/company	Nature of Agreement	Value of Agreement	Terms & Conditions

## 8. PURCHASE OF PROPERTY

Did you, a close family member or related entity, purchase any property or other assets from the Shire of Toodyay? (This may include vehicles or other plant items, land or buildings).

Name of person or entity name	Property purchased	Value of the purchase	Terms & Conditions

## 9. SALE OF PROPERTY

Did you, a close family member or related entity, sell any property or other assets to the Shire of Toodyay? (This may include vehicles or other plant items, land or buildings).

Was the sale made at arms-length, and or on terms and conditions available to any other member of the public?

If not, please provide details of the specific terms provided.

Name of person or entity name	Property sold	Value of the Sale	Terms & Conditions

## 10. FEES & CHARGES FOR APPLICATIONS

Did you, a close family member or related entity, make an application to Council for a trading, building, planning or development application, licence or approval, or any other type of permit or licence?

Name of person or entity name	Application Type	Application and/or receipt number

## 11. SELF SUPPORTING LOANS

Did you, a close family member or related entity, enter into a loan agreement with the Shire of Toodyay?

For example: a club for which you have control (See Appendix 2 for example)

Name of person or entity name	Loan details	Value of the loan	Terms & Conditions

## 12. OTHER AGREEMENTS

Please list any other agreement or arrangement you believe is a related party transaction and should be declared.

Name of person or entity name	Loan details	Value of the loan	Terms & Conditions

## Notification

I \_\_\_\_\_, \_\_\_\_\_  
(full name) (Position)

notify that, to the best of my knowledge, information and belief, as at the date of this notification, the above list includes all existing and potential related party transactions with Council involving myself, close members of my family, or entities controlled or jointly controlled by me or close members of my family relevant to the current financial year and the 2021/2022 financial year.

I make this notification after reading the Privacy Collection Notice provided by the Shire of Toodyay which details the meaning of the words:

- “related party”;
- “related party transaction”;
- “close members of the family of a person”; and
- In relation to an entity, “control” or “joint control” and the purposes for which this information will be used and disclosed.

I have made this declaration after reading the Council Policy and information supplied by the Shire to which this declaration relates.

I permit the Officers specified in the Shire’s Related Party Disclosures policy to access the register of interests of me and persons related to me and to use the information for the purposes specified in that policy.

SELECT OPTION 1:  **Handwritten** Signature.

Signed: \_\_\_\_\_

Date:

Once signed please provide to the CEO.

SELECT OPTION 2:  **Electronic** Signature.

Signed: \_\_\_\_\_

Date:

This form can be sent by email to the CEO provided the email is sent by the person making the disclosure from their work or persona (e.g.: Councillors) email account.

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# LEADING THE WAY



MMXXI

## Information and Registration

WA Local Government Convention  
Sunday, 19 – Tuesday, 21 September 2021  
Crown Perth

PRESENTED BY



PARTNERED SERVICE



PRINCIPAL SPONSOR





# EVENT PARTNERS



## Partnered Service

LGIS is proud to partner with WALGA at the WA Local Government Convention. The Convention provides a wonderful opportunity for everyone across the sector to come together, share experiences and network.

As the Local Government mutual indemnity Scheme, our members are at the heart of everything we do. We're proud to have stood with our members for over 25 years protecting your communities, organisations and people.

We understand the Local Government industry, its purpose, the risks involved, and our ultimate philosophy of working with you to deliver the best outcome for your communities.

We're also proactive we don't just wait for claims to happen - through our comprehensive Scheme risk program we're dedicated to working with members to manage their risk.

The team at LGIS look forward to seeing all of our members and exploring how we can support you.



## Principal Sponsor

Civic Legal is proud to be the principal sponsor of the WA Local Government Convention again this year. We always look forward to catching up with you to hear your stories and to learn more about the issues Local Governments are facing.

Civic Legal has its roots in Local Government. Our specialist Local Government lawyers are passionate about working out the best solutions for Local Governments in all areas of Local Government law.

Drop by our booth to find out more, and to chat with our team. We can help you with complex contracts, leases, employment law matters, planning, litigation, SAT appeals, governance or any other issues your Local Government may face.

Enjoy the conference, and see you soon!

Best regards

**Anthony Quahe**

Managing Principal

### Supporting Sponsor



### Convention Breakfast Sponsor



### Coffee Cart Sponsors





# AN INVITATION

It is my pleasure to invite all Elected Members, Chief Executive Officers and Senior Managers to attend the 2021 WA Local Government Convention, scheduled for Sunday, 19 – Tuesday, 21 September at Crown Perth.

The theme for the 2021 Local Government Convention is Leading the WAy: Looking Forward, Looking Back, taking place against the backdrop of generational change for the sector with reform of the Local Government Act on the horizon.

Additionally, 2020 and 2021 has seen an unprecedented level of uncertainty experienced in areas such as local and international politics; the economy; the environment, together with the ongoing impact and evolving nature of the COVID-19 pandemic. The Convention program has been developed to specifically support and encourage Local Government representatives.

We are pleased to welcome the Honourable Julie Bishop as our Opening Keynote Speaker, and Australian of the Year - Ms Grace Tame, has agreed to deliver the Closing Keynote Speech.

The event will commence with the AGM, followed by a day and a half of plenary and concurrent sessions. These sessions will discuss both contemporary and controversial topics, while the overarching conference format provides opportunity to converse, debate, discuss and share ideas in a welcoming and professional forum.

There is also an opportunity to register for one of the optional field trips scheduled for Wednesday, 22 September.

A significant contingent of industry suppliers will be on display in the trade exhibition to demonstrate their latest products to the Local Government sector. I encourage you to take this once a year opportunity to meet with these suppliers and be updated on what is currently available.

Finally, I would like to express appreciation for the valuable support provided by our Partnered Service - LGIS and Principal Sponsor - Civic Legal. I also wish to thank our Supporting Sponsor; the Department of Local Government, Sport & Cultural Industries and our other sponsors, Ventia, Synergy and Credit Solutions.

I look forward to seeing you in September.

A handwritten signature in black ink that reads 'Tracey Roberts'.

**Mayor Tracey Roberts JP**  
President

# ABOUT THE EVENT

## Who should attend?

The WA Local Government Convention is presented specifically for those engaged in the Local Government sector.

The conference sessions aim to support and inform Mayors, Presidents, Elected Members and Chief Executive Officers. Additional attendance by Executive Directors and other senior managers is also highly recommended. Available options include full conference participation and daily registration.

## Optional events

### Monday, 20 September

Australian Local Government Women's Association (ALGWA) AGM and Breakfast (\$70pp)  
Convention Gala Dinner at Optus Stadium (\$165pp)

### Tuesday, 21 September

Convention Breakfast with Jelena Dokic (\$95pp)  
PHAIWA Local Government Policy Awards and Breakfast – For more information or to register for this breakfast, please visit [www.phaiwa.org.au](http://www.phaiwa.org.au)

### Wednesday, 22 September

Field Trip: Bushmead Estate (\$70)  
Field Trip: Construction Training Fund (\$70)  
WALGA Forum on Aboriginal Engagement and Reconciliation

## Partner Program

The Partner Program offers an interesting range of options for accompanying guests, including a full day tour to Fremantle. Social networking functions include the Opening Welcome Reception on Sunday evening and the Gala Dinner on Monday evening.

## Elected Member training

WALGA Training has scheduled a selection of its Elected Member training opportunities prior and post-Convention for your convenience.

- **Friday, 17 September**  
Developing Specifications for Excellence
- **Wednesday, 22 September**  
CEO Performance Appraisals
- **Wednesday, 22 & Thursday, 23 September**  
Recovery Coordinators Course for Local Government

More information on WALGA Training opportunities can be found in the [WALGA Training Directory](#) or on [WALGA Training Website](#).

## 2021 #shoWcAse in Pixels Competition

#shoWcAse in PIXELS is an annual exhibition of artwork from Local Governments, displayed on the iconic 45-metre high digital tower at the heart of Yagan Square in Perth City.

As one of the State's largest ongoing community arts projects, the event is widely acknowledged as being one of the most colourful and vibrant displays throughout the year.

The art competition was held in this format for the first time in 2019, which saw art submissions created from recycled products, wall murals and large-scale canvases.

Artwork will be displayed in Yagan Square from **Monday, 6 September** to **Sunday, 26 September**, at 12:00pm each day (subject to changes by Yagan Square).



# KEYNOTE SPEAKERS



## Hon Julie Bishop

**The Honourable Julie Bishop served as Australia's Minister for Foreign Affairs from 2013 until her resignation in 2018. She was the first female to hold the role as well as the first female Deputy Leader of the Liberal Party, serving for 11 years.**

As Foreign Minister, Ms Bishop was responsible for strengthening Australia's key strategic and economic relationships with Ministerial responsibility for more than 5000 departmental staff, 110 overseas missions as well as government agencies Australian Secret Intelligence Service and Australian Centre for International Agriculture Research.

In 2014, she led the international response to the downing of Malaysian Airlines flight MH17 over Ukraine, and was awarded the Commander of the Order of Merit of the Netherlands Ministry of Foreign Affairs.

Under her leadership, the 2017 Foreign Policy White Paper was developed, providing a comprehensive policy framework for the next decade; and the New Colombo Plan was established, enabling Australian undergraduates to live, study and work in the Indo-Pacific region. Within five years more than 40,000 students have participated in the Plan.

In a political career spanning over 20 years, Julie also served as Minister for Education, Science and Training, Minister for Women's Issues and Minister for Ageing.

Prior to entering politics, Ms Bishop was Managing Partner of the law firm Clayton Utz in Perth.

In 2020 Julie was awarded a Fisher Family Fellowship for the Future of Diplomacy Project at Harvard Kennedy School Belfer Centre for Science and International Affairs. In 2021 Julie was awarded the Kissinger Fellowship at the McCain Institute of International Leadership at Arizona State University. In 2021 Julie was appointed by the UK Government to the G7 Equality Advisory Council (GEAC).

Julie is the Chancellor of Australian National University, chair of Telethon Kid's Institute, Chair of The Prince's Trust Australia, member of the international advisory boards of Afiniti and the Human Vaccines Project and is the Patron of Shooting Stars – an education programme for young Aboriginal girls.

She has also established a boutique advisory firm, Julie Bishop and Partners.



## Hon Mark Coulton MP

### Federal Minister for Regional Health, Regional Communications and Local Government

Mark was first elected to the House of Representatives for the seat of Parkes, New South Wales, in 2007. He has since been re-elected in 2010, 2013, 2016 and 2019.

On 6 February 2020, Mark was sworn-in as the Minister for Regional Health, Regional Communications and Local Government.

During his time in the Federal Parliament, Mark has also held the positions of Deputy Speaker of the House of Representatives, National Party's Chief Whip, Shadow Parliamentary Secretary for Ageing and the

Voluntary Sector, Shadow Parliamentary Secretary for Water and Conservation and Shadow Parliamentary Secretary for Regional Development and Emerging Trade Markets.

Prior to his election to the House of Representatives, Mark was the Mayor of Gwydir Shire Council from 2004 until 2007.

Mark has an extensive agricultural background having spent 30 years as a farmer and grazier. Mark and his wife Robyn owned and operated a mixed farming system growing cereal crops and running beef cattle.

## Hon Jason Clare MP

### Shadow Minister for Regional Services, Territories and Local Government; Housing and Homelessness

Jason is a member of the Australian Parliament where he represents the seat of Blaxland in Western Sydney.

He was a Minister in the Rudd and Gillard Labor Governments, where he served as Minister for Home Affairs, Minister for Justice, Minister for Defence Materiel and Cabinet Secretary.

Jason is currently the Shadow Minister for Housing and Homelessness, Shadow Minister for Regional Services, Territories and Local Government.

He has also served as Shadow Minister for Communications, Shadow Minister for Trade and Investment and Shadow Minister for Resources and Northern Australia.

Jason's most important job though is being Louise's husband and Jack's dad.





## Anthony De Ceglie

### Three-time Walkley Award winner and Editor-in-Chief of West Australian Newspapers

He first started his career as a cadet journalist in regional WA with the *Collie Mail* before becoming a journalist and sub editor at the *Mandurah Mail*.

Anthony previously worked as a reporter with *The Sunday Times* before becoming chief of staff and deputy editor of the newspaper and its website *Perth Now*.

During a secondment to New York in 2011, Anthony helped to launch the iPad newspaper *The Daily* before moving to Sydney to work for *The Daily Telegraph*.

In January 2019 he was appointed senior editor of *The West Australian*, becoming editor in chief in December that same year.

In addition to responsibility for *The West Australian*, *The Weekend West*, *The Sunday Times*, [thewest.com.au](http://thewest.com.au) and [perthnow.com.au](http://perthnow.com.au) and the company's 19 regional publications, Anthony has overseen the successful integration of the Community Newspaper Group and Regional Newspapers and the launch of digital subscriptions on the [west.com.au](http://west.com.au)

## Hon Pru Goward

**The Honourable Pru Goward is a former Cabinet minister, Sex Discrimination Commissioner and was a pioneering television reporter with the ABC.**

Pru has a long history of promoting women's rights, driving reform and getting it done and has frequently challenged institutional bullying and harassment.

Since leaving politics, Pru is a Professor of Social Interventions and Policy at Western Sydney University, a board member of Anglicare, a regular newspaper columnist, and a diversity and discrimination expert who has recently reviewed sexual misconduct for ministerial staff in the NSW Government and the NSW Supreme Court.

Her outstanding career as a senior government official and government minister saw reforms in Family Law and more recently child protection, social and affordable housing and urban planning.

With her drive, New South Wales overhauled the State Government's approach to domestic violence and is the only Australian state or territory to witness a decline in assault rates.

Prior to this, Pru was Australia's Sex Discrimination Commissioner for six years, promoting the landmark introduction of paid maternity leave, now a national entitlement. She also oversaw Australia's first statistically valid sexual harassment survey which continues to be the benchmark for governments and business and reported on the state of work-life balance for men and women in Australia. Pru was also the commissioner responsible for age discrimination.

As a senior current affairs reporter with the Australian Broadcasting Corporation for 19 years, Pru was ABC Television's first female correspondent, the inaugural presenter of Radio National Breakfast and the recipient of a prestigious Walkley Award for her courageous television profile of organized crime figure George Freeman.

She has authored *A Business of Her Own* and has co-authored a biography of John Howard.

*Hon Pru Goward appears by arrangement with Saxton Speakers Bureau*





## Greg Hire

### Founder, A Stitch in Time

As the former Perth Wildcats Vice-Captain, Greg Hire undoubtedly made a huge impact on basketball, however it could be argued his greatest contribution to our State is the work he is doing off the court. A championship player with both the Wanneroo (now Joondalup) Wolves in the State Basketball League, and the Perth Wildcats in the NBL, Hire was named 2018 Western Australian of the Year (Youth) for his efforts as an advocate for youth mental health. Hire grew up around domestic violence, drugs, alcohol, depression and a lack of positive role models and is heavily involved in community and youth sporting activities and other initiatives that aim to combat mental illness and youth suicide.

Greg played for the Perth Wildcats from 2010 until 2019; accumulating 243 games, winning four NBL Championships as Vice-Captain and recently has represented Australia at the World Cup in 3 on 3 Basketball, winning a Gold Medal at 2020 Asia Cup. As the founder of charity A Stitch in Time, his passion and efforts are now transpiring off the court in the work he is doing in the mental health space.

## Paul Kelly

### Editor-at-Large, The Australian

Paul Kelly is currently the Editor-at-Large at *The Australian*. He was previously Editor-in-Chief and he writes on Australian politics, public policy and international affairs.

Paul has covered Australian governments from Gough Whitlam to Scott Morrison and is a regular television commentator on Sky News. He is the author of nine books including *The Hawke Ascendancy*, *The End of Certainty* and *The March of Patriots*. His most recent book, *Triumph and Demise* covered the Rudd-Gillard era.

Paul has been a Fellow at the Kennedy School of Government at Harvard University and a Fellow at the Menzies Centre, King's College, London.





## Glenn Mitchell

**Glenn is a former leading ABC sports broadcaster. During his 20 years with ABC Sport in Perth he became a familiar voice around the country with his commentaries on international and domestic cricket and AFL football.**

He also commentated at four Olympic Games (Atlanta, Sydney, Athens and Beijing), and three Commonwealth Games.

One of the ABC's senior cricket commentators, Glenn broadcast over 110 Tests and One Day Internationals, covering overseas tours against Sri Lanka, India, Pakistan, England and New Zealand.

But all through this period, Glenn was a sufferer of mental illness and in early 2011 he descended into a highly depressive state that resulted in him inexplicably resigning his dream position at the ABC and making an attempt on his own life. After overcoming his personal demons and reshaping his life, Glenn now aims to try and prevent others from enduring the torturous path he did by candidly speaking about his own journey.

*Glenn Mitchell appears by arrangement with Cheri Gardiner & Associates*

## Grace Tame

**After being raped and sexually abused by her maths teacher when she was just 15 years old, Grace Tame has spent the last 10 years turning her traumatic experience into being an advocate for survivors of child sexual abuse and a leader of positive change.**

Recognising the injustice of Tasmania's gag order that prevented survivors from self-identifying publicly, Grace offered her story to the #LetHerSpeak campaign created by Nina Funnell, along with the stories of 16 other brave survivors. In 2019, she finally won the court order to speak out under her own name, making her the state's first female child sexual abuse survivor to do so.

Now, 26 and based in Hobart, Grace is dedicated to eradicating child sexual abuse in Australia, and supporting the survivors of child sexual abuse.

Her focus is around enabling survivors to tell their stories without shame, educating the public around the process and lasting effects of grooming and working with policy and decision-makers to ensure we have a federal legal system that supports the survivors, not just perpetrators.

She is also a passionate yoga teacher, visual artist, and champion long-distance runner, having won the 2020 Ross Marathon in a female course record time of 2:59:31.

Grace is the 2021 Australian of the Year.





## Liam Bartlett

**60 Minutes reporter, host of Radio LPR's morning program, award winning broadcaster and journalist**

Having spent nearly 30 years working in Australian media, Liam is one of Perth's highest profile journalists and public broadcasters.

With a Bachelor of Economics from the University of Western Australia, he has held a series of high profile positions across all three major platforms – television, radio and print. His roles have included hosting the State-based 7.30 Report on ABC TV,

news anchor at STW Channel Nine in Perth, reporting for the Nine Network's Melbourne bureau of *A Current Affair*, columnist and feature writer for News Limited through the Sunday Times and the host of prime-time talkback shifts on Radio 6PR and 720 ABC Perth.

*Liam Bartlett appears by arrangement with Cheri Gardiner & Associates*

## Convention Breakfast – Jelena Dokic

**Jelena Dokic has had a storied and well-documented life and tennis career both on and off the tennis court. She started playing tennis when she was six years old and very quickly became the national champion in multiple age groups. However, the war erupted in former Yugoslavia and the family was forced to escape twice. Jelena and her family were refugees before settling in Australia when she was 11 years old.**

In 1998, as a 15-year-old, Jelena won the US Open junior title and the French Open doubles title. She became number 1 junior in the world in 1998 and also made a Fed Cup debut the same year winning both her singles matches and becoming the youngest player ever to represent Australia in the Fed Cup.

In early 1999, still only 15 she won the Hopman Cup for Australia partnering Mark Philippoussis and also reached the 3rd round of the Australian Open at 15. Later that year at the age of 16, she caused one of the biggest upsets in tennis history beating world number 1 Martina Hingis as a qualifier. It still remains the only time a world number 1 has lost to a qualifier at Wimbledon. She went on to reach the quarter-finals of Wimbledon that year and it catapulted Jelena to prominence on the world stage.

In 2001 Jelena won her first WTA singles title in Rome. She went on to win two more titles that year and reach the top 10 in the world at the age of 18. At the age of 19 she reached world number 4.

After a string of injuries and a battle with depression, Jelena made a comeback to tennis in 2008 and had an incredible run at the 2009 Australian Open,

reaching the quarterfinals and also winning her first WTA title in nine years in Kuala Lumpur. Jelena's latter part of her career was riddled with injury and illness which forced her to retire early.

Jelena has penned the best-selling autobiography *Unbreakable*, a book which details her career and her life. In the book, she details the struggles of being a refugee, dealing with poverty, racism, bullying, and discrimination. She also talks about the physical and emotional abuse she suffered for over 20 years at the hands of her father which started when she was just six years old.

Jelena now pours her efforts into commentary and TV work for Channel 9, Fox Sports and Tennis Australia. She does work for multiple radio stations and she regularly writes columns.

*Jelena Dokic appears by arrangement with ICMI*



# THE PROGRAM

## SUNDAY, 19 September (pre-conference)

2:30pm – 6:00pm	Delegate Service Desk open for Convention Registration
3:00pm – 5:00pm	<b>Mayors and Presidents' Forum</b> (separate registration – by invitation only)
5:00pm – 6:30pm	<b>Opening Welcome Reception</b> A welcoming space to network your way through an evening of food, beverages, music and friendly conversation. Included in Full Delegate Registration.

## Monday, 20 September

7:00am	Delegate Service Desk open for Convention Registration
7:00am – 8:30am	<b>ALGWA (WA) AGM and Breakfast (\$70)</b> Register online via Delegate Registration. Other enquiries to Cr Karen Wheatland, City of Melville – 0401 335 642 or <a href="mailto:CrKaren.Wheatland@melville.wa.gov.au">CrKaren.Wheatland@melville.wa.gov.au</a>
7:30am – 8:45am	<b>Breakfast with Heads of Agencies</b> This breakfast is for Mayors, Presidents and CEOs only and invitations will be sent directly. Sponsored by Aware Super.
9:00am – 12:45pm	<b>WALGA Annual General Meeting</b> (includes recognition of Honours Award recipients)
12:45pm – 1:45pm	Lunch for AGM attendees
12:45pm – 1:45pm	<b>2021 Honour Awards Lunch</b> (by invitation only)
1:50pm – 3:00pm	<b>Opening Keynote Speaker: The Honourable Julie Bishop</b>
3:00pm – 3:40pm	Afternoon Tea
3:40pm – 5:00pm	<b>Local Government, a Federal Perspective</b> <b>Hon Mark Coulton MP</b> , Minister for Regional Health, Regional Communications and Local Government <b>Hon Jason Clare MP</b> , Shadow Minister for Regional Services, Territories and Local Government; Housing and Homelessness Moderated by <b>Liam Bartlett</b>
6:30pm – 11:00pm	<b>Gala Dinner, Optus Stadium (\$165)</b> Put aside business for the night and enjoy a stunning view, food, drinks and dancing Includes announcement of #shoWcAse in Pixels winners

## Tuesday, 21 September

7:00am	Delegate Service Desk open for Registration
7:00am – 8:45am	<b>PHAIWA Local Government Policy Awards and Breakfast</b> For more information or to register for this breakfast, please visit <a href="http://www.phaiwa.org.au">www.phaiwa.org.au</a>
7:30am – 8:45am	<b>Convention Breakfast with Jelena Dokic (\$95)</b>
8:50am	<b>Minding Your Mental Health</b> – Panel Discussion  Aboriginal and non-Aboriginal mental health is an issue that all Australians need to confront to offer genuine support and care for those affected and to help mitigate risks in workplaces and interactions. Local Government in particular, with its role as a major employer and provider of community services, needs to continuously explore how mental health issues manifest and evolve to best inform their options in responding.  <b>Hon Pru Goward</b> , former Cabinet Minister <b>Greg Hire</b> , Founder, A Stitch in Time <b>Glenn Mitchell</b> , former leading ABC sports broadcaster
10:00am	<b>State and Federal Political Insights</b> A conversation centred on the political landscape including the current State Government's performance following the recent State Government Election and an overview of Federal Government initiatives, emerging critical issues and the media response.  <b>Paul Kelly</b> , Editor-at-Large, <i>The Australian</i> <b>Anthony De Ceglie</b> , Editor-in-Chief, <i>The West Australian</i>
10:40am – 11:15am	Morning Tea

11:15am

## CONCURRENT SESSIONS

### **Recovery from Emergencies in WA**

Western Australia communities have been hit hard by emergencies in 2021. In February, a fire ignited in the Wooroloo area in the Shire of Mundaring. The blaze rapidly escalated to a level 3 fire, burning for almost a week and crossing two Local Government areas, destroying 86 homes and causing widespread damage.

In April, Tropical Cyclone Seroja made landfall between Kalbarri and Port Gregory. Winds of up to 170 kilometres an hour left a trail of destruction over 35,000 square kilometres of Western Australia. Throughout 10 Local Government areas; it destroyed homes, businesses, resorts, sheds, fences and water stations, leaving thousands of people homeless and without power and communication for extended periods.

Whilst Local Government has the legislative responsibility for recovery, the scale and significance of both of these recovery effects, has seen the State appoint a State Recovery Controller for each of these events to lead the whole of government approach to recovery efforts.

During this session, we will hear the experience of those involved and learn about how they managed the unique challenges of these extensive recovery efforts.

### **Governance: Roles & Responsibilities**

The purpose and intent of the Local Government Act 1995 is to provide efficient and effective good governance to communities. Inherent in this purpose and intent is the separation of powers principle which, as Parliament considered when the Act was introduced in 1993, stated ‘...there will be clear specifications of the roles of key players ... to promote efficiency ...and to avoid conflicts caused by uncertainty...’.

The question of separation of powers remains a focus of Local Government advocacy and has featured in the Final Report of the Local Government Review Panel, Report of the Inquiry into the City of Perth and Select Committee into the Local Government Final Report.

This session will examine why this remains a topic of interest to the sector, scenarios that led to commentary in recent Reports and how proposals for improvements in role clarity will foster efficient and effective Local Government.

### **Elected Members:**

### **Champions of economic resilience and community prosperity**

As community leaders and key decision makers, Elected Members have an important role to play in supporting local economic development and prosperity. This session provides a valuable opportunity to get exclusive access to Economic Development Australia's (EDA's) new economic development education and training program and will cover important topics such as:

- principles for economic development planning
- leading recovery and building resilience for your community; and
- being an Economic Development Champion - promoting economic prosperity for your community

Economic Development Australia (EDA) is the national peak body for economic development professionals.



## Tuesday, 21 September (continued)

12:45pm – 1:40pm      Lunch

### 1:40pm      CONCURRENT SESSIONS

#### **Bushfire Volunteers**

Western Australians in rural and pastoral areas rely heavily on Bush Fire Brigade volunteers to keep them safe from the threat of fire. Local Governments are responsible for administering and training the 19,500 volunteers in 565 bushfire brigades around the State.

This session will provide the latest information on volunteer workplace health and safety obligations, training opportunities and the changing landscape in attracting and retaining bushfire volunteers.

#### **Local Government Audits**

The WA State Government amended legislation and regulations to provide for the Auditor General to be responsible for undertaking Local Government audits effective from 1 July 2018. The Office of the Auditor General (OAG) phased in over three years the responsibility for undertaking the audits previously carried out by Local Government appointed commercial contract auditors.

This session will provide information on the:

- Experience of initial three years of financial audits
- Lessons learnt from the OAG perspective
- OAG perspective on Local Government financial statutory provisions
- Expectations for future auditing
- Overview of Local Government Performance Audits and future focus

#### **Waste Avoidance and the impact of the Waste Export Bans**

In WA, the majority of material that is recycled through the kerbside recycling bin is exported for reprocessing and use in new products. That's all set to change with the introduction of export bans for plastic, paper and cardboard. As of 1 July 2021, mixed plastic, which is about 4% of what is collected through the kerbside recycling bin, will no longer be able to be exported and will be reprocessed locally. While this is a good outcome in relation to increasing transparency of where material goes, it is likely to have a financial impact on the costs of kerbside recycling.

This session will outline the impact of the export bans, the local processing options being developed and ultimately the best thing that Local Government and the community can do with waste – avoid it completely.

3:10pm- 3:45pm      Afternoon Tea

### 3:45pm      Closing Speaker: Grace Tame

4:45pm      Official Close of the 2021 Local Government Convention

## Wednesday, 22 September (post-conference)

8:30am Delegate Service Desk open

### 9:00am – 11:30am **Field Trip: Bushmead Estate, Shaped by Nature (\$70)**

Bushmead Estate, 16 km east of Perth's CBD, is a new land development located in the City of Swan that has placed the pristine natural bushland at the forefront of design, with every household connected to the bush. The development which will eventually be home to around 950 new dwellings aims to minimise the environmental footprint and places high importance on the retention of trees within the development. Bushmead is also one of the few estates in Western Australia to have received 6-Leaf EnviroDevelopment Accreditation, ensuring sustainable living for residents.

The land developer, Cedar Woods, will discuss the sustainability features of the estate and the process involved around tree retention from planning to construction, and participants will view a development shaped by the natural site features and experience the parks and walking trails of this unique community.

Includes bus transfers from Crown Perth and Morning Tea.

### 9:00am – 12:00pm **Field Trip: Construction Futures Centre (\$70)**



Construction Training Fund (CTF) is a government statutory authority creating a skilled Western Australian construction workforce. It collects a training levy, helps pay for training, conducts research, showcases training and career opportunities and makes a contribution to building our communities. It also operates an interactive venue, the Construction Futures Centre in Belmont, designed to educate school aged children, young adults and others to consider the many job options on offer within the industry.

Join this tour to explore a range of virtual and augmented reality technologies, artefacts, videos, games and static displays that offer a unique insight into the scope of WA's building and construction industry.

Includes bus transfers from Crown Perth and Morning Tea.

### 9:30am – 3:00pm

### **WALGA Forum on Aboriginal Engagement and Reconciliation**

Hear from State Government on key Native Title Settlements in WA, and learn from Local Governments about the process of commencing Reconciliation Action Plans (RAPs) through to embedding reconciliation activities as core business. Join Traditional Owners and Aboriginal leaders for a round-table yarn on opportunities and barriers experienced by local Aboriginal communities, and the positive impact Local Government can make. The program will cover Aboriginal engagement methods, employment and economic opportunities, cultural awareness and interpretation, and traditional ecological knowledge in landcare.

Separate registration - [CLICK HERE](#) for more information



# PARTNER ACTIVITIES

Registration is required for all activities – prices include GST. Please contact WALGA for more information should your partner be interested in attending a particular conference session.

## SUNDAY, 19 September

### Fremantle Tour

8:30am – 4:00pm \$175

Departing Crown Perth at 8:30am we make our way to Fremantle where you will be taken on a private tour of Fremantle Prison. Following the tour, we will replenish ourselves with a two-course lunch at the National Hotel. From there we do a short walking tour of Fremantle before heading back to Crown Perth via train.

**Please note:** We recommend comfortable walking shoes for this tour.

**Includes:** Coach transfer, morning tea, tour of Fremantle Prison, Lunch at the National Hotel, walking tour, return train to Crown Perth and Guide

(Minimum 15 – maximum 20)

### Opening Welcome Reception

5:00pm – 6:30pm \$85

## MONDAY, 20 September

### Shaken not Stirred Cocktail Course

2:00pm – 4:00pm \$90

Get ready to have fun and learn how to make cocktails! Held at Crown Perth, your Cocktail Master will teach you insider mixologist techniques and fun facts about each cocktail. All you have to do is sip and enjoy while the demonstrations are given and the ingredients for the next cocktail are prepared.

**Includes:** 2-hour cocktail course

(Minimum 15 maximum 35)

### Convention Gala Dinner at Optus Stadium

6:30pm – 11:00pm \$165

## TUESDAY, 21 September

### Breakfast with Jelena Dokic

7:30am – 8:45am \$95

### Optus Stadium Tour and Morning Tea

8:30am – 11:30am \$70

This private tour presents an exclusive opportunity to explore Optus Stadium. It will be followed by morning tea at the gorgeous City View Café.

**Please note:** We recommend comfortable walking shoes for this tour and a reasonable level of fitness as there is a lot of walking involved.

**Includes:** Guide, Morning Tea and Private Tour of Optus Stadium.

(Minimum 12 – maximum 20)

### Matagarup Bridge Climb and Zip

12:30pm – 4:00pm \$175

Dare if you will, to climb Matagarup Bridge and Zip down. Afterwards we will have celebratory drinks and nibbles at The Camfield Tavern.

**Includes:** Matagarup Bridge Zip & Climb Adventure for 2 hours, Drinks & Nibbles and Guide

(Minimum 8 – maximum 16)

# GENERAL INFORMATION

## ONLINE CONVENTION REGISTRATIONS

Visit [www.walga.asn.au/lgc21](http://www.walga.asn.au/lgc21) to complete your registration online

Full Delegate fees cover the daily conference program, lunches, refreshments, and the Opening Reception on Sunday, 19 September. The Convention Gala Dinner on Monday evening and Convention Breakfast on Tuesday morning are optional, and a ticket fee applies.

## Convention Fees

Prices are per person and are all inclusive of GST.

Deadline for all Registrations is  
**Wednesday, 1 September 2021**

### Convention Registration

Full Delegate	\$1,200
WALGA Life Members	Complimentary
Corporate	\$1,500

### Optional Extras

ALGWA AGM and Breakfast (Monday)	\$70
Gala Dinner at Optus Stadium (Monday)	
Delegates/Exhibitors/Partners	\$165
Life Members and their partners	\$95
Convention Breakfast with Jelena Dokic (Tuesday)	\$95

### Partners/Guests

Opening Reception (Sunday)	\$85
Lunch (Monday/Tuesday)	\$50
Partner Tours	Individual tour fees as listed

Please contact WALGA for more information should your partner like to attend a particular conference session.

## Changes to your registration

You can modify your online booking at any time before the close of registrations. Once you have completed your registration, an email with your confirmation number will be emailed to you. Click on the link and enter your confirmation number to make any changes or additions to your reservation.

**Registration cancellations** must be advised **in writing** prior to the deadline date of **Wednesday, 1 September**. Thereafter full fees are payable. Alternatively, a registration may be transferred to another member of the Council.

## Special Requirements

Special dietary requirements, mobility or any other special needs should be indicated when registering – WALGA will use its best endeavours to meet these requests.

## Accommodation

Hotel information is available at [www.walga.asn.au/lgc21](http://www.walga.asn.au/lgc21). Reservations are to be made direct with hotel. Please note that city hotels have limited guest parking so please clarify these arrangements when booking.

## Crown Perth Parking

There is a range of free, paid, undercover and open car parks at Crown Perth; including over 3000 free parking bays available across the property plus 50 accessible ACROD parking bays.

To view the Crown Perth Parking Map, please [CLICK HERE](#). Access to Crown Perth is also available via train (Armadale & Thornlie Lines), bus (Great Eastern Highway) and taxi/ride share.

Information in this brochure is correct at time of printing but may be subject to change



## ENQUIRIES

Ulla Prill, Event Manager | T 08 9213 2043 | E [registration@walga.asn.au](mailto:registration@walga.asn.au)

PRESENTED BY



**WALGA**

**ONE70** LV1, 170 Railway Parade, West Leederville WA 6007

**T** (08) 9213 2000 | **E** [info@walga.asn.au](mailto:info@walga.asn.au)

**www.walga.asn.au**



# Notice of Annual General Meeting and Procedural Information for Submission of Motions

## Crown Perth Monday, 20 September 2021

Deadline for Agenda Items  
(Close of Business)  
Friday, 16 July 2021

# 2021 Local Government Convention

## General Information

### **WALGA Annual General Meeting**

The Annual General Meeting for the Western Australian Local Government Association (WALGA) will be held from 9:00am on Monday, 20 September 2021. This event should be attended by delegates from all Member Local Governments.

### **Cost for attending the Annual General Meeting**

Attendance at the Annual General Meeting is **free of charge** to all Member Local Governments. Lunch will be provided. Delegates must register their attendance in advance.

### **Submission of Motions**

Member Local Governments are invited to submit motions for inclusion on the Agenda for consideration at the 2021 Annual General Meeting. Motions should be submitted in writing to the Chief Executive Officer of WALGA.

The closing date for submission of motions is **5:00pm Friday, 16 July**.

*Please note that any motions proposing alterations or amendments to the Constitution of WALGA must be received by **5:00pm Friday, 2 July** in order to satisfy the 60 day constitutional notification requirements.*

The following guidelines should be followed by Members in the formulation of motions:

- Motions should focus on policy matters rather than issues which could be dealt with by the WALGA State Council with minimal delay.
- Due regard should be given to the relevance of the motion to the total membership and to Local Government in general. Some motions are of a localised or regional interest and might be better handled through other forums.
- Due regard should be given to the timeliness of the motion – will it still be relevant come the Local Government Convention or would it be better handled immediately by the Association?
- The likely political impact of the motion should be carefully considered.
- Due regard should be given to the educational value to Members – i.e. does awareness need to be raised on the particular matter?
- The potential media interest of the subject matter should be considered.
- Annual General Meeting motions submitted by Member Local Governments must be accompanied by fully researched and documented supporting comment.

## Criteria for Motions

As per the Corporate Governance Charter, prior to the finalisation of the agenda, the WALGA President and Chief Executive Officer will determine whether motions abide by the following criteria:

Motions will be included in the Business Paper agenda where they:

1. Are consistent with the objects of the Association (refer to clause 3 of the constitution);
2. Demonstrate that the issue/s raised will concern or are likely to concern a substantial number of Local Governments in WA.;
3. Seek to advance the Local Government policy agenda of the Association and/or improve governance of the Association;
4. Have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
5. Are clearly worded and unambiguous in nature;

Motions will not be included where they are:

6. Consistent with current Association advocacy/policy positions. (As the matter has previously considered and endorsed by the Association).

Motions of similar objective:

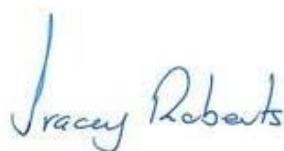
7. Will be consolidated as a single item.

Submitters of motions will be advised of the determinations.

Enquiries relating to the preparation or submission of motions should be directed to Kathy Robertson, Executive Officer Governance on (08) 9213 2036 or [krobertson@walga.asn.au](mailto:krobertson@walga.asn.au).

## Emergency Motions

No motion shall be accepted for debate at the Annual General Meeting after the closing date unless the Association President determines that it is of an urgent nature, sufficient to warrant immediate debate, and delegates resolve accordingly at the meeting. Please refer to the AGM Standing Orders for details.



**Mayor Tracey Roberts JP**  
**President**



**Nick Sloan**  
**Chief Executive Officer**

# EMAIL BACK

## Voting Delegate Information 2021 Annual General Meeting



TO: Chief Executive Officer

Registered:

All Member Councils are entitled to be represented by two (2) voting delegates at the Annual General Meeting of the WA Local Government Association to be held on Monday, 20 September 2021 at Crown Perth.

Please complete and return this form to the Association by **Friday, 27 August** to register the attendance and voting entitlements of your Council's delegates to the Annual General Meeting.

In the event that a Voting Delegate is unable to attend, provision is made for proxy delegates to be registered.

Only registered delegates or proxy registered delegates will be permitted to exercise voting entitlements on behalf of Member Councils. Delegates may be Elected Members or serving officers.

**Please Note: All Voting Delegates will need to present at the WALGA Delegate Service Desk prior to the AGM to collect their electronic voting device (keypad) for voting and identification tag to gain entry into the Annual General Meeting.**

VOTING DELEGATES	PROXY Voting Delegates
Name of Voting Delegates (2):  Cr Rosemary Madacsi, Shire President .....  Cr Beth Ruthven, Deputy Shire President .....	Name of Proxy Voting Delegates (2):  Cr Susan Pearce, Councillor .....  Cr Mick McKeown, Councillor .....

For (Local Government Name): Shire/Town/City of ..... Toodyay

**Signature Chief Executive Officer**

(An electronic signature is required if submitting via email) Suzie L Haslehurst - CEO

Date

28 / 07 / 2021

ON COMPLETION PLEASE EMAIL TO: [krobertson@walga.asn.au](mailto:krobertson@walga.asn.au)

Kathy Robertson, Executive Officer Governance

9 July 2021



**Notice  
of  
Proposed Amendments  
to the Association  
Constitution**

WALGA  
Annual General Meeting  
Monday, 20 September 2021

## Notice of Item Proposing Amendments to the Association Constitution

The following item will be presented as an item of business at the WALGA Annual General Meeting to be held on Monday, 20 September 2021 at Crown Perth.

As per Clause 29 of the Constitution (**below**), amendment to the Constitution requires a resolution passed by special majority by both State Council and at a general meeting.

The amendments to the Constitution detailed in the attached item were endorsed by State Council at their 7 July 2021 meeting. The information contained in this notice will be included in the agenda papers for the Annual General Meeting.

This notice complies with the requirements of Clause 29(2)(b) that the WALGA Chief Executive Officer must give at least 60 days' notice of any proposal to alter the Constitution.

### ***Clause 29 – Amendment to the Constitution***

*The Constitution of the Association may be altered, added to or repealed by:*

- (1) *A resolution at any meeting of the State Council on the receipt of a special majority of not less than 75% of representatives as, being entitled to do so, vote in person or by their deputy representatives; and*
- (2) *A resolution at an Annual General Meeting or Special General Meeting passed by a majority of not less than 75% of delegates as, being entitled to do so, vote in person or duly authorize a proxy vote to be exercised on their behalf, provided that:*
  - a. *75% of Ordinary Members who are eligible to vote are present or represented; and,*
  - b. *The Chief Executive Officer has given not less than sixty (60) days notice of any proposal to alter, add or repeal the Constitution to all Ordinary Members.*

## Amendments to WALGA's Constitution (01-001-01-0001 TL)

By Tim Lane, Manager Strategy and Association Governance

### Recommendation

That the WALGA Constitution be amended as follows:

1. INSERT Definition – “Present” means attendance in person or by electronic means deemed suitable by the Chief Executive Officer.
2. Clause 5 (10) – DELETE “and Associate Members”.
3. Clause 5 (11) – DELETE “Ordinary Member or”, REPLACE “State Council” with “Chief Executive Officer” in the first sentence, INSERT “or its delegate” after State Council in the second sentence.
4. Clause 6 (3) – REPLACE “31 May” with “30 June”.
5. Clause 7 (2) – REPLACE “30 June” with “31 July”.
6. Clause 11 (1) – after Chief Executive Officer, INSERT “in accordance with the Corporate Governance Charter”.
7. Clause 11 (2) – after Chief Executive Officer INSERT “by providing notice to State Councillors of the date, time, place and purpose of the meeting”
8. DELETE Clause 11 (3)
9. Clause 12 (1) – DELETE “as, being entitled to do so, vote in person”
10. DELETE Clause 12 (2)
11. Clause 12 (3) – DELETE “as, being entitled to do so, vote in person”
12. Clause 12 (4) – DELETE “as, being entitled to do so, vote in person”
13. Clause 16 (1) & (2) – After Any election INSERT “other than to elect the President or Deputy President”, REPLACE “generally in accordance with the provisions of the *Local Government Act 1995* as amended (2) For the purposes of the election referred to in sub-section (1)” with “as follows”.
14. Clause 16 (2) (f) – REPLACE two instances of “2” with “1”.
15. INSERT Clause 16A – Election Procedure – President and Deputy President
  - (1) An election to elect the President or Deputy President shall be conducted as follows:
    - (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
    - (b) representatives are to vote on the matter by secret ballot;
    - (c) votes are to be counted on the basis of “first-past-the-post”;
    - (d) the candidate who receives the greatest number of votes is elected;
    - (e) if there is an equality of votes between two or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued, and the meeting adjourned for not more than 30 minutes;
    - (f) any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes;
    - (g) when the meeting resumes, an election will be held in accordance with sub-sections 1(a), 1(b), 1(c) and 1 (d);
    - (h) if two or more candidates receive the same number of votes so that sub-section 1(d) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.
16. Clause 21 (4) – REPLACE “Chairman” with “Chair”.
17. Clause 22 (1) – REPLACE “in August or September of” with “prior to 31 October”.
18. Clause 22 (3) – DELETE “in person”
19. DELETE Clause 22 (4) (b).
20. Clause 23 (3) – DELETE “in person”
21. Clause 24 (2) – DELETE “and of which vote is to be exercised in person”
22. Clause 24 (4) – DELETE “as, being entitled to do so, vote in person”

23. **Clause 28 (1) – DELETE “The common seal shall be held in the custody of the Chief Executive Officer at all times.”**
24. **Clause 29 (1) – DELETE “as, being entitled to do so, vote in person”**
25. **Clause 29 (2) – DELETE “as, being entitled to do so, vote in person”**
26. **Clause 31 (4) (c) – DELETE “and Regional Development”.**

**Voting Requirement:** **SPECIAL MAJORITY**

### **Executive Summary**

- A number of amendments are proposed to the WALGA Constitution;
- Amendments are necessary:
  - To remove requirements for delegates to attend annual and special general meetings in person; and,
  - As a result of WALGA’s change of financial year end to 30 June, from the previous 31 May year end.
- Other amendments are proposed to:
  - Allow a second vote to be conducted if two candidates tie in an election for President or Deputy President;
  - Clarify the application process for Ordinary and Associate Members;
  - Simplify the process for providing notice of State Council meetings;
  - Allow motions at Special State Council meetings to be passed with a simple, as opposed to absolute, majority, except as required elsewhere in the Constitution, such as the absolute majority requirement to adopt the budget; and,
  - Tidy up outdated wording.
- The proposed amendments to the Constitution were passed at the 7 July 2021 State Council meeting by a Special Majority.
- Consequently, these Constitutional Amendments are now being put to the 20 September 2021 Annual General Meeting.

### **Attachment**

- WALGA Constitution – Proposed Amendments Mark-Up

### **Background**

Amendments to the Constitution are required to allow delegates to attend and vote virtually through a videoconference, webinar or other platform at Annual or Special General Meetings of the Association if required.

In addition, WALGA has this year changed its financial year end from 31 May to 30 June. The 30 June year end means that WALGA’s financial year now aligns with Local Governments’ year end. Amendments to clauses relating to the budget, termination of membership and the timeframe for holding the AGM are required as a result of this change.

The requirement to amend the Constitution has provided an opportunity to amend the election procedure for WALGA President and Deputy President. The proposed change would enable a second ballot to be held if two or more candidates are tied for the position. This aligns with the procedure in the *Local Government Act 1995* for the election by Council of Mayors, Presidents, Deputy Mayors and Deputy Presidents.

Other minor changes to remove outdated and tidy up wording are proposed, as per the mark-up version of the Constitution attached.

**Comment**

Amendments to the Constitution require endorsement by a special (75 percent) majority at State Council, as well as a 75 percent majority at an Annual General Meeting or Special General Meeting.

As the proposed amendments were endorsed by State Council at the 7 July meeting, they are now being put to the 20 September 2021 WALGA Annual General Meeting.



## Attachment

## WALGA Constitution – Proposed Amendments Mark-Up

# Association Constitution

**Adopted:** 7 August 2001

**Amended:** 8 August 2004  
6 August 2006  
5 August 2007  
6 August 2011  
7 August 2013  
3 August 2016  
1 August 2018

# **Constitution**

## **Preamble**

This Constitution serves as the instrument for establishment of the Western Australian Local Government Association (WALGA).

WALGA marks the progression from a structure in which the Western Australian Municipal Association (WAMA) serves as a federation of three separate constituent Associations to a single association tasked with directly representing the needs and interests of all Western Australia.

The Constituent Associations of WAMA were: the Country Shire Councils' Association (dissolved in August 2003), the Country Urban Councils' Association (dissolved in August 2002) and the Local Government Association (dissolved in August 2003).

The establishment of WALGA in 2001 represents an evolution in the process by Local Government to promote more effective representation on behalf of its elected membership and the broader community.

Central to this process is the recognition of the sense of history and significant contribution of WAMA's constituent Associations, both in terms of the creation of WALGA and in the pursuit of aims and objectives on behalf of all Western Australian Local Governments as represented within this Constitution.

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## 1. NAME

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The name of the Association is “**Western Australian Local Government Association**”.

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## 2. INTERPRETATION

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(1) Throughout this Constitution, if not inconsistent with the context:

“**Absolute Majority**” means, in relation to the State Council or any General Meeting of the Association, a majority comprising enough of the representatives of the State Council or delegates of Ordinary Members for the time being for their number to be more than 50% of the number of voting positions of representatives or delegates (whether present and voting or not);

“**Annual General Meeting**” means the meeting convened under clause 22 of this Constitution;

“**Association**” means Western Australian Local Government Association (WALGA);

“**Associate Member**” means:

- in relation to the Association, those Members of the Association referred to in sub-clause 5(6) and those persons admitted as Associate Members of the Association in accordance with sub-clause 5(9); or
- in relation to a Zone, those Ordinary Members of the Association admitted as Associate Members of a Zone in accordance with sub-clause 14(9);

“**Chief Executive Officer**” means the Chief Executive Officer of the Association;

“**Code of Conduct**” means the written guidelines which define the minimum standards of professional conduct and integrity that are expected of all State Council members.

“**Commissioner**” means a commissioner appointed to a Local Government under sections 2.6(4) or 2.36A(3) of the *Local Government Act 1995*;

“**Constituency**” means such country and metropolitan groupings of Ordinary Members as the Association for the time being, may determine;

“**Councillor**” has the same meaning as under the *Local Government Act 1995* except that it includes a mayor or president elected by electors and includes a Commissioner appointed under section 2.6(4) or section 2.36A(3) of the *Local Government Act 1995*;

“**Country Constituency**” means the Ordinary Members as are grouped within the geographical area of the State of Western Australia not included within the boundaries of the Metropolitan Region Planning Scheme;

“**Country Shire Councils’ Association**” means the Country Shire Councils’ Association constituted under section 9.58 of the *Local Government Act 1995*;

“**Country Urban Councils’ Association**” means the Country Urban Councils’ Association of Western Australia constituted under section 9.58 of the *Local Government Act 1995*;

**“Delegate”** means a councillor or officer nominated or appointed to represent an Ordinary Member and exercise voting entitlements at General Meetings of the Association pursuant to clauses 22 and 23 of this Constitution, or on a Zone pursuant to clause 14 of this Constitution;

**“Deputy President”** means the Deputy President for the time being of the Association;

**“Ex-officio”** means a person or organisation who has an entitlement to membership of the State Council or another committee, by virtue of their office, but is not entitled to exercise a deliberative vote on any matter before the State Council or another committee;

**“Governance Charter”** means the written policy document that clearly defines the respective roles, responsibilities and authorities of the President, State Council members (individually and collectively) and the Chief Executive Officer in setting the direction, management and control of the Association.

**“In Writing”** means notice provided by posting or transmission in electronic form;

**“Life Members”** means those members of the Association referred to in sub-clause 5(1) and those persons admitted as Life Members of the Association in accordance with sub-clause 5(8) of this Constitution;

**“Local Government”** means an entity constituted under Part 2 of the Western Australian *Local Government Act 1995*;

**“Local Government Act”** means the Western Australian *Local Government Act 1995*;

**“Local Government Association”** means the Local Government Association of Western Australia constituted under section 9.58 of the *Local Government Act 1995*;

**“Local Government Professionals Australia WA”** means the Western Australian Division of Local Government Professionals Australia;

**“Member”** means:

- in relation to the Association, a Local Government, organisation or person admitted to Ordinary, Life or Associate membership of the Association in accordance with the provisions of this Constitution; or
- in relation to a Zone, those Ordinary Members of the Association that are determined to be members of a Zone by State Council in accordance with sub-clause 14 (2); or
- a new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation.

**“Metropolitan Constituency”** means the Ordinary Members as are grouped within the geographical area of the State of Western Australia within the Metropolitan Region Planning Scheme;

**“Ordinary Member”** means a Local Government admitted to membership of the Association in accordance with the provisions of this Constitution and includes a new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation;

**“President”** means the President for the time being of the Association;

**“Present”** means attendance in person or by electronic means deemed suitable by the Chief Executive Officer

**“Representative”** means a member on the State Council elected or appointed by the country and metropolitan constituencies in accordance with the provisions of sub-clause 9(1) and 9(3);

**“Secretariat”** means the staff of the Association appointed from time to time by the State Council and includes the Chief Executive Officer;

**“Special General Meeting”** means the meeting convened under clause 23 of this Constitution.

**“Special Majority”** means, in relation to the State Council or any General Meeting of the Association, a majority comprising enough of the representatives of the State Council or delegates of Ordinary Members for the time being for their number to be at least 75% of the number of representatives or delegates (whether present and voting or not);

**“Simple Majority”** means, in relation to the State Council or any General Meeting of the Association, a majority comprising enough of the representatives of the State Council or delegates of Ordinary Members for the time being for their number to be more than 50% of the number of representatives or delegates that are present;

**“State Council”** means the governing board of the Association established pursuant to clause 9; and

**“Zone”** means a geographically based subdivision containing Ordinary Members and incorporated within a country and metropolitan constituency. The country and metropolitan zones are set out in the Register of Zone Membership referred to in sub-clause 14(8).

(2) In this Constitution:

- (a) a reference to any written law, whether specific or general, includes a reference to all amendments, modifications, re-enactments or replacements and includes all orders, ordinances, regulations, rules and by-laws made under or pursuant to that written law;
- (b) words meaning persons include natural persons, corporations and associations; and
- (c) the headings shall not affect the interpretation or construction of this Constitution.

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### 3. OBJECTS

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The objects of the Association shall be:

- (a) to provide a united voice for Local Government in Western Australia;
- (b) to promote the credibility and profile of Local Government;
- (c) to speak on behalf of Local Government in Western Australia;

- (d) to represent the views of the Association to the State and Federal Governments on financial, legislative, administration and policy matters;
- (e) to provide services to Local Government in Western Australia;
- (f) to promote Local Government issues of importance by involvement with national bodies;
- (g) to do all and any such other things as in the opinion of the State Council may conveniently be carried on by the Association or which promote or assist or are incidental or conducive to the attainment of these objects or any of them, or anything considered beneficial to the members of the Association; and
- (h) to use the property and income of the Association solely for the promotion of the objects or purposes of the Association. No part of the property or income of the Association may be paid or otherwise distributed, directly or indirectly, to members of the Association, except in good faith in the promotion of those objects or purposes.

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#### **4. POWERS**

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- (1) The Association shall have such specific powers as may be vested in it from time to time by the Ordinary Members. The initial powers of the Association are set out in the Register of Powers (Schedule One).
- (2) The powers of the Association may be added to, amended, withdrawn, modified or substituted in accordance with the provisions of sub-clause 12(3).
- (3) The Chief Executive Officer shall keep an up-to-date copy of the Register of Powers which records all changes and the dates thereof. The Register of Powers shall be open for inspection to the representatives of Ordinary Members during office hours and on reasonable notice.
- (4) Subject to obtaining the requisite majority support, the Association shall have general power to act in connection with all other matters in its discretion.
- (5) The Association may do all acts and things as are necessary, incidental or conducive to the attainment or execution of its objects and shall have all the powers conferred on an association constituted under section 9.58 of the *Local Government Act 1995* including, but without limitation, power to:
  - (a) acquire hold and dispose of real and personal property;
  - (b) accept any gift of any real or personal property or any interest or estate in that property or disclaim the benefit of any such gift;
  - (c) sue and be sued; and
  - (d) do all things that bodies corporate may do.

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#### **5. MEMBERSHIP OF THE ASSOCIATION**

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- (1) Three classes of membership to the Association shall be available:

- (a) Ordinary Membership;
- (b) Associate Membership; and
- (c) Life Membership.

(2) Ordinary Membership of the Association shall be open to all Western Australian Local Governments.

(3) Ordinary membership shall be immediately conferred upon any new Council created by the merger of existing Councils that were Ordinary Members of the Association prior to the merger, provided that all membership fees and subscriptions owed to the Association up to the date of merger by the predecessor Councils of that new Council have been paid.

(4) An Ordinary Member shall belong to either the metropolitan constituency or the country constituency, but not both.

(5) Subject to subclause (5), if an Ordinary Member has land both within and outside the Metropolitan Region Planning Scheme (MRPS), if the greater land area is in the MRPS, it will be deemed to be in the metropolitan constituency, otherwise it will be deemed to belong to the country constituency; or

(6) State Council, on application from an Ordinary Member, may resolve to set aside the general rule prescribed in subclause (4) and permit an Ordinary Member to be a member of an alternate constituency. In considering any application made pursuant to this subclause, State Council shall give regard to the reasons provided in support of the application and any views expressed by Ordinary Members within the two constituencies. State Council may approve or refuse any application, advising accordingly and including any reason therefore.

(7) Associate Members shall be:

- (a) the Local Government Professionals Australia WA; and
- (b) any other Associate Member admitted to membership pursuant to sub-clause 5(11).

(8) Associate Members are ineligible to vote at all meetings of the Association.

(9) The State Council from time to time will determine nominations for Life Membership of the Association.

(10) Additional Ordinary Members ~~and Associate Members~~ may be admitted from time to time on a simple majority resolution of the State Council.

(11) Any person or organisation seeking admission as an Ordinary Member or Associate Member shall make written application to the State CouncilChief Executive Officer. The State Council or its delegate shall consider the application and may admit or refuse the applicant, advising accordingly including any reason therefore.

(12) If an application for membership is granted, the membership shall commence upon payment of the appropriate subscription.

(13) The Chief Executive Officer shall keep and maintain in an up-to-date condition a Register of the Members of the Association. The Register shall be open for inspection

to the representatives of Ordinary Members during office hours and on reasonable notice.

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## **6. TERMINATION OF MEMBERSHIP OF THE ASSOCIATION**

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- (1) Membership of the Association may be terminated upon -
  - (a) receipt by the Chief Executive Officer of not less than 3 months notice in writing from a Member requesting to withdraw from membership of the Association; or
  - (b) non-payment by a Member of the required subscription within three months of the date fixed by the State Council for subscriptions to be paid, unless the State Council decides otherwise; or
  - (c) expulsion of a Member in accordance with clause 30.
- (2) Pursuant to subclause 6(1), where the membership of an Ordinary Member is terminated, the Chief Executive Officer shall remove the name of the Ordinary Member from the Register of the Members of the Association and that Ordinary Member shall cease to be a Member of the Association.
- (3) A Member who withdraws from membership to the Association shall not be entitled to a refund of any portion of such subscription as the Member will have paid in advance for the period up to and including 31 May~~30 June~~ of that year.

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## **7. BUDGET**

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- (1) The Association's Budget shall be prepared annually by the Chief Executive Officer in consultation with the State Council, including such other Committees as the State Council may deem expedient pursuant to clause 21.
- (2) The Budget shall be submitted to the State Council for approval not later than 30 June~~31 July~~ prior to the financial year to which it relates.

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## **8. SUBSCRIPTION**

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- (1) The annual subscriptions of all Members of the Association shall be as determined by the State Council.
- (2) Subscription levels shall be submitted for approval by the State Council together with the relevant Budget each year.
- (3) Subscriptions shall be due and payable on such date or dates as the State Council may decide having regard to all relevant circumstances.

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## 9. STATE COUNCIL

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- (1) The State Council is to be the governing board of the Association, responsible for the management and affairs of the Association. Members of the State Council shall include:
  - (a) 12 Councillors elected as representatives from amongst the delegates to the Zones of the metropolitan constituency;
  - (b) 12 Councillors elected as representatives from amongst the delegates to the Zones of the country constituency;
  - (c) The President (ex-officio); and
  - (d) The President of Local Government Professionals Australia WA (ex-officio).
- (2) The metropolitan constituency and country constituency shall determine the allocation of representational positions on State Council between the Zones within each respective constituency.
- (3) Representatives and deputy representatives to the State Council shall be elected by Zones of the metropolitan and country constituencies from amongst the delegates to the Zones for a term commencing on the day of the first Ordinary Meeting of State Council immediately following the biennial Local Government elections and concluding on the day before the first Ordinary Meeting of State Council of the following biennial Local Government elections.
- (4) The State Council shall be the body responsible for establishment and review of the processes which are to be applied by the Zones of the metropolitan and country constituencies to determine the election of their representatives and deputy representatives to the State Council.
- (5) The Secretariat shall be the body responsible for coordinating the nominations and election processes by which the Zones of the metropolitan and country constituencies elect their representatives and deputy representatives to the State Council.
- (6) A deputy representative elected from amongst the delegates to that Zone to act in the capacity of a representative unable to attend a meeting of the State Council shall exercise all rights of that representative.
- (7) If for any reason, a representative or deputy representative is unable to hold office for the full period for which the representative or deputy representative was appointed, the affected Zone shall be entitled to fill that vacancy by appointing some other Councillor from within that Zone as a representative or deputy representative. The representative or deputy representative so appointed shall hold office for the balance of the term of the representative or deputy representative originally elected.

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## 10. PROCEEDINGS OF STATE COUNCIL

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- (1) The State Council must meet together for the dispatch of business not less than four times in each year.
- (2) Each representative on the State Council shall be entitled to exercise one (1) deliberative vote on any matter considered by the State Council provided that this clause shall not apply to any ex-officio members of the State Council. The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16 in which the President is entitled to a deliberative vote only.
- (3) At any meeting of the State Council, thirteen (13) representatives present and entitled to vote shall form a quorum.
- (4) The President shall preside at all meetings of the State Council.
- (5) In the absence of the President, the Deputy President shall preside at a meeting of the State Council. In presiding, the Deputy President shall be entitled to exercise one (1) deliberative vote in respect of a matter considered by the State Council, and in the event of there being an equality of votes in respect of a matter considered, shall exercise a casting vote.
- (6) In the absence of the President and Deputy President, the State Council shall choose a representative of the State Council to preside at the meeting of the State Council. The representative chosen to preside shall exercise a deliberative vote in respect of a matter considered by the State Council, and in the event of there being an equality of votes in respect of a matter being considered, shall exercise a casting vote.
- (7) The State Council shall establish a Corporate Governance Charter as the instrument to be used by State Council in implementing good governance policies, procedures and practices.
- (8) The State Council shall establish a Code of Conduct to which all State Council members must comply.
- (9) State Council shall adopt Standing Orders that will apply to all meetings.

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## 11. NOTICE OF STATE COUNCIL MEETINGS

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- (1) Ordinary Meetings of the State Council shall be called by the Chief Executive Officer in accordance with the Corporate Governance Charter.
- (2) Special Meetings of the State Council shall be called by the Chief Executive Officer by providing notice to State Councillors of the date, time, place and purpose of the meeting upon the written request of the President or at least one quarter of the representatives to the State Council.
- (3) ~~The Chief Executive Officer must give all members to the State Council at least 7 days' notice of a meeting unless all of the members have agreed in writing to shorter notice. Notice shall be at the destinations for members appearing in the records of the Association for the time being. Such notice shall specify the nature of the business to~~

~~be transacted at the meeting and shall be deemed to have been delivered immediately if transmitted electronically or, on the second date after posting.~~

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## **12. RESOLUTIONS OF STATE COUNCIL**

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- (1) Except as provided in this clause, all motions concerning the affairs of the Association shall be passed by a simple majority of the representatives of the State Council ~~as, being entitled to do so, vote in person~~ or by their deputy representatives.
- (2) ~~Any matter considered by the State Council at a Special Meeting convened pursuant to sub-clause 11 (2) of this Constitution, shall not be passed unless having received an absolute majority of representatives of the State Council as, being entitled to do so, vote in person or by their deputy representatives.~~
- (3)(2) The following resolutions shall not be passed unless they receive a special majority of not less than 75% of representatives of the State Council ~~as, being entitled to do so, vote in person~~ or by their deputy representatives:
  - (a) any addition, amendment, withdrawal, modification or substitution to, of or in the powers of the Association; or
  - (b) any allocation or change in allocation of any representation or voting rights on the State Council; or
  - (c) any change to the membership of Ordinary Members to Zones.
- (4)(3) The annual budget, including annual subscriptions, shall not be adopted unless passed by an absolute majority of representatives of the State Council ~~as, being entitled to do so, vote in person~~ or by their deputy representatives.

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## **13. CHIEF EXECUTIVE OFFICER AND SECRETARIAT**

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- (1) The State Council may appoint a Chief Executive Officer at such remuneration and on such terms and conditions and with such powers, authorities, discretions and duties as it deems appropriate and may terminate the appointment of the Chief Executive Officer.
- (2) The State Council may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Constitution from time to time in such manner as the State Council determines and the scope of which are set out in Schedule Two. The Chief Executive Officer shall be responsible for the establishment and maintenance of a Register of Powers, Authorities, Discretions and Duties delegated by the State Council.
- (3) Subject to the control of the State Council, the Chief Executive Officer shall be solely responsible for the appointment of the staff of the Secretariat and the administration of the Association.
- (4) The Chief Executive Officer shall be the custodian of records, books, documents and securities of the Association.

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## 14. ZONES

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- (1) Ordinary Members of the Association shall be grouped into Zones of the metropolitan and country constituencies.
- (2) The membership of Ordinary Members to Zones shall be determined from time to time by State Council.
- (3) The number of Zones shall be determined from time to time by the Ordinary Members of the Association at a Special or Annual General Meeting.
- (4) Each member of a Zone shall be entitled to be represented by a delegate or delegates elected or appointed by the member to represent its interests. Zones shall determine the number of delegates to which each member is entitled to be represented by on the Zone.
- (4a) The term of a person who is a delegate of a member of a Zone expires when the person:
  - (a) dies;
  - (b) ceases to be a Councillor of the Ordinary Member;
  - (c) resigns the position by notice in writing given to the Ordinary Member who elected or appointed the person as its delegate and the resignation is accepted;
  - (d) becomes a member of State or Federal Parliament;
  - (e) is convicted of an offence under the *Local Government Act 1995*;
  - (f) is permanently incapacitated by mental or physical ill-health; or
  - (g) is the subject of a resolution passed by the Ordinary Member who appointed the person as its delegate terminating their appointment as the delegate of that Ordinary Member.
  - (h) is a Councillor that has been suspended by the Minister for Local Government under part 8 of the *Local Government Act 1995*.
- (5) The management and affairs of the Zone shall be vested in the delegates that are elected or appointed to the Zone by each member of the Zone.
- (6) The functions of each Zone shall be:
  - (a) electing a representative or representatives and deputy representative or deputy representatives to the State Council;
  - (b) considering the State Council agenda;
  - (c) providing direction and/or feedback to their representative or representatives on the State Council; and
  - (d) any other functions deemed appropriate by the members of the Zone.
- (7) An application for change in membership between Zones may only be made by the member seeking to change its membership and with the approval of the receiving Zone.
- (8) Applications for changes in membership between Zones shall be determined by the State Council. In considering such applications, State Council shall give regard to the reasons provided in support of the application and any views expressed by the Zones

directly affected by the application. State Council may approve or refuse any application, advising accordingly and including any reason therefore.

- (9) The Chief Executive Officer is to keep and maintain in an up-to-date condition a Register of Zone Membership, which may be varied from time to time by State Council. Upon request of an Ordinary Member, the Chief Executive Officer shall make the Register available for inspection by the representatives of an Ordinary Member during office hours and on reasonable notice.
- (10) A Zone may, from time to time, resolve to admit an Ordinary Member or Associate Member of the Association from outside their existing membership as an Associate Member of their Zone. In considering whether to admit an Ordinary Member or an Associate Member of the Association as an Associate Member of a Zone, the Zone shall give regard to the significance of communities of interest between the existing membership of the Zone and the Ordinary Member or Associate Member of the Association that is seeking to become an Associate Member of the Zone.
- (11) Subject to subclause (12), Zones shall determine the participation of any Associate Member admitted to the Zone, including the extent to which the representatives of an Associate Member may speak to and vote on matters considered by the Zone.
- (12) An Associate Member of a Zone may not:
  - a) nominate a delegate for election to any office of the Zone;
  - b) participate in an election held for any office bearer of the Zone; or
  - c) vote on any matter considered by the Zone requiring a 75% majority.

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## **15. ANNUAL REPORT AND AUDITED FINANCIAL STATEMENTS**

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Prior to the Annual General Meeting, the President and Chief Executive Officer shall prepare the President's annual report and audited financial statements of the Association for presentation to Members at the Annual General Meeting.

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## **16. ELECTION PROCEDURE**

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- (1) Any election other than to elect the President or Deputy President held by the Association shall be conducted as follows: generally in accordance with the provisions of the Local Government Act 1995 as amended.
- (2) For the purposes of the election referred to in sub-section (1) –
  - (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
  - (b) representatives are to vote on the matter by secret ballot;
  - (c) votes are to be counted on the basis of "first-past-the post";
  - (d) if the election is to fill one vacancy, the candidate who receives the greater or greatest number of votes is elected;
  - (e) if the election is to fill two or more vacancies, the candidates elected are –
    - (i) the candidate who receives the greatest number of votes; and
    - (ii) the candidate who receives the next highest number of votes; and
    - (iii) the candidate who receives the next highest number of votes,

and so on up to the number of vacancies to be filled; and

(f) if two or more candidates receive the same number of votes so that sub-section 21(d) or 21(e) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.

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## **16A. ELECTION PROCEDURE – PRESIDENT AND DEPUTY PRESIDENT**

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(1) An election to elect the President or Deputy President shall be conducted as follows:

- (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
- (b) representatives are to vote on the matter by secret ballot;
- (c) votes are to be counted on the basis of “first-past-the-post”;
- (d) the candidate who receives the greatest number of votes is elected;
- (e) if there is an equality of votes between two or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued, and the meeting adjourned for not more than 30 minutes;
- (f) any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes;
- (g) when the meeting resumes, an election will be held in accordance with sub-sections 1(a), 1(b), 1(c) and 1 (d);
- (h) if two or more candidates receive the same number of votes so that sub-section 1(d) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.

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## **17. PRESIDENT**

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- (1) Subject to subclause 17(3) of this Constitution, the State Council shall elect a President from amongst those of its members that are representatives from the Zones of the metropolitan and country constituencies or were originally elected to State Council in that capacity.
- (2) The President shall be elected by the State Council at the first Ordinary Meeting of State Council of an even numbered year. The President's term shall commence from the date of election and shall conclude on the day of the first Ordinary Meeting of State Council of the following even numbered year.
- (3) A person, other than the incumbent President of the Association, shall not be eligible for election as President unless they have first been elected by the metropolitan or country constituencies as a representative on the State Council.
- (4) The metropolitan or country constituency from which the President is elected has the right to nominate a further representative to the State Council, with that representative being drawn from the same zone and entitled to serve for the same term as their originally nominated representative.
- (5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.

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## **17A. ROTATION OF PRESIDENCY**

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- (1) At an election for the position of President conducted under sub-clause 17(2), only the incumbent President, subject to complying with sub-clause 17(5), or State Councillors from the alternate constituency to the incumbent President will be eligible to be elected.
- (2) At an election for the position of President conducted under Clause 19, only State Councillors from the alternate constituency to the incumbent President will be eligible to be elected.

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## **18. DEPUTY PRESIDENT**

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- (1) Following determination of the election of the President pursuant to clause 17 of this Constitution, the State Council shall elect a Deputy President from amongst its metropolitan and country representatives, provided the Deputy President represents the alternate constituency to the President elected pursuant to clause 17.
- (2) The Deputy President shall be elected by the State Council at the first Ordinary Meeting of State Council of an even numbered year. The Deputy President's term shall commence from the date of election and shall conclude on the day of the first Ordinary Meeting of State Council of the following even numbered year.
- (3) Prior to expiration of a term of office, a Deputy President may seek re-election for a consecutive term.
- (4) Where a Deputy President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.

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## **19. VACANCY – PRESIDENT AND DEPUTY PRESIDENT**

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- (1) If the office of the President becomes vacant or if for any other reason the President is unable to take or hold office at a period which exceeds six months from the date of the next scheduled election for that office, then the State Council shall meet to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced.
- (2) Where a vacancy occurs in the office of President at a period which is six months or less from the date of the next scheduled election for that office, the State Council may convene a meeting to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced, or the State Council may in its discretion, determine that the vacancy be filled by the Deputy President until the date of the next scheduled election.
- (3) An election pursuant to sub-clause 19(1) or sub-clause 19(2) shall cause the office of Deputy President to be declared vacant immediately prior to the conduct of the election.
- (4) Following an election pursuant to sub-clause 19(1) or sub-clause 19(2) an election pursuant to Clause 19 (5) will be conducted for the office of Deputy President from

amongst representatives of the alternative constituency to that of the President just elected.

- (5) If the office of Deputy President becomes vacant or if for any other reason the Deputy President is unable to take or hold office, then the State Council shall meet to elect from among their number a Deputy President who shall hold the office for the balance of the term of the Deputy President replaced, provided the Deputy President represents the alternate constituency to that of the President.
- (6) A State Council representative elected to fill a vacancy of President or Deputy President pursuant to clause 19 shall still be eligible for election for a subsequent two (2) full consecutive terms.

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## **20. VACATION OF OFFICE**

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A person shall cease or be disqualified from being a representative or deputy representative on the State Council or from being President or Deputy President of the Association, or from attending State Council in an ex-officio capacity, if that person:

- (a) dies;
- (b) ceases to be a Councillor of the Ordinary Member;
- (c) resigns the position by notice in writing delivered or sent by post to the Chief Executive Officer, and such resignation is accepted;
- (d) is a member of State or Federal Parliament;
- (e) is convicted of an offence under the *Local Government Act 1995*;
- (f) is permanently incapacitated by mental or physical ill-health;
- (g) is absent from more than 3 consecutive State Council meetings;
- (h) is a member of a Local Government that ceases to be a member of the Association;
- (i) is the subject of a resolution passed by the Zone from which that person was originally elected terminating his or her appointment as a representative or deputy representative of that Zone, except where that person is the subject of any resolution consequent upon his or her being elected President of the Association and in pursuance of sub-clause 17(4); or,
- (j) is a Councillor that has been suspended by the Minister for Local Government under Part 8 of the *Local Government Act 1995*.

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## **21. COMMITTEES AND SUB-COMMITTEES**

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- (1) The State Council may from time to time as it may deem necessary or expedient appoint, delegate or refer to any person or committee any of its powers, duties and functions as it thinks fit except the powers to:
  - (a) acquire, hold and dispose of real property;
  - (b) borrow money;
  - (c) set subscription levels; and
  - (d) progress any matter requiring a resolution of the State Council pursuant to sub-clauses 12(2) or 12(3) of this Constitution.
- (2) The person or the members of any committee so appointed shall not be required to be representatives on the State Council.

- (3) Any person or committee in the exercise of the powers, duties or functions so delegated or referred to it shall observe and perform any rules, regulations and directions that may be made by the State Council.
- (4) Each Committee shall elect a Chair~~man~~ from the members of the Committee.

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## **22. ANNUAL GENERAL MEETING**

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- (1) The Annual General Meeting of the Association shall be held at a date to be determined by the State Council, provided that such date occurs ~~in August or September or prior to 31 October~~ each year.
- (2) The Chief Executive Officer shall give at least ninety (90) days' notice of the date of the Annual General Meeting and the closing date on which notice of proposed business for the Annual General Meeting will be received by posting notice thereof to each Ordinary Member at the address appearing in the records of the Association for the time being. Such notice shall be deemed to have been delivered to the Ordinary Member immediately if transmitted electronically or on the second date after posting.
- (3) At an Annual General Meeting, greater than one half of the delegates of Ordinary Members who are eligible to vote and are present ~~in person~~ constitute a quorum.
- (4) At each such Annual General Meeting the order of business shall be as follows:
  - (a) attendance, apologies and announcements;
  - ~~(b) adoption of standing orders;~~
  - ~~(c)~~(b) confirmation of minutes from last Annual General Meeting;
  - ~~(d)~~(c) adoption of President's annual report;
  - ~~(e)~~(d) consideration of annual financial statements; and
  - ~~(f)~~(e) consideration of Executive and Member motions.
- (5) In respect of the Annual General Meeting:
  - (a) a notice of motion may only be submitted by the State Council or an Ordinary Member; and
  - (b) a motion may only be moved seconded or voted upon by a delegate of an Ordinary Member.
- (6) An agenda paper shall be forwarded by the Chief Executive Officer to each Ordinary Member, at the address appearing in the records of the Association for the time being, at least thirty (30) days before the date of the Annual General Meeting. The agenda paper shall be deemed to have been delivered to the Ordinary Member immediately if transmitted electronically or on the second date after posting.
- (7) Where the State Council considers that a direction or decision from an Annual General Meeting has been made without information of a material nature or in circumstances which have materially altered and such direction or decision is not in the best interests of the Association, the State Council may decline to follow that direction or decision and, in that event, the Chief Executive Officer by notice shall advise the Ordinary Members of the decision of the State Council and the reasons for that decision.

(8) Notwithstanding the provisions of sub-clause (7), the State Council is required to give consideration to any direction or decision made at an Annual General Meeting in its discharge of responsibilities and functions.

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## **23. SPECIAL GENERAL MEETING**

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(1) A Special General Meeting shall be called by the Chief Executive Officer upon the instructions of the State Council or the written demand of not less than any twenty (20) Ordinary Members.

(2) The Chief Executive Officer shall give at least thirty (30) days notice of any Special General Meeting by posting notice thereof to each Ordinary Member at the address appearing in the records of the Association for the time being. Such notice shall specify the nature of the business to be transacted at the Special General Meeting and shall be deemed to have been delivered immediately if transmitted electronically or on the second date after posting.

(3) At a Special General Meeting, greater than one half of the delegates of Ordinary Members who are eligible to vote and are present ~~in person~~ constitute a quorum.

(4) Where the State Council considers that a direction or decision from a Special General Meeting has been made without information of a material nature or in circumstances which have materially altered and such direction or decision is not in the best interests of the Association, the State Council may decline to follow that direction or decision and, in that event, the Chief Executive Officer by notice shall advise the Ordinary Members of the decision of the State Council and the reasons for that decision.

(5) Notwithstanding the provisions of sub-clause (4), the State Council is required to give consideration to any direction or decision made at a Special General Meeting in its discharge of responsibilities and functions.

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## **24. REPRESENTATION AND VOTING AT GENERAL MEETINGS**

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(1) Subject to this Constitution, each Ordinary Member shall be entitled to be represented at any Annual General Meeting or Special General Meeting of the Association by two (2) delegates.

(2) A delegate shall be entitled to one (1) deliberative vote at the Annual General Meeting or Special General Meeting of the Association ~~and of which vote is to be exercised in person~~.

(3) A delegate unable to attend any Annual General Meeting or Special General Meeting shall be entitled to cast a vote by proxy. A proxy shall be in writing and shall nominate the person in whose favour the proxy is given which person need not be a delegate. Proxy authorisations shall be delivered to the Chief Executive Officer before the commencement of the general meeting at which the proxy is to be exercised and shall be signed by the delegate or by the Chief Executive Officer of the Ordinary Member that nominated the delegate.

- (4) Except as provided in this Constitution, all matters considered at an Annual General Meeting or Special General Meeting of the Association shall be passed by a simple majority of the Ordinary Members' delegates ~~as, being entitled to do so, vote in person~~ or by a duly authorised proxy vote exercised on their behalf.
- (5) At any Annual General Meeting or Special General Meeting of the Association, greater than one half of the delegates who are eligible to vote must be present to form a quorum.

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## **25. MINUTES OF MEETINGS OF ASSOCIATION**

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- (1) The Chief Executive Officer must cause proper minutes of all proceedings of all general meetings and State Council meetings to be taken and then to be entered within 30 days after the holding of each general meeting or State Council meeting, as the case requires, in a minute book kept for that purpose.
- (2) The President must ensure that the minutes taken of a general meeting or State Council meeting under sub-clause (1) are checked and signed as correct by the person who presided at the general meeting or State Council meeting to which those minutes relate or by the person who presides at the next succeeding general meeting or State Council meeting, as the case requires.
- (3) When minutes have been entered and signed as correct under this clause, they are, until the contrary is proved, evidence that-
  - (a) the general meeting or State Council meeting to which they relate (in this sub-clause called "the meeting") was duly convened and held;
  - (b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
  - (c) all appointments or elections purporting to have been made at the meeting have been validly made.

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## **26. AUDIT**

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- (1) At least once a year the State Council shall cause the Association's accounts to be audited by a person or persons appointed by the State Council or its delegated body.
- (2) The accounting records of the Association shall be open for inspection by the representatives of Ordinary Members during office hours and on reasonable notice.

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## **27. BANKING**

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- (1) All moneys received by the Association shall be banked into an operating account established by the State Council, in the name of the Association.
- (2) Payments drawn on the account and other documents relating to such account shall be authorised by the Chief Executive Officer and such other authorised persons as the State Council may deem appropriate.

(3) (a) The operating account to be so established, may be utilised for the purposes of paying salaries and operating expenses and for other purposes authorised by a resolution of the State Council.

(b) The State Council on the advice of the Chief Executive Officer, may appoint any member of the Secretariat to manage the operating account.

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## **28. COMMON SEAL**

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- (1) The Association shall have a common seal on which its corporate name appears in legible characters. ~~The common seal shall be held in the custody of the Chief Executive Officer at all times.~~
- (2) The common seal of the Association must not be used without the approval of the State Council and every use of that common seal must be recorded in the minutes of the State Council meeting.
- (3) The affixing of the common seal of the Association must be witnessed by any two of the Chief Executive Officer, the President and the Deputy President.
- (4) The common seal of the Association must be kept in the custody of the Chief Executive Officer or of such other persons as the State Council from time to time decides.

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## **29. AMENDMENT TO THE CONSTITUTION**

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The Constitution of the Association may be altered, added to or repealed by:

- (1) A resolution at any meeting of the State Council on the receipt of a special majority of not less than 75% of representatives ~~as, being entitled to do so, vote in person~~ or by their deputy representatives; and
- (2) A resolution at an Annual General Meeting or Special General Meeting passed by a majority of not less than 75% of delegates ~~as, being entitled to do so, vote in person~~ or duly authorise a proxy vote to be exercised on their behalf, provided that:
  - (a) 75% of Ordinary Members who are eligible to vote are present or represented; and
  - (b) the Chief Executive Officer has given not less than sixty (60) days notice of any proposal to alter, add or repeal the Constitution to all Ordinary Members.

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## **30. EXPULSION OF MEMBERS**

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- (1) An Ordinary Member may be expelled from the Association by resolution at a meeting of the State Council on the consent in writing to the proposition for expulsion being first received from not less than 75% of the Ordinary Members.
- (2) The Ordinary Member whom it is proposed to expel must receive at least sixty (60) days notice of the State Council meeting referred to in sub-clause (1) and shall be given the opportunity of attending the meeting and being heard with respect to the motion for expulsion.

(3) An Associate Member may be expelled by resolution of State Council.

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## **31. DISPUTES, MEDIATION AND ARBITRATION**

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(1) The grievance procedure set out in this clause applies to disputes arising in connection with this Constitution between:

- (a) a member and another member; or
- (b) a member and the Association; or
- (c) if the Association provides services to non-members, those non-members who receive services from the Association, and the Association.

(2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all of the parties.

(3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the dispute must, within ten (10) days, be referred initially to a panel to settle the dispute by mediation and if the dispute cannot be resolved, to arbitrate the dispute.

(4) The panel shall be established by the State Council having regard to the nature and circumstances of the dispute and shall comprise such number of persons as the State Council may decide, being not less than three (3), who shall be drawn from amongst the following:

- (a) Life Members of the Association;
- (b) the President or Past Presidents of Local Government Professionals Australia WA;
- (c) the Director General, Department of Local Government ~~and Regional Development~~; or
- (d) such other persons as the State Council considers appropriately qualified having regard to the nature and circumstances of the dispute.

(5) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

(6) The panel, in conducting the mediation, must:

- (a) give the parties to the mediation process every opportunity to be heard;
- (b) allow due consideration by all parties of any written statement submitted by any party; and
- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

(7) Any arbitration shall be conducted in accordance with the provisions of the *Commercial Arbitration Act 1985 (WA)* and, notwithstanding section 21 (1) of that Act, each disputant may be represented by a duly qualified legal practitioner or other representative.

(8) If a matter proceeds to arbitration, then the decision of the panel shall be final and binding on the disputants.

(9) Any mediation or arbitration conducted under this clause must be confidential and without prejudice.

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**32. DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF ASSOCIATION**

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The State Council shall if instructed in writing by all of the Ordinary Members dissolve the Association and, after paying and discharging out of the Association's funds and assets all debts and liabilities, transfer the funds or realise the same and transfer the proceeds to any organisation or organisations constituted with similar objects to those of the Association and which organisation or organisations prohibit the distribution of property among the Ordinary Members thereof or in the absence of such an organisation as determined by a Judge of the Supreme Court.

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## G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination

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### Introduction

Section 5.39B of the *Local Government Act 1995* requires local governments to adopt standards for CEO recruitment and selection, performance review and termination of employment.

### Policy Intent

This policy sets out standards to be observed by the Shire of Toodyay in relation to the recruitment and selection, review of performance and termination of CEOs.

### Policy Statement

#### 1. Preliminary provisions

##### 1.1 Terms Used

In these standards —

**Act** means the Local Government Act 1995;

**additional performance criteria** means performance criteria agreed by the local government and the CEO under clause 3.1(1)(b) of this policy;

**applicant** means a person who submits an application to the local government for the position of CEO;

**contract of employment** means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

**contractual performance criteria** means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

**job description form** means the job description form for the position of CEO approved by the local government under clause 2.2 of this policy;

**local government** means the Shire of Toodyay;

Adopted by Council on 27/07/2021

V1 – G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination

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**selection criteria** means the selection criteria for the position of CEO determined by the local government under clause 2.1 of this policy and set out in the job description form;

**selection panel** means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

## 2. Standards for recruitment of CEOs

### 2.1 Application

- (1) Except as provided in subclause (2), this part applies to any recruitment and selection process carried out by the Shire of Toodyay for the employment of a person in the position of CEO.
- (2) This part does not apply —
  - (a) to the appointment of temporary or acting CEOs for a period of less than one year; or
  - (b) to a renewal of the CEO's contract of employment, except where a period of 10 or more years has elapsed since a selection and recruitment process was carried out.

### 2.2 Determination of selection criteria and approval of job description form

- (1) The local government will determine the selection criteria for the position of CEO, based on its consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the Council, approve a job description form for the position of CEO which sets out —
  - (a) the duties and responsibilities of the position; and
  - (b) the selection criteria for the position determined in accordance with subclause (1).

### 2.3 Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and regulation 18A of the *Local Government (Administration) Regulations 1996*.

(2) If clause 2.8 applies, the local government must advertise the position of CEO in the manner referred to in regulation 18A of the *Local Government (Administration) Regulations 1996* as if the position was vacant.

## **2.4 Job description form to be made available by local government**

If a person requests the local government to provide to that person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in regulation 18A(2)(da) of the *Local Government (Administration) Regulations 1996*; or
- (b) if the person advises the local government that the person is unable to access that website address —
  - (i) email a copy of the job description form to an email address provided by the person; or
  - (ii) mail a copy of the job description form to a postal address provided by the person.

## **2.5 Establishment of selection panel for employment of CEO**

(1) In this clause —

***independent person*** means a person other than any of the following —

- (a) a Council member;
- (b) an employee of the local government;
- (c) a human resources consultant engaged by the local government.

(2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.

(3) The selection panel must comprise —

- (a) Council members who have demonstrated relevant training or experience (the number of which must be determined by the Council);
- (b) a suitably qualified human resources consultant; and
- (c) at least 1 independent person with demonstrated relevant training or experience.

(4) All Council members must be offered training in recruitment and selection from a suitably qualified source at least once every four years.

## 2.6 Recommendation by selection panel

- (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
  - (a) a summary of the selection panel's assessment of each applicant; and
  - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
  - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
  - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.

If no changes are made in accordance with subclause (b), then clause 2.2 above does not apply in relation to this clause.

- (4) The selection panel must act under subclauses (1), (2) and (3) —
  - (a) in an impartial and transparent manner; and
  - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
  - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and
  - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
  - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

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## **2.7 Offer of employment in the position of CEO**

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of Council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

## **2.8 Variations to proposed terms of contract of employment**

If an applicant who is made an offer of employment in the position of CEO under clause 2.6, negotiates terms different to the proposed terms approved by the local government under clause 2.6(b), the local government must, by resolution of an absolute majority of Council, approve the terms of the negotiated contract.

## **2.9 Recruitment to be undertaken on expiry of certain CEO contracts**

- (1) In this clause —

***commencement day*** means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

- (2) This clause applies if —

- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —

- (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
    - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;

and

- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.

- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.

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(4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

## **2.10 Confidentiality of information**

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

# **3. Standards for review of performance of CEOs**

## **3.1 Performance review process to be agreed between local government and CEO**

(1) The local government and the CEO must agree on —

- (a) the process by which the CEO's performance will be reviewed; and
- (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.

(2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 3.2, 3.3 and 3.4.

(3) The matters referred to in subclause (1) must be set out in a written document.

## **3.2 Carrying out a performance review**

(1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.

(2) The local government must —

- (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
- (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

## **3.3 Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

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### **3.4 CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause 3.3, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

## **4. Standards for termination of employment of CEOs**

### **4.1 General principles applying to any termination**

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
  - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
  - (b) notifying the CEO of any allegations against the CEO; and
  - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
  - (d) genuinely considering any response given by the CEO in response to the allegations.

### **4.2 Additional principles applying to termination for performance related reasons**

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
  - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
  - (b) informed the CEO of the performance issues; and
  - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and

- (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

#### **4.3 Decision to terminate**

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

#### **4.4 Notice of termination of employment**

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

#### **4.5 Termination payment**

Any decision by the local government to provide a termination payment to the CEO in excess of the conditions of the CEO employment contract must be made by resolution of an absolute majority of the Council.

## Reference Information

<b>Related Documents</b>	<p><i>Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination</i> – WA Department of Local Government Sport &amp; Cultural Industries</p> <p><i>CEO Model Standards – Explanatory Notes</i> – WA Department of Local Government Sport &amp; Cultural Industries</p> <p><i>Template Standards for CEO Recruitment, Performance and Termination</i> – WA Local Government Association</p>																				
<b>Related Legislation</b>	<p><i>Local Government Act 1995 (WA)</i></p> <p><i>Local Government (Administration) Amendment Regulations 2021</i></p> <p><i>Local Government (Administration) Regulations 1996</i></p> <p><i>Records Management Act 2000</i></p>																				
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<b>Version Control Information</b>	<table border="1"> <thead> <tr> <th>Version No.</th><th>Issue Date</th><th>Nature of amendment</th><th>Developed By</th><th>Approved By</th></tr> </thead> <tbody> <tr> <td>V0</td><td>07/07/2021</td><td>Initial</td><td>CEO</td><td></td></tr> <tr> <td>V1</td><td>15/07/2021</td><td>Minor amendments following workshop</td><td>CEO</td><td>Council</td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>	Version No.	Issue Date	Nature of amendment	Developed By	Approved By	V0	07/07/2021	Initial	CEO		V1	15/07/2021	Minor amendments following workshop	CEO	Council					
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V1	15/07/2021	Minor amendments following workshop	CEO	Council																	

## Document Control Information

<b>Document Theme</b>	Governance
<b>Document Category</b>	Executive
<b>Document Title</b>	Standards for CEO Recruitment and Selection, Performance Review and Termination
<b>Document ID</b>	G.5
<b>Author (position title)</b>	Chief Executive Officer
<b>Approved By</b>	Council
<b>Date of Approval (OCM)</b>	27/07/2021 Council Resolution No. 152/07/21
<b>Date of Last Review</b>	N/A
<b>Date of Next Review</b>	2023
<b>Archive antecedent documents and previous versions</b>	N/A

Adopted by Council on 27/07/2021

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# **REVIEW REPORT**

## **Shire of Toodyay**

### **Independent Governance Review**

**Andrew Hammond and John M. Woodhouse**  
**Hammond Woodhouse Advisory**  
**19 July 2021**

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# 1. SCOPE OF REVIEW AND METHODOLOGY

## 1.1 Scope

The scope of this review is stated in the Shire's Request for Quotation to be:

*"The review will need to include an assessment of:*

### ***Area of Review - Detailed Scope of Work***

#### ***The Role of the Council***

*i. Assess role of Council, for the period 1 November 2019 – 28 February 2021 fulfilling its prescribed role under s 2.7 of the Local Government Act 1995, as follows:*

*1. The Council —*

*a. governs the local government's affairs; and*

*b. is responsible for the performance of the local government's functions.*

*2. Without limiting subsection (1), the Council is to —*

*a. oversee the allocation of the local government's finances and resources; and*

*b. determine the local government's policies.*

*ii. Assess the performance of Council; (including conduct of meetings, compliance with Meeting Procedures Local Law – i.e. Standing Orders, clarity of motions, voting patterns – including casting vote, Presiding Member's role and responsibilities etc.).*

*iii. Assess the structure and functions of the Committees of Council (Terms of Reference, purpose, number of members, performance evaluation).*

*iv. Consider the degree to which Council involves itself in day-to-day operational matters in accordance with clause 19 of Schedule 1 of the Local Government (Model Code of Conduct) Regulations 2021. NB: prior to 3 February 2021, Regulation 9(1) of the Local Government (Rules of Conduct) Regulations 2007 applied.*

#### ***The Role of Individual Council members***

*i. Assess the role of individual Council members for the period 1 November 2019 – 28 February 2021, to ensure they are performing in accordance with s 2.8, 2.9 and 2.10 of the Local Government Act 1995.*

### ***Council Culture and Dynamics***

*i. Assess the Council culture and dynamics for the period 1 November 2019 – 28 February 2021, to ensure adherence with the Local Government (Model Code of Conduct) Regulations 2021. NB: Prior to 3 February 2021, the Shire of Toodyay's Code of Conduct applied.*

### ***Relationship between Council and the CEO***

*i. Assess the relationship between Council and CEO(s) for the period 22 June 2020 – 28 February 2021 to ensure it is productive, positive, professional and compliant with the Local Government Act 1995.*

### ***Relationship between Council and the Administration***

*i. Assess the relationship between Council and the administration for the period 1 November 2019 – 28 February 2021 to ensure it is productive, positive, professional and compliant with the Local Government Act 1995, including but not limited to the Principles identified under section 5.40.*

*ii. The scope of work should detail the ability of councillors/administration staff to provide their commentary and feedback anonymously to the engaged entity undertaking the governance review, ensuring they can speak and / or submit information freely.*

### ***Management of employees***

*i. Assess the Shire's processes for CEO recruitment (and termination where applicable) for the period 1 November 2019 – 28 February 2021 review to ensure compliance with Schedule 2 of the Local Government (Administration) Regulations 1996. NB: Prior to 3 February 2021, the Shire's human resources policies applied.*

*ii. Assess the Shire's annual performance reviews for the Chief Executive Officer for the period 22 June 2020 – 28 February 2021 to ensure compliance with s5.38(1) of the Local Government Act 1995.*

- iii. Assess samples of annual performance reviews for the Shire's employees the period 1 November 2019 – 28 February 2021 to ensure compliance with s5.38(2) and s 5.38(3) of the Local Government Act 1995.*
- iv. Assess the Shire's human resources policies to ensure that they meet the needs of the Shire, including compliance with the Occupational Safety and Health Act 1984 and grievance processes.*
- v. Assess any anomalies between officers who were provided an adequate review under section 5.38(3) and within 12 months had their employment terminated.*
- vi. Assess the Shire's empowerment of employees and delegation process in accordance with section 5.44.*

#### ***Procurement and probity***

- i. Assess samples of the Shire's procurements above \$50,000 during the period 1 November 2019 – 28 February 2021 to ensure compliance with the legislative requirements and relevant Council Policies and make recommendations based on review findings having regard to industry best practice.*
- ii. Review the Council's current Purchasing Policy and the Shire's processes, procedures and guidelines to ensure compliance with legislative requirements and make recommendations based on the findings having regard to industry best practice.*

#### ***Record Keeping***

- i. Assess the Shire's record keeping and records management to ensure compliance with the Local Government Act 1995, State Records Act 2005 and the Shire's Record Management Policy and make recommendations based on review findings having regard to industry best practice.*

#### ***Other Policies***

- i. Assess the Shire's current Litigation Policy (adopted in October 2020) in relation to the scope and authority of the CEO regarding any litigation on the Shire's behalf.*

## 1.2 Interviews conducted, and documents reviewed

(1) The interviews conducted and the documents reviewed are described later in this report under the headings “Methodology” for each individual topic within the Scope.

## 2. BACKGROUND

### 2.1 The Department’s inquiry

(1) On 6 December 2018, the Director-General of the Department of Local Government, Sport and Cultural Industries (the “Department”) authorised an inquiry into the Shire of Toodyay in accordance with section 8.3(2) of the Local Government Act 1995.

(2) The nature and scope of the inquiry were as follows:

- a) *the adequacy of and adherence to Council’s policies and procedures by both elected members and administration staff,*
- b) *enforcement action undertaken by the Shire,*
- c) *the function of the audit committee,*
- d) *declarations of interests by elected members,*
- e) *the culture within the Shire,*
- f) *any other matter that comes to the persons attention during the inquiry under section 8.4(2) of the Local Government Act 1995.*

(3) Since the commencement of the Inquiry, the following changes have occurred at the Shire of Toodyay (according to the Shire’s Request for Quotation):

- a) *Local government ordinary elections were held with five new members elected, with a later extraordinary election held to replace a member who resigned.*
- b) *In accordance with new regulations, Councillor training has been undertaken across a range of areas including governance and financial management.*
- c) *A new Chief Executive Officer was appointed following a comprehensive recruitment process and Performance Criteria that include actions relating to governance and compliance were set.*
- d) *The Minister for Local Government; Heritage; Culture & the Arts accepted an invitation to visit Toodyay and address the Council.*

- e) Council met with officers of the Department to discuss the outcomes of the Inquiry.
- f) Council has commenced a comprehensive policy review.
- g) A review of procurements practices has been undertaken.

**(4)** Again, according to the Request for Quotation, the organisation continues to seek and implement improvements, both in response to the Inquiry and generally, as part of a transition process to a more effective and accountable local government.

**(5)** The Inquiry Report was tabled in Parliament on 13 October 2020 and contained 25 findings in relation to the above.

**(6)** As a result, the Department made the several recommendations to the Council, one of which is that:

*The Shire undertake a Governance Review as approved by the Director General within 6 months of this report becoming final and the review is to be made available to the Director General.*

**(7)** The Department required the Shire to select an organisation to undertake an independent governance review and submit its preferred supplier, scope and timeline to the Department for approval.

## 2.2 The Inquiry Report

Subsequent to the Inquiry, a Report was published and is available on the Department's website. The link is:

[https://www.dlgsc.wa.gov.au/docs/default-source/local-government/inquiries/report-of-the-inquiry-into-the-shire-of-toodyay.pdf?sfvrsn=95f11b3f\\_1](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/inquiries/report-of-the-inquiry-into-the-shire-of-toodyay.pdf?sfvrsn=95f11b3f_1)

## 2.3 The Inquiry's recommendations

**(1)** As stated above, a recommendation from the Inquiry Report, was the need to undertake a Governance Review which need to be made available to the Director General of the Department.

**(2)** The recommendations, in full, were as follows:

*“1. The Shire undertake a Governance Review as approved by the Director General within 6 months of this report becoming final and the review is to be made available to the Director General.*

*2. The Elected Members undertake training as determined appropriate by the Director General within 6 months of this report becoming final. That training is to include but not limited to;*

- Governance*
- Accountability*
- Roles and responsibility of both elected members and administration*
- Financial matters*
- Tendering and procurement*
- Meeting management.*

*3. Following completion of the training referred to in Recommendation 2, the CEO is to deliver to the Director General a comprehensive report:*

- a. demonstrating the knowledge and understanding gained by the Elected Members from the training; and*
- b. identifying members who have attended the training and any reasons for non-attendance; and*
- c. outlining the steps taken by the Shire to implement such knowledge and understanding.*

*4. Conduct a review of the CEO’s performance by an independent consultant on an annual basis for the duration of the contract.*

*5. Council review the Litigation Policy to reflect the scope and authority of the CEO regarding any litigation on behalf of the Shire.”*

## **2.4 Summary of the Inquiry’s key findings**

The summary of the key findings of the Inquiry is as follows:

### **Finding 01**

*The minutes of the Ordinary Council Meeting held on 19 February 2013 did not comply with regulation 11(da) of the Local Government (Administration) Regulations 1996, as they did not provide written reasons for a decision that is significantly different from the Chief Executive Officer’s written recommendation in relation to the Merrick matter.*

### **Finding 02**

*The CEO has failed to keep Council abreast of costs of litigation of the Merrick matter thus not enabling Council to make informed decisions regarding to matter.*

### **Finding 03**

*Mr Scott, as CEO, failed to comply with Policy F3 by failing to obtain three (3) written quotes for the purchase of goods or services relating to the provision of legal services for the Merrick matter.*

### **Finding 04**

*The Shire has failed to adopt a policy to give guidance and direction to the CEO on matters concerning litigation on behalf of the Council.*

### **Findings 05**

*The CEO has failed to ensure that the resources of the local government are effectively and efficiently managed, by pursuing a \$60 parking infringement at the cost of \$5381 in circumstances where the infringement notice had been issued to the wrong person.*

### **Finding 06**

*The CEO did not adequately discharge the responsibility he had under the s5.41(d) of the Local Government Act 1995 for the management of the day to day operations of the local government by managing legal costs, which were excessive given the nature of the matter.*

### **Findings 07**

*The CEO has failed to discharge his duty as per regulation 5(2)(a) Financial Management Regs in regard to ensuring that the resources of the local government are effectively and efficiently managed in relation to litigation of the Warragenny Holding Pty Ltd matter.*

### **Finding 08**

*The CEO has failed to keep Council abreast of continuing costs of litigation of the Warragenny matter thus not enabling Council to make informed decisions regarding to matter.*

### **Findings 09**

*The CEO has failed to ensure that efficient systems and procedures are to be established by the CEO of the local government for the*

*proper collection of all money owing to the local government in regard to rates setting.*

**Finding 10**

*The CEO did not have adequate oversight of the day to day operations of the local government, and this failure by the CEO has caused, or contributed to the potential unnecessary costs to the Shire of Toodyay.*

**Finding 11**

*The Audit Committee appears not to have complied with section 5.14 of the Act by not choosing one of themselves to preside at the 17 December 2018 meeting in the absence of the presiding member, Cr Welburn.*

**Finding 12**

*The Shire of Toodyay has breached of r33A(4) of the Local Government (Financial Management) Regulation 1996 by not submitting the Shire of Toodyay Budget Review to the Department of Local Government Sport and Cultural Industries for the 2018-19 financial year.*

**Finding 13**

*The CEO has breached of r5(g) of the Local Government (Financial Management) Regulation 1996 by not submitting the Shire of Toodyay Budget Review to the Department of Local Government Sport and Cultural Industries.*

**Finding 14**

*The CEO has failed to ensure that the Shire adhered to Local Government (Functions and General) Regulation 1996 r11 by neglecting to invite tenders before awarding the contract to Fire Mitigations Services.*

**Finding 15**

*The Council has failed to adhere to the F12 Disposal of Property policy by neglecting to contact all effected stakeholders as nominated in the policy.*

**Finding 16**

*The Council has failed to adhere to the Local Planning Policy 20 by not justifying why full compliance was impractical, or may result in*

*reasonably demonstrated detriment, or why variation was warranted in the circumstances of the case.*

**Finding 17**

*The Shire has provided incorrect advice allowing the use of a conventional septic system, when an Alternative Treatment Unit wastewater system was required.*

**Finding 18**

*The Shire was inconsistent in its approach in this case, in relation to the planning and building conditions to be adhered to with respect to the subdivision of land.*

**Finding 19**

*The CEO has failed to ensure that the resources of the local government are effectively and efficiently managed, by pursuing an unwarranted prosecution at the cost of \$36,500 in circumstances where the infringement notice had already been paid.*

**Finding 20**

*The CEO did not adequately discharge the responsibility he had under the s5.41(d) of the Local Government Act 1995 for the management of the day to day operations of the local government by managing legal costs, which were excessive given the nature of the matter.*

**Finding 21**

*The Shire has shown to have inconsistent dealings in relation to a planning application over a period of five years with no change in Shire planning or policies during that time, and at a significant cost to the applicant and rate payers.*

**Finding 22**

*The Shire has failed to adhere to their own O.2 Volunteer Policy by ensuring to provision of orientation/induction as per item 7.7 Induction of the Volunteer Policy by the Shire of Toodyay was provided to Ms Graham.*

**Finding 23**

*The Shire has failed to adhere to their own O.2 Volunteer Policy item 13 of Inappropriate Behaviour and Volunteer Dismissal, specifically affording the volunteer with procedural fairness and following the procedure for termination of a volunteer's services.*

### **Finding 24**

*The CEO has breached Code of Conduct 3.5 Avoid Derogatory Statements by failing to communicate in a professional manner which may cause any reasonable person unwarranted offence or embarrassment.*

### **Finding 25**

*The CEO has acted in an unethical manner by not disclosing to the Council that his son is working with the legal firm that the Shire has frequently engaged to provide legal services.”*

## **3. THE ROLE OF THE COUNCIL**

### **3.1 Methodology**

**(1)** We conducted interviews with:

- (a)** the Shire President, the Deputy Shire President and 5 other Councillors; and
- (b)** the CEO, the Manager Assets and Services and the Acting Manager Planning and Development.

**(2)** We reviewed the agenda papers and minutes of the ordinary and special meetings and committees of the Council for the period under review.

**(3)** We undertook an extensive review of the following:

- (a)** the Policy Manual;
- (b)** the Strategic Community Plan; and
- (c)** the Corporate Business Plan.

### **3.2 Findings**

**(1)** In our view, all of the councillors interviewed demonstrated the knowledge and awareness necessary to collectively fulfil the role of the Council.

**(2)** Whilst readily identifying as either an “old” (presumably elected in 2017) or “new” (presumably elected in 2019 or later) councillors, those interviewed stated that they considered there was no evidence that block or factional voting occurred at the Council meetings. This was supported by our review of the minutes of the meetings.

**(3)** A review of the minutes of the Committees of the Council demonstrated compliance with the Act, with Committee recommendations being given ultimate consideration by the Council at subsequent meetings.

**(4)** In fulfilling the role of the council, councillors rely upon the CEO to provide advice and information on which to base their decision making. Section 5.41(b) of the Act<sup>1</sup> provides that the CEO is to ensure that advice and information is available to the council so as informed decisions can be made.

**(5)** At the Shire, the forums in which this information is exchanged, and advice tendered, comprise:

- (a)** agenda briefing sessions convened one week before the Ordinary Council Meeting conducted on the fourth Tuesday of the month; and
- (b)** Council Workshops conducted monthly or more regularly depending upon demand and typically on a Monday.

**(6)** The Council Policy entitled “Council Forums” adopted on 27 May 2014 sets out the rules and processes to be used in convening and conducting forums. It states that Council Forums will convene 2 weeks prior to scheduled Ordinary Council Meetings.

**(7)** The current practice does not accord with this Council Policy. This Policy requires review.

**(8)** The quality of this advice and information, in the form of agenda papers, reports, financial information, and strategic planning documents, is a critical component in assisting the Council to achieve the role set out in s. 2.7 of the Act. That role is to:

- (a)** govern the local government’s affairs;
- (b)** oversee the performance of the local government’s functions;
- (c)** oversee the allocation of the local government’s finances and resources; and
- (d)** determine the local government’s policies.

**(9)** Our examination of the Agenda papers, for the period under review, demonstrated a number of recurring shortcomings requiring improvement.

---

<sup>1</sup> In this Report, “Act” refers to the Local Government Act 1995.

**(10)** The phrase “no adverse implications”, or other similar words, is used regularly in the implications section of the agenda papers. The purpose of the implications section is to explain and convey the underlying strategy, policy, legal or financial implications that might impact upon the conclusion of the report, the officer’s recommendation and the ultimate decision of the Council. “No adverse implications” should not be applied as a default position.

**(11)** Several instances of the incorrect application of the definition of Council’s decision-making roles are evident. For example, Item<sup>2</sup> 9.2.3 of the Ordinary Council Meeting of 24 March 2020 relating to the making of a local law provides that Council’s role in the matter is “Quasi-Judicial” when it is, in fact, legislative.

**(12)** Item 9.6.1 of the same meeting provides that the receipt of committee minutes and acceptance of a quotation was “Quasi-Judicial” when it is, in fact, an executive function.

**(13)** The “legal implications” section of agenda reports varies from containing no implications whatsoever, no adverse implications, unexplained reference to legislation (Item 9.3.4 of 28 August 2020 and Item 14.2 of 28 August 2020) or large amounts of unexplained excerpts of legislation being copied and pasted (Item 9.3.1 of 24 November 2020).

**(14)** The legal implications sections of agenda papers should provide an explanation of the legislation that is applicable to the subject matter. The explanation should be succinct, clear and in “plain English”.

**(15)** Referencing legislation within a council motion is unnecessary and potentially confusing (e.g. Item 9.1.1 of 24 November 2020 and Item 10.2.3 of 23 February 2021).

**(16)** A common theme that emerged from the councillors interviewed was that there was a need to improve the quality of agenda papers. Specific concerns were as follows:

- (a)** the “cutting and pasting” of large swathes of unexplained legislative material was unhelpful and at times confusing. In some instances it was seen as being intimidating;
- (b)** financial information was, at times, difficult to comprehend and, on several occasions, had contained significant and material errors.; and

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<sup>2</sup> “Item” refers to an item of the agenda of the relevant meeting.

**(c)** complex policy and strategy matters had been placed upon the meeting agenda for a decision, giving the councillors little chance of comprehension of the subject matter that could lead to an informed decision being made.

**(17)** It should be understood and acknowledged by officers writing agenda reports that they do so not only to inform and advise the councillors, but also members of the community. Reports should be written in such a way that a member of the community with reasonable literacy and numeracy skills can understand the contents of the body of the report and its alignment with the officer's recommendation.

**(18)** As will be mentioned later in this report, it is our view that the application of s.5.23(2) of the Act, relating to when matters are dealt with "behind closed doors", is too broad.

**(19)** According to s.1.3(2) of the Act, the Act is intended to result in greater community participation in the affairs and decisions of local governments and, greater accountability of local governments to their communities.

**(20)** The provisions of s.5.23 of the Act that allow a council to treat matters confidentially, involves a discretionary decision. In our view, the preferable "default position" of the Council should be one of openness and transparency, unless there are compelling reasons to conclude that dealing with a matter publicly might expose the local government to inappropriate legal or financial risk or be otherwise inappropriate.

**(21)** Currently, all tenders are treated confidentially (commented upon elsewhere in this review) as are most matters relating to the recruitment, appointment and review of the CEO.

**(22)** For example, the subject matter relating to CEO Recruitment (Item 14.2 of 26 November 2019) does not, in our view, contain sensitive or personal material and therefore could have been dealt with in a public forum.

**(23)** A further example is Item 14.3 of 26 November 2019, entitled "Sport and Rec Update" which is a progress report on the Sport and Recreation Precinct project. We were told that this project was contentious within the community. The report provides a detailed summary of the work in progress as well as details of project costings and project funding sources. It seems that the report was treated confidentially because of the sensitivity of some of the attachments. However, it is noted that the officer's report on page 32 (first sentence) states "While it is proposed that Officer (sic) Report be public, the attachments will remain confidential.

**(24)** A search of the publicly available minutes of the Council's ordinary meetings for November 2019 and December 2019 demonstrates no evidence of the release of this report. In any case, it is our view, that there was no good reason for the matter to be dealt with behind closed doors. The attachments were technical documents relating to operational project management matters and therefore the province of the administration and not the Council. They need not have been included.

**(25)** In August 2020 (Item 9.3.1), the Council resolved to request the CEO to undertake a comprehensive review of the Shire's Policies and Delegations, acknowledging the scale of the task, by allowing a 12-to-18-month timeframe.

**(26)** The current Shire Policies are demarcated into 7 functional areas comprising of Administration, Engineering, Finance, Local Planning, Member, OSH and Other. This is despite advice contained within a report submitted to Council in March 2020 (Item 9.5.1) for the purposes of revoking the Council Policy - M1 Policy Manual that stated "the policy page on the Council website will separate the policies into their relevant departments as follows:

- Community Development;
- Corporate Services;
- Executive Services;
- Planning and Development;
- Works and Services.

**(27)** A recurring theme, in our interviews with the councillors, was a desire, on their part, to become more involved in the development and review of policies. Concern was expressed that draft policies or significant revision of existing policies had been submitted for decision without opportunity for the councillors to effectively discuss and explore the context and purpose of policies in their formative stages through a workshop process.

**(28)** Given this general acknowledgement that the Council Policy suite and processes requires review, it might be timely to consider a Council Policy on Policies. Such a policy would set the necessary guidelines on how a policy should progress from origination of concept through to adoption. The policy would prescribe when, how and in what forum the Council and the community are to be engaged and what processes would guide recission and review.

(29) In developing a policy of this nature clear delineation should be made between:

- (a) Council Policies which should deal with matters relevant to the role of the Council, set out in s.2.7 of the Act, serving to provide uniformity in decision making, guidance in exercising discretion and establishing clear direction regarding the delegation of authority and exercising the role of the CEO; and
- (b) Administration Policies which should be relevant to the role of the CEO as provided for in s.5.41 of the Act and establish corporate processes and systems, business rules and underpin where necessary the implementation of Council policy.

(30) The current suite of Council Policies contains some policies that do not reflect current practices, for example Council Policy – Council Forums, however other than the Local Planning Policies the suite is generally comprehensive and capable of guiding consistent and orderly decision making.

(31) The suite of Local Planning Policies, however, require review. There are 23 Local Planning Policies in existence. Thirteen of those 23 were last reviewed in 2010, 6 in 2012, 22 in 2014, one in 2015 and one in 2018.

(32) The Local Planning Policy Guide published by the Western Australian Local Government Association provides useful insight into the writing, development and review of these type of policies.

(33) The section on reviewing policies (page 11) provides the following relevant and important information:

*“LPP’s (Local Planning Policies) should be reviewed regularly to ensure that they remain relevant and in line with sound town planning principles. The age of an LPP reduces its relevance when making decision making, and thus possibly becomes a less useful tool as it ages. **The State Administrative Tribunal has determined that the age of an LPP has direct relevance to the weight afforded to it**” therefore regular review is warranted.” (Our emphasis added).*

(34) The Corporate Business Plan was last adopted in May 2020. It is a comprehensive document effectively representing the aspirations of the Strategic Community Plan and containing 5 years’ financial projections.

**(35)** All of the councillors interviewed knew of the existence of the Corporate Business Plan but, when questioned as to its use as a key planning tool, responded that reference to it was rarely, if ever, made.

**(36)** Given the major capital expenditure on the new recreation facility and the resulting significant increase in year in year out operating expenses, the Corporate Business Plan becomes an important tool in assisting the Council in overseeing the local government's finances and allocating resources into the future.

**(37)** The financial information and forecasts contained within the document conform with contemporary accounting standards and include non-cash items such as depreciation and asset revaluation. The inclusion of non-cash items, whilst necessary by law, can make understanding and analysing "year in year out" financial scenarios somewhat daunting for councillors and members of the community.

**(38)** Another set of financial projections excluding depreciation and asset revaluation, essentially a "year in year out" rate setting statement over 5 years, would provide a particularly useful tool for analysis and decision making. Current and projected reserve balances, borrowings and relevant performance ratios should also be included in the business plan.

**(39)** A review of the Strategic Community Plan was commenced in 2020 culminating in a draft document being submitted to the Council for approval on 25 May 2021 (Item 9.3.2). Up until this time, the Council was not involved, nor had it discussed the development of the plan.

**(40)** The majority of councillors interviewed were unhappy that the Council had essentially been isolated from such an important process until the ultimate approval phase. Some were concerned that the draft document made no mention of the need to manage community expectations and acknowledge that careful and considered financial management relevant to the capital expenditure and commensurate year in year out operating costs of the new recreation facility was necessary.

**(41)** Whilst the Strategic Community Plan should be informed by significant community and stakeholder input, the Council is responsible for overseeing the process to ensure that input is balanced, relevant and inclusive.

**(42)** In the circumstances, in our view, it would have been preferable for the Council to have had an opportunity to consider and endorse the process

that was to be used, including the methods of community and stakeholder consultation and the role of the Council and of the councillors throughout the process. In our view, it would also have been preferable for the draft document to have been submitted to a workshop for discussion prior to being submitted for formal consideration.

### **3.3 Recommendations**

- (1)** The content, layout and structure of reports being submitted to the Council should be reviewed and standard templates developed with the objective of providing clear, succinct, and informative reports that can guide effective and considered decision making.
- (2)** Formal report writing and agenda preparation training should be provided to all staff involved in the development of agenda items.
- (3)** The Council should consider proposals to deal with confidential matters individually and on their merits and do so only after they have carefully balanced the relevant financial and legal risks of openness against the principles of accountability and transparency espoused in the Act.
- (4)** A risk-based review should be undertaken on all Council Policies, identifying those policies that might expose the Shire to inappropriate levels of risk. Local Planning Policies should be afforded special attention. Policies identified in this process should be reviewed as a priority.
- (5)** The Council should consider developing a new policy on the manner in which important corporate documents are to be managed from inception including their review and their rescission. These documents would include Council Policies, Local Planning Policies, Community Strategic Plans and Corporate Business Plans. The objective of the new policy would be to clearly identify the process to be utilised and role and involvement of the Council and the community when dealing with corporate documents.
- (6)** The Corporate Business Plan should be modified to include a 5-year financial forecast of income and expenditure which excludes non-cash items such as depreciation and asset revaluation not dissimilar to a “rate setting statement”. The plan should also include reserve fund balances actual and projected and long-term outstanding debt principal actual and projected.

**(7)** The Corporate Business Plan should be elevated in priority to be the Council's principal guide to strategic financial management. Workshops should be convened at least twice per year to afford the councillors and senior staff the opportunity to analyse, discuss and deliberate upon the allocation of the local government's finances and resources. It is suggested that the workshops are convened in October and April of each year to align with end of financial year performance (October) and formulation of the annual budget (April).

## **4. THE ROLE OF INDIVIDUAL COUNCIL MEMBERS**

### **4.1 Methodology**

**(1)** We conducted interviews with:

- (a)** the Shire President, Deputy Shire President and 5 other councillors; and
- (b)** the CEO.

### **4.2 Findings**

**(1)** No evidence was found that suggested individual councillors were not performing their roles in accordance with s.2.8, 2.9 or 2.10 of the Act.

## **5. COUNCIL CULTURE AND DYNAMICS**

### **5.1 Methodology**

**(1)** We conducted interviews with:

- (a)** the Shire President, the Deputy Shire President and 5 other councillors; and
- (b)** the CEO.

**(2)** We examined and reviewed the agenda papers and minutes of the ordinary and special meetings of the Council for the period under review.

## 5.2 Findings

- (1) Each of the councillors who were interviewed, when asked about the behaviour of other councillors at meetings of the Council, stated that, in their view, there were instances where one or more councillors behaved in ways, or spoke using language, that was considered to be contrary to the principles set out in the Shire's Code of Conduct or contrary to provisions of the Shire's Standing Orders Local Law.
- (2) For example, it was said that there were instances when a councillor spoke in a disrespectful fashion concerning fellow councillors.
- (3) It appeared to be the case that:
  - (a) generally, the councillors to whom we spoke had a reasonable understanding of the standards of behaviour required of them by the Shire's Code of Conduct and the Shire's Standing Orders Local Law; and
  - (b) the instances to which they referred would not, therefore, be attributable to a lack of understanding of the applicable standards.
- (4) We understand that no formal complaints were made in relation to the instances raised by the councillors. The councillors appeared to understand what steps could be taken to address instances of alleged, unacceptable behaviour, including steps under the Act and under the Standing Orders Local Law. We can only surmise that there may be any one of a number of reasons why a councillor may have chosen not to lodge to take those steps.
- (5) Most importantly, in our view, each of the councillors who were interviewed stated that they had encountered:
  - (a) no "factional" voting;
  - (b) no instances where voting had not occurred on what could be considered the merits of the matter; and
  - (c) no instances where they were not afforded a proper opportunity to be heard on a matter or to properly debate a matter.
- (6) These statements lead us to find that, whilst the councillors have concerns as to occasional, unacceptable behaviour and language at council meetings, nevertheless, the Council, as a whole, is functioning properly and proper decision making is taking place.

(7) It should be said that, in our view, if there are instances of behaviour which are considered to fall short of the applicable standards, then it is for each of the councillors, including the presiding member, to consider taking whatever steps are appropriate in the circumstances. This may include a councillor immediately objecting to the behaviour or language by way of a point of order or the presiding member calling the particular member to order. These steps may not prevent future such instances but, nevertheless, can highlight that the councillors do not consider that that behaviour is acceptable or will be permitted to take place without comment. This would demonstrate to the public that the correct standards of behaviour are important.

### **5.3 Recommendations**

(1) We have no recommendations to make to the Shire but we recommend that each of the councillors should pay particular attention to the views we have expressed in para 5.2(7) above.

## **6. RELATIONSHIP BETWEEN COUNCIL AND THE CEO**

### **6.1 Methodology**

(1) We conducted interviews with:

- (a) the Shire President, the Deputy Shire President and 5 other councillors; and
- (b) the CEO.

(2) We examined and reviewed the agenda papers and minutes of the ordinary and special meetings of the Council for the period under review.

### **6.2 Findings**

- (1) All of the councillors interviewed spoke of the CEO in positive terms and of the improvements that the CEO had instituted since commencing in the role in June 2020.
- (2) The CEO stated that she was enjoying the role but that she was facing challenges with the recent departure of the Manager of Corporate Services

particularly with regards the implementation of a new enterprise ICT system. We were advised at the time that the recruitment process was well underway and that she had recruited adequately qualified temporary officers to assist in the interim.

- (3) An independent consultant was engaged to undertake the annual CEO probation review (Item 14.1 of 24 November 2020).
- (4) The review was undertaken in December 2020 with a councillors' median score on assessment of overall performance demonstrating that the CEO had performed above expectations.
- (5) In March 2021 (Item 14.1) the Council resolved to adopt revised performance criteria and referred the review of renumeration as part of the next performance review process.
- (6) Upon the information provided, we believe that the councillors and CEO enjoy a sound and productive working relationship underpinned by an appropriate and compliant performance review and goal setting arrangement.

### **6.3 Recommendations**

- (1) We emphasise the importance of engaging a qualified independent facilitator to assist in the annual performance review process, in alignment with recommendation 4 of the Authorised Inquiry.

## **7.RELATIONSHIP BETWEEN THE COUNCIL AND THE ADMINISTRATION**

### **7.1 Methodology**

- (1) We conducted interviews with:
  - (a) the Shire President, the Deputy Shire President and 5 other councillors;
  - (b) the CEO; and
  - (c) 5 of the employees.
- (2) We reviewed the agenda papers and minutes of the ordinary and special meetings of the Council for the period under review.

### **7.2 Findings**

**(1)** All of the councillors interviewed expressed a clear understanding of the separation of roles between the elected members and the employees. All requests for information or communications regarding constituents were typically channelled through the CEO or on rare occasions her reporting Managers. The CEO collaborated this view. Other staff who were interviewed did not refer to any inappropriate elected member involvement in administrative functions.

**(2)** Of the 5 employees interviewed, 3 stated that, on occasions, they had experienced unpleasant and inappropriate behaviour from elected members when attending workshops and agenda briefings.

**(3)** A majority of the councillors interviewed stated that there were instances where the “atmosphere” in workshops and meetings could become somewhat strained as a result of questions or comments directed at staff.

**(4)** One of the councillors who we interviewed gave several examples (supported with written evidence) of information provided by staff to the councillors for consideration at meetings that contained errors or was lacking in relevant detail. Some errors were relatively minor, but in one example of a series of financial statements submitted, errors were of a magnitude that could have suggested a material financial problem for the Shire.

**(5)** Section 5.41 (b) of the Act provides that the CEO must ensure that advice and information is available to the council so that informed decisions can be made. It follows that this advice and information should be factual, contemporary, relevant and accurate.

**(6)** Clause 5 of the Model Code of Conduct Regulations provides, in part, that a council member should treat others with respect, courtesy and fairness and should maintain and contribute to a harmonious, safe and productive working environment.

**(7)** Clause 19 of the Model Code of Conduct Regulations prohibits abusive or threatening behaviour towards others.

**(8)** Inappropriate behaviour at meetings, whether or not it is thought to be borne of the frustration of receiving incorrect or inadequate advice or information, is unjustified and inappropriate.

**(9)** If any of the councillors were to have a concern as to the quality of advice or information provided by the CEO, to assist in their decision making and

governance, then they should raise the matter with the Shire President who should then liaise with the CEO in accordance with s. 2.8(1)(f) of the Act.

**(10)** If after liaison, improvement is still not forthcoming, the matter should then be dealt with as part of the annual performance review process with consideration being given to identifying the shortcoming as a performance criterion requiring resolution.

## 7.3 Recommendations

- (1)** We recommend that the councillors pay particular attention to the provisions of the Shire's Code of Conduct relating to relationships with others and behaviour when dealing with Council staff in meetings and workshops.
- (2)** We recommend that a councillor should advise the CEO, as soon as practicable, where the councillor considers that he or she has been provided with information which may be incorrect. Preferably, this should be done before the commencement of the meeting or workshop to which the information refers, so that the CEO can consider the position and can rectify any erroneous advice.
- (3)** We recommend that the CEO pays particular attention to the quality of the information and advice that is to be provided by the administration to the councillors (in accordance with the responsibilities under s 5.41(b) of the Act). If shortcomings are identified then improvements to systems, procedures and organisational capacity should be instituted as a priority.

# 8. MANAGEMENT OF EMPLOYEES

## 8.1 Methodology

**(1)** We conducted interviews with:

- (a)** the CEO; and
- (b)** 5 of the employees.

**(2)** We examined and reviewed:

- (a)** the agenda papers and minutes of the ordinary and special meetings of Council for the period under review;

- (b)** documentation relevant to the recruitment of the incumbent CEO;
- (c)** the Council policies relating to human resource management and occupational health and safety;
- (d)** samples of performance reviews undertaken for level 3/4, 5/6, 7-9, Manager, and Executive Manager positions; and
- (e)** all correspondence relating to terminations that occurred during the period under review.

## 8.2 Findings

- (1)** The Shire has no adopted Council policies regarding the recruitment or appointment of a CEO.
- (2)** The timing of the appointment process, commencing in December 2019 and concluding in April 2020 means that Division 2 of the Local Government (Administration) Regulations 1996 relating to standards for the recruitment for CEO's could not practically be applied.
- (3)** In the circumstances, the Local Government Operational Guideline number 10 entitled "Appointing a CEO" was used as a guide to assess the efficacy of the process.
- (4)** The following is a chronology of decision making relating to the appointment of the CEO which ultimately resulted in the appointment in April 2020.

### **26 November 2019 Item 14.2**

*Resolution 303/11/19*

*Council resolves not to appoint a CEO recruitment committee and to seek the services of a consultant to guide the recruitment process*

*Resolution 308/11/19*

*Council resolves to invite tenders for the services of a recruitment consultant to guide and advise upon process. Council also decides to establish selection criteria and authorise the CEO to prepare a specification and submit it to the December meeting for endorsement.*

### **17 December 2019 Item 9.5.2**

*Resolution 322/12/19*

*Council resolves to approve the advertisement for the position, endorse the tender specifications, and authorise the CEO to undertake the procurement process.*

### **28 January 2020 Item 14.1**

*Resolution 28/01/20*

*Council resolves to accept the tender from Beilby Downing Teal Pty Ltd to provide CEO recruitment services and authorises the CEO to issue a letter of award and sign the AS 4122 -2010 General Conditions Contract*

**7 and 14 April 2020**

*Council meets to select preferred applicant, agree upon the terms of the contract and to authorise the Shire President to negotiate contract terms with the preferred applicant.*

*No resolutions were made as to the preferred applicant or contract terms but according to the minutes “consensus” was reached.*

*Resolution 119/04/20*

*Council resolves to authorise the Shire President to negotiate contract terms*

**April 21 and 23 April 2020**

*Resolution 125/04/20*

*Council resolves to authorise Shire President to make an amended offer on the terms of contract*

**28 April 2020**

*Resolution 150/04/20*

*Council resolves to employ the incumbent CEO and endorses contract of employment.*

- (5)** On the information provided, we are satisfied that the process leading to the appointment of the CEO complied with the relevant conditions of the Local Government (Administration) Regulations in force at the time of commencement of the process.
- (6)** In applying the operational guidelines, we found that there was no record contained within the minutes of the Council reviewing the selection criteria and performance criteria of the position description prior to the vacancy being advertised.
- (7)** However, we have reviewed the position description and consider the selection criteria and performance criteria contained in the position description to be relevant, appropriate, and reflecting of sound human resource management practice.
- (8)** Matters relating to the setting of new performance criteria and dealing with the probation period are dealt with elsewhere in this report.

(9) An analysis of annual performance reviews was undertaken utilising samples representing administration and clerical, para-professional, professional, managerial, and executive managerial roles.

(10) Feedback from the staff interviewed was that the most recent round of performance reviews was undertaken in a professional and considered manner. This is collaborated by the supporting documentation that was provided to us.

(11) During this review we have received feedback from some staff that they had been requested to perform roles considered to be beyond the scope of their position description. We observed that these staff, to their credit, had taken on the new roles along whilst still fulfilling their existing specified roles. Those employees said that they did so in recognition of what they saw as limited human resources and in an endeavour to "get the job done".

(12) Directing or inviting staff to perform roles and functions outside of the remit of their position description, and possibly outside of the scope of their skills and experience, notwithstanding that they might be eager or willing to do so, can expose the organisation to significant risk. It is also has the potential to expose the employee to unfair professional reputational risk should the outcome not meet expectations.

(13) On the information provided to us, there is no evidence that the currency and relevance of position descriptions is being discussed or assessed as part of the review process. This is so notwithstanding that there is an introductory message on the second page of the review form which contains an invitation or opportunity to do so. Employees should only perform functions and undertake roles commensurate with their skills and qualifications. An important function of the position description is to align the skills qualifications and experience of the employee with the functions, roles, and objectives of the position.

(14) Based upon the information provided to us, there is no evidence of any anomalies between officers who were provided an adequate review under section 5.38(3) and within 12 months had their employment terminated.

(15) In our view, the empowerment of employees and delegations in accordance with s. 5.44 of the Act is appropriate and sufficient to allow for the efficient and effective day to day operation of the Shire.

(16) In our view, the Shire's Human Resource Policies and the

Occupational Safety and Health Policy reflect sound human resource management practice and do not expose the Shire to any inappropriate levels of risk. It is noted however that template varies between policies and most policies have not been subject to a review.

## **8.3 Recommendations**

- (1)** The annual performance review form should be modified to incorporate a section for identifying any changes in the year under review to the role or function of the position. The modifications should include provision for the identification of training and development programs that will assist the employee in meeting the objectives of the redesigned position.
- (2)** No employee should be directed or permitted to undertake functions or roles outside of the specification of the employee's position description unless the employee clearly possess the skills and experience necessary to do so.
- (3)** As part of the forthcoming annual performance review process, the job specification contained within each position description should be reviewed to identify any variations with the staff member's actual role and functions.
- (4)** Training and development opportunities should be identified as part of this process.

## **9. PROCUREMENT AND PROBITY**

### **9.1 Methodology**

- (1)** Prior to conducting interviews, we requested the complete files of all procurements of \$50,000 or more for the relevant period.
- (2)** We were provided with electronic files of documents for 7 separate procurements which included some "Requests for Quote" and some "Invitations To Tender".
- (3)** The files initially provided to us were not comprehensive. Our expectation would be that each of the Shire's procurement files, within its record system, would contain:

- The Request for Quote or Invitation To Tender including the proposed contract or conditions of contract;
- The advertisement in the case of tenders;
- The actual submissions or tenders;
- The evaluation report;
- The report and recommendation; and
- The decision and the award.

**(5)** Later, further documents were provided to us which, whilst not comprehensive, were sufficient for us to make findings and recommendations concerning the Shire's procurements.

**(6)** We conducted interviews with:

- (a)** CEO;
- (b)** the Compliance and Communications Officer; and
- (c)** the Manager Assets and the Services.

**(7)** In this regard, we consider it relevant to note that:

- (a)** Some of the Shire's employees who were involved with procurements during the relevant period are no longer with the Shire.
- (b)** The CEO commenced with the Shire only in June 2020 which was after the period to which the Inquiry Report relates and roughly midway through the period to which this Review relates.
- (c)** Whilst the responsibilities of the Compliance and Communications Officer include oversight of the tender process and assistance with some administrative components of the tender assessment, they do not extend to the development of the proposed contract or the scope of works or specification.
- (d)** The Manager Assets and Services only commenced with the Shire in January 2021 (the previous Manager Assets and Works having finished in October 2020). The Manager was therefore present for the last 2 months of the period of this review. He was responsible for one relevant report to the Council during this period which was a report recommending the award of a tender relating to "Bridge 0700".

**(8)** We were also given access to, and reviewed, the Shire's relevant policy namely, Policy F3 – Purchasing.

## 9.2 Findings

(1) Based on our examination of the 7 procurement files provided to us, there are a number of recurring “themes” for both our findings and our recommendations.

(2) Those “themes” relate to:

- (a) improvements which can be made with respect to the proposed contract and the proposed specification or scope of works;
- (b) matters which could improve the evaluation stage;
- (c) the need for the removal of unnecessary confidentiality with respect to reporting and decision-making; and
- (d) the need for a greater emphasis on targeted training to lift the skills of the Shire’s staff who are involved with procurement.

(3) In addition to the findings which follow, and which are of a general nature, there are a number of specific findings with respect to the tender for the management of the Recreation Centre (which tender was considered by the Council at a special meeting on 11 August 2020). We refer to this tender as the “Recreation Centre Management Tender”. Our findings lead us to make certain recommendations for the future.

(4) Our examination of a number of the files disclosed that the Request for Quote document (“RFQ”) and the Invitation To Tender document (“ITT”) did not use or incorporate a separate contract document. Rather, it was the case that the Conditions of Tendering component of the document included a set of “General Conditions” which were intended to set out the terms of the contract once the tender was awarded. We were not told of the origins of these “General Conditions”, and it was not known when, by whom or for what particular purpose they had been prepared.

(5) In our view, the preferable approach is for the RFQ and the ITT documents to comprise each of the following as a separate and identifiable component:

- (a) The conditions of tendering (or quoting);
- (b) The proposed contract;
- (c) The scope of works or specification; and
- (d) The form of tender.

**(6)** There are good reasons for this approach being the preferred approach. One significant reason, in the current context, will be to emphasise that the particular form of contract chosen must be suitable for the particular project and that there is not a “one size fits all” set of terms and conditions. The appropriate form of contract will differ, for example, on whether the nature of the work or services is a building contract, or a design and construct contract, or a minor works contract (which can be principal-administered or superintendent- administered), or a contract for consultancy services, or an agreement for the supply of goods, and so on.

**(7)** Generally speaking, it would be sensible for the Shire’s relevant Manager or senior officer who is directly responsible for delivering the project to be the person who determines the most appropriate contract. It is of vital importance that that person has adequate and appropriate training, skill and experience to make a decision of that sort.

**(8)** Where the procurement is from WALGA’s list of preferred suppliers then it is reasonable for the Shire to use the appropriate and relevant standard contract provided by WALGA.

**(9)** In other cases, it would be preferable and desirable for the Shire to have a suite of contemporary and recognised standard contract template for use in its differing procurements.

**(10)** With respect to the evaluation of tenders and quotes, we observed that, for each RFQ and ITT, the selection criteria and the percentage weightings to be considered by the evaluation panel differed. This appeared to indicate that a conscious and considered decision had been made in each case. This is as it should be and appeared to be reasonable, assuming of course that the decisions were made with a view to the Shire getting best value.

**(11)** In a number of cases, the Shire’s evaluation panel included the Compliance and Communications Officer in addition to “technical” officers of the Shire. In this regard, the view expressed by the Manager Assets and Services was that her inclusion was valuable because it added an independent viewpoint to the evaluation. In our view, whilst this has some merit, we think it is more sensible for the Compliance and Communications Officer to remain focussed on supervising the tender process for compliance with legislation and policy and not to have an active role as a member of the panel. In our view, members of the panel should be chosen because they can contribute to the evaluation of the

tenders and submissions by reason of their qualifications and experience relevant to the subject matter of the particular procurement.

(12) The specification or scope of works document is a separate document but is annexed, to the contract template, and thus forms an integral and critical part of the contract. It sets out the detailed requirements of the precise engineering works, building works, other works or services are required to be performed.

(13) Our examination of the Shire's procurement files revealed a "mixed bag".

(14) The example of the tender for "Bridge 0700" is pleasing. In this case, the drawings were prepared by the Shire's Asset team, and the specification used was one obtained from Main Roads. The Manager of Assets and Services considered that he and his team were more than capable of doing these drawings and generally capable of preparing specifications for "core" work such as road maintenance and road upgrades. We see no reason to question that.

(15) This example is in contrast with some others. For example, in the case of the tender for the consultancy services for the recruitment of a CEO, there was no scope of work or services as part of the ITT and, indeed, no detailed description of the precise services required. This is not to say that appropriate and suitable services were not delivered in this particular case or that the Shire did not receive good value.

(16) Rather, in our view, it would be preferable practice for the Shire to clearly state what services it expects to be performed and to do so in properly developed specification or scope of works.

(17) Our review of the ITTs and the related minutes of Council meetings revealed that, so far as we could ascertain the general position is that tenders are dealt with by the Council as a confidential item and that that part of the meeting is closed to the public.

(18) In our experience, there are differing approaches across WA local governments with respect to how tenders are dealt with by councils in terms of transparency.

(19) In our view, the preferred and better practice is for tenders to be considered and decided as an open item of business. Many metropolitan local governments take this approach, and the greater transparency has been welcomed and, indeed, is now taken as a given where it occurs.

**(20)** Where the local government deals with tenders as an open item there is, nevertheless, a number of differing approaches as to what particular information is dealt with by way of a confidential attachment. In some cases the tender prices and the in-house panel's tender scoring matrix are kept as confidential attachments (only available to the Council) and in other cases that information is made public.

**(21)** In our view, greater transparency is to be preferred. It promotes public confidence in the processes and decisions of the council, and we are not aware of any evidence of drawbacks or difficulties being experienced. We accept, however, that no one approach can be presently regarded as "best practice". Therefore, we consider that the decision as to whether the prices and evaluation should be publicly available is a matter which should be decided by the Council upon consideration of an appropriate report prepared by the CEO.

**(22)** We turn now to our findings in connection with the Recreation Centre Management Tender which was considered by the Council at a special meeting on 11 August 2020.

**(23)** As mentioned earlier, the current CEO commenced in June 2020 and had been with the Shire a little over 2 months at the time of the relevant report and the special meeting of the Council. Well prior to her commencement, a decision had already been taken to invite tenders for the engagement of a contractor to manage the Centre and the ITT had been issued by the Shire in May 2020. According to the report the Recreation Centre was due to be completed in August/September 2020.

**(24)** Based on our interviews and examination of relevant documents, a number of aspects came to our attention as follows:

**(a)** Firstly, there was no formal decision taken by the Council to seek tenders or to "outsource" the management of the Centre.

**(b)** According to the report, "*it was determined that the most appropriate method of ensuring the successful management of the facility was to invite tenders from the open market*". Several councillors recalled that the outsourcing was raised for discussion at a council workshop. However, there was no disagreement that a decision of the council had not been taken. There was no indication that the Council would not have made that decision if it had been considered and we note that this aspect of the matter

was not raised by anyone when the award of the tender was considered in August 2020.

- (c) Nevertheless, in our view, it was a failing of proper process that no decision to outsource and to invite tenders was considered or decided at a meeting of the Council.
- (d) In our view, it would have been proper and sensible for there to have been proper consideration at a council meeting of the various alternatives open to the Council. These alternatives would include:

- to invite tender from external parties only;
- to invite tenders from both external parties and with an in-house bid; or
- to undertake the management itself (and not go to tender).

- (e) We consider our view to be reasonable given that, at least in 2017 the view of the Shire was that it would undertake the management itself. This appears in the Shire's "Business Plan" dated February 2017 where, in connection with management it was stated that:

#### *"2.4.6 Management*

*The Shire manages the existing Toodyay Showgrounds and hence is responsible for the maintenance of the playing fields and buildings and management of all bookings, including receiving fees for use of the main pavilion. The long term operational management of the facilities will be part of the Shire's community development directorate and will house 3 to 4 operational staff."*

- (f) The view we have expressed in para (d) above should not be seen as any criticism of the current CEO who commenced after the decision in a practical sense had already been taken and when a decision on the invited tenders was imminent.
- (g) Secondly, the ITT did not incorporate either a proposed contract or set of proposed terms and conditions. Also there was no separate and detailed scope of the services required. The ITT mentioned certain services expected but could not be described as a proper and detailed scope.

(h) To the contrary, the ITT stated that:

- (i) *“Council is seeking to apply a Contract Management Model and enter into a contract with a suitably qualified facility management organisation (Manager) to manage the Precinct for a fixed period of time, which may be through a Management Agreement (Agreement)”; and*
- (ii) Proposals from tenderers should include the *“Proposed contract agreement including performance based arrangements”*.

(i) The fact that the ITT did not incorporate a contract as proposed by the Shire is further evidenced by the fact that the recommendation in the report, and the decision by the Council, stated that the Council:

*“Authorises the Chief Executive Officer to:*  
*(a) enter into contract negotiations with the successful tenderer in accordance with the provisions of the submitted tender.*  
*(b) prepare and execute the necessary contract documents once negotiations have been finalised”.*

- (j) We were advised that subsequent to the Council’s decision on 11 August 2020, the Shire instructed solicitors to prepare a contract and later that contract was entered into by the Shire and by the party identified as the “successful tenderer”.
- (k) The Recreation Centre is currently being managed pursuant to that contract. Indeed, the initial contract term runs, we were advised, until December 2022, at which time a decision would need to be made by the Shire as to whether or not to exercise an option for a further term.
- (l) In our view, it would make sense for the Council to be provided with a detailed report which analyses the benefits and disadvantages of each of the alternatives and for this to occur before any decision is made with respect to the contract option.

(25) In our view, the Shire must take steps, in the future, to ensure that whenever a decision is taken to invite tenders or request quotes that the

ITT or RFQ documents are of high standard and comprise the following essential elements:

- (a) the conditions of tendering (or quoting);
- (b) the proposed contract;
- (c) the scope of works or specification; and
- (d) the form of tender.

(26) Further, in our view, the CEO is to ensure that if the staff do not have the appropriate and relevant skill and experience, in the case of the contract template or the specification/scope, then external expertise should be sought to develop those documents. Where it would make sense to do so, existing staff should be provided with appropriate training.

### 9.3 Recommendations

- (1) A suite of standard contract templates should be established for those procurements which:
  - (a) are regularly encountered by the Shire; and
  - (b) are of a significant value (say over \$50,000); and
  - (c) are not procurements through the WALGA Preferred Panel (where a WALGA contract template would generally be used).
- (2) Examples of projects of this type might include:
  - (a) major road related works;
  - (b) significant consultancy engagements;
  - (c) orders for the supply of goods or services that are on an as required basis but which when aggregated would represent a significant total cost;
  - (d) building work of a major nature requiring the appointment of an independent superintendent;
  - (e) construction work which is usually referred to as minor works. This could need an independent superintendent or alternatively might be “principal administered”.
- (3) Those examples are appropriate cases for use of a high quality contract template.

**(4)** We recommend that, in each case, a good and well recognised base template be used. A Standards Australia set of general conditions would be appropriate. Examples include:

- (a)** AS 2124 - building contract.
- (b)** AS 4122 - consultancy contract.
- (c)** AS 4905 - minor works principal administered.
- (d)** AS 4906 - minor works superintendent administered.
- (e)** AS 4912 - contract for the periodic supply of goods.

**(5)** However, we recommend that the template be amended so as to contemporary and fairly balanced in terms of risk as between the Shire as principal, and the contractor or consultant. These amendments should be done through a suitably experienced and specialised law firm. Appropriate firms can be found from within the WALGA panel.

**(6)** Each contract template should be accompanied by firstly, a layman's guide to the more important provisions and secondly, by a simple statement explaining when the use of the template is suitable and useful and when it is not suitable or appropriate.

**(7)** These tasks need not all be done at once but should be done over a reasonable timeframe according to a prioritised list.

**(8)** Once one or more templates are developed, then their use by the employees should be mandated.

**(9)** This should be done by means of a directive by the CEO applying to all staff. This could take the form of, say, a "CEO Direction" or an "Administrative Procedure" (but not a Council Policy as it is an operational matter not a council matter).

**(10)** This directive, the templates and other supporting documents referred to above should be easily accessible to employees on the Shire's information system.

**(11)** Going forward, the Manager Assets and Services and other senior staff responsible for significant procurements should be strongly encouraged by the CEO to undertake targeted training in relation to any template contract with which they are not well acquainted or require greater familiarity and understanding.

**(12)** The use of the appropriate and contemporary contract template for each procurement is critical. Also of critical importance is the use of a high

quality Scope of Services or Specification which is attached to, and forms part of, the overall contract being offered.

- (13)** The Manager Assets and Services considered himself to be well experienced with the development of scopes and specifications for certain differing types of work particularly roadwork and road related infrastructure.
- (14)** There will other work types however where the services of a suitable external consultant is required and should be sought.
- (15)** This review did not extend to identifying all of those other areas where external assistance should be sought to prepare the scope/ specification. Therefore, a suitable list should be developed and mandated.
- (16)** It is recommended that the CEO instructs the Manager Assets and Services to prepare a list of matters where, by reason of:

  - (a)** the nature or complexity of the work or of the goods or services;
  - (b)** the quantum of the likely expenditure involved; or
  - (c)** the level of the risks involved (whether the risk is reputational, financial or otherwise),

the Shire's best interests are served by having an external professional (perhaps an engineer or other expert) prepare the scope/specification.
- (17)** Once this list is settled, it should be mandated and made available in the same way as described in paras (8), (9) and (10) above.
- (18)** The CEO should take steps to ensure that:

  - (a)** the role of the Compliance and Communications Officer remain focussed on supervising the tender process for compliance with legislation and policy and that officer does not to have an active role as a member of any evaluation panel; and
  - (b)** members of the panel are be chosen because they can contribute to the evaluation of the tenders and submissions by reason of their qualifications and experience relevant to the subject matter of the particular procurement.
- (19)** The CEO should consider doing so in the form of a CEO Direction or an Administrative Policy.
- (20)** Well prior to any decision in connection with the exercise of the contract option for the Recreation Centre management, the CEO should ensure that the Council is provided with a detailed report, for its

consideration and decision, which analyses the benefits and disadvantages of each of the alternatives which are open to the Council for its ongoing management.

## **10. RECORD KEEPING**

### **10. Methodology**

- (1)** We undertook interviews with:
  - (a)** the Shire's Senior Records Officer who has been with the Shire for 9 years; and
  - (b)** the CEO.
- (2)** We also raised the topic of record keeping with the other employees who were interviewed in the event that any of them wished to provide information.
- (3)** We reviewed the Shire's Record Keeping Plan and the Shire's Record Keeping Policy.

### **10.2 Findings**

- (1)** The Shire of Toodyay Record Keeping Plan contains the following objectives:
  - (a)** compliance with section 28 of the *State Records Act 2000*;
  - (b)** recordkeeping within the Local Government is moving towards compliance with State Records Commission Standards and Records Management Standard AS ISO 15489;
  - (c)** processes are in place to facilitate the complete and accurate record of business transactions and decisions;
  - (d)** recorded information can be retrieved quickly, accurately, and cheaply when required; and
  - (e)** the protection and preservation of the Local Government's records.
- (2)** For a number of years and at the time of our visit to the Shire, the Shire was utilising an enterprise-wide ICT system ("the current system") to record and retrieve documents in accordance with its obligations under the State Records Act and the Record Keeping Plan. We were advised that the current system carries integration across all software modules and is accessible to all staff who normally have access to a computer workstation.

**(3)** Inward and outward written correspondence is recorded on the current system. We were advised by the Senior Records Officer that the process of recording these documents is effective and facilitates their efficient retrieval. This was verified by all other staff interviewed.

**(4)** The Shire Record Keeping Policy adopted by Council on 25 June 2019 provides that all records are to be captured at the point of creation. “All records” includes emails. We were advised that no systems or practices are currently in place that facilitate the recording of either inward or outward emails relevant to the administration and councillors.

**(5)** This failure to effectively record emails would be in breach of the Shire Record Keeping Policy. It is also would not comply with the Record Keeping Plan endorsed by the State Records Commission.

**(6)** We were advised by the Senior Records Officer that a new enterprise-wide software system has been purchased by the Shire and is being installed in readiness for commissioning on 1 July 2021 (“the new system”).

**(7)** We were advised that the new system does not include a fully functional or integrated records management module. We were advised that the contract relevant to the purchase of the new system provides that the development and pricing of a records management module is a matter for both parties to resolve in the future.

**(8)** We were advised that records created on or before 30 June 2021 would not be accessible in the same manner as records created after 1 July 2021. It was suggested to us that a solution under consideration would be to retain a small number of the existing user agreement licences (for the existing system) to afford access to these records. In our view, limiting the number of user agreement licences and access in this manner might lead to a breach of the Record Keeping Plan in that all staff may not be able to properly keep their records.

**(9)** We were shown some details of “third party” software solutions that were being considered as a replacement for the existing system’s record keeping capability. However, we were not given any assurance that the efficacy of these new systems, if installed, would provide enterprise-wide functionality.

**(10)** In our view, a change to the Shire’s existing system should deliver either the same level of service, or preferably improvements in productivity and functionality across all software modules, including, importantly, records management.

**(11)** On the information provided to us, it appears that the new system will not, at this time, provide a records management capability that is an adequate replacement of that capability in the existing system. It is vital that at all times the Shire has a system which meet the objectives, and complies with the requirements of, the Record Keeping Plan.

## 10.3 Recommendations

- (1)** Administrative policies and procedures should be developed and implemented that facilitate the effective recording of all inward and outward emails being generated and received by the administration and the Councillors.
- (2)** The Shire should take whatever steps are necessary to ensure that there is, at all times, enterprise wide access to the Shire's records management system so that the objectives and requirements of the Shire's Record Keeping Plan are satisfied and met. The manner by which this is achieved is the responsibility of the CEO.

# 11. THE SHIRE'S LITIGATION POLICY

## 11.1 Methodology

- (1)** According to the Scope for this Review, the task in this regard was to:

*“Assess the Shire’s current Litigation Policy (adopted in October 2020) in relation to the scope and authority of the CEO regarding any litigation on the Shire’s behalf.”*

- (2)** It became clear, from our investigation and our interviews, that the reference in the Scope to the Shire’s “current Litigation Policy” was, in fact, a reference to the policy adopted by the Council in October 2020 entitled:

“G1 Compliance and Enforcement”.

- (3)** In this Section 12, it is this “Compliance and Enforcement” Policy that we refer to as the “Policy”.
- (4)** We reviewed the Policy and the minutes of the council’s October 2020 meeting (at which the Policy was adopted).

(5) The Policy was discussed during an interview with the CEO.

## 11.2 Findings

(1) We were told that, whilst the Policy was referred to in the Scope as a “litigation” policy nevertheless it intended as a policy to deal specifically with prosecutions and enforcement of laws rather than with some wider field of litigation such as commercial litigation.

(2) This intention is reflected by the terms of the Policy itself as is evident from the “Introduction” to the Policy which states:

*“This policy is intended to provide direction regarding the Shire’s approach to compliance and enforcement of legislation.”*

(3) Key matters dealt with by the Policy are set out in the section entitled “Principles” and state as follows:

*“(a) The Shire will administer its statutory responsibilities under the applicable legislation, in a fair, unbiased and equitable manner in the interest of public health, safety and amenity.*

*(b) Each compliance investigation undertaken by the Shire will be assessed case by case and on its merits.*

*(c) The Shire will generally not investigate or respond to anonymous allegations.*

*(d) The Shire will endeavour to protect the private details of complainants as much as possible within the legislative framework.*

*(e) Allegations of a breach or offence will be prioritised for investigation based upon the seriousness of the alleged breach or offence and resources available.*

*(f) Decisions regarding enforcement will be commensurate with the seriousness of the alleged breach or offence and have regard to upholding the Public Interest.*

*(g) Prosecution will only be commenced where the Chief Executive Officer (or delegate) has considered the prospects of achieving a conviction and is satisfied that prosecution is warranted.*

*(h) The Chief Executive Officer will keep elected members informed of any legal proceedings, anticipated costs and their progress.*

*(i) The Shire may discontinue an investigation where it reasonably considers that the allegation is unsubstantiated, mischievous, vexatious, pertains to a civil matter, has previously been investigated and concluded or is likely to result in disproportionate costs being incurred.”*

**(4)** Under the heading “Limit of Authority”, further matters are provided for as follows (our summary):

- Procurement of legal services will be done under the Purchasing Policy.
- The CEO’s authorisation is limited to \$5,000 for any one matter.
- The CEO is to report with details to the Council where a matter is likely to exceed that figure.

**(5)** In our view, the Policy straight forward in terms of its intent and application. It is not unduly complex and seems reasonably appropriate for a local government such as the Shire.

**(6)** In the course of our discussion with the CEO, we observed that whilst the Policy was reasonable and appropriate, 2 aspects of the Policy could, in our view, be improved.

**(7)** The first matter relates to the considerations to be considered before initiating a prosecution. We noted that the prospects of “achieving a conviction” (under para (g) quoted above) is a relevant and important consideration for commencing a prosecution but is not the only relevant consideration. The CEO noted, correctly in our view that it was implicit that there were other relevant considerations where it was stated that the CEO or delegate must be *“satisfied that prosecution is warranted”*. In our view, it would be desirable if express reference were to be made in the Policy to other relevant considerations. In this regard, consideration ought to be given to Statement of Prosecution Policy and Guidelines currently published and adopted by the WA Director of Public Prosecutions.

**(8)** The second matter relates to the CEO reporting to the Council. In this regard, we observed that it would be wise for the CEO to report to the Council as to any prosecution that was to be defended or was required to go to a hearing. The CEO advised us that she would do this in the normal course of keeping the Council informed and that this would be done via the existing information bulletin to councillors. In our view, consideration should be given to formalising this practice with a requirement to that effect in the Policy.

### **11.3 Recommendations**

**(1)** Consideration should be given to amending the Policy:

- (a)** requiring that, when considering the commencement of a prosecution or when a matter is required to go to a hearing, consideration must be given to the factors set out in the Statement of Prosecution Policy and Guidelines published by the WA Director of Public Prosecutions; and
- (b)** requiring the CEO keep the Council informed of any prosecution that is defended or is required to go to a hearing.

**John M. Woodhouse  
and Andrew Hammond**

**Hammond Woodhouse Advisory**

**19 July 2021**

## TABLE A

### TABLE OF CONSOLIDATED RECOMMENDATIONS

REVIEW TOPIC	Report paragraph	Recommendation (abbreviated)	Priority (H=high, M=medium and L=low)
THE ROLE OF THE COUNCIL			
	• 3.3 (1)	<b>Review content, layout and structure of reports to the Council</b>	<b>M</b>
	• 3.3(2)	<b>Provide training to staff re report writing/agenda preparation</b>	<b>M</b>
	• 3.3(3)	<b>Council to consider all proposals to treat matters as confidential on individual basis</b>	<b>H</b>
	• 3.3(4)	<b>Undertake risk-based review of all Council Policies</b>	<b>H</b>
	• 3.3(5)	<b>Develop Council Policy for dealing with corporate documents</b>	<b>M</b>
	• 3.3(6)	<b>Modify Corporate Business Plan to include 5-year financial forecast</b>	<b>H</b>
	• 3.3(7)	<b>Undertake workshops to elevate CBP to guide strategic financial management</b>	<b>H</b>
THE ROLE OF INDIVIDUAL COUNCILLORS			

	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	No recommendations	
<b>COUNCIL CULTURE AND DYNAMICS</b>			
	<ul style="list-style-type: none"> <li>5.3(1)</li> </ul>	<b>Councillors to pay attention to taking steps to address behaviour issues</b>	<b>H</b>
<b>RELATIONSHIP BETWEEN THE COUNCIL AND CEO</b>			
	<ul style="list-style-type: none"> <li>6.3(1)</li> </ul>	<b>See Recommendation 4 of the Authorised Inquiry</b>	<b>M</b>
<b>RELATIONSHIP BETWEEN THE COUNCIL AND ADMINISTRATION</b>			
	<ul style="list-style-type: none"> <li>7.3(1)</li> </ul>	<b>Councillors to pay attention to Code in dealings with staff</b>	<b>H</b>
	<ul style="list-style-type: none"> <li>7.3(2)</li> </ul>	<b>Councillors to advise CEO promptly of advice concerns</b>	<b>H</b>
	<ul style="list-style-type: none"> <li>7.3(3)</li> </ul>	<b>CEO to pay attention to standard of advice provided by staff</b>	<b>H</b>
<b>MANAGEMENT OF EMPLOYEES</b>			
	<ul style="list-style-type: none"> <li>8.3(1)</li> </ul>	<b>Modify annual performance review forms re role changes</b>	<b>M</b>
	<ul style="list-style-type: none"> <li>8.3(2)</li> </ul>	<b>Employees not to be directed to undertake functions outside PD without appropriate skills/experience</b>	<b>H</b>
	<ul style="list-style-type: none"> <li>8.3(3)</li> </ul>	<b>Review of all job specifications when performance reviews done</b>	<b>M</b>

	• 8.3(4)	Identify training opportunities	M
<b>PROCUREMENT AND PROBITY</b>			
	• 9.3(1) • 9.3(2) • 9.3(3) • 9.3(4) • 9.3(5) • 9.3(6) • 9.3(7)	Establish suite of standard contract templates	H
	• 9.3(8) • 9.3(9) • 9.3(10)	Develop CEO directive to mandate use of templates	H
	• 9.3(11)	CEO to encourage training	M
	• 9.3(12) • 9.3(13) • 9.3(14) • 9.3(15) • 9.3(16) • 9.3(17)	Develop and mandate list of matters where scope of works to be prepared by external expert	H
	• 9.3(18) • 9.3(19)	CEO to oversee evaluation panels and consider a suitable CEO Directive	M
	• 9.3(20)	CEO to provide report to Council re Rec Centre option	M
<b>RECORD KEEPING</b>			
	• 10.3(1)	Develop procedures re record keeping for councillor emails	M
	• 10.3(2)	CEO to ensure enterprise-wide record keeping capability	H
<b>LITIGATION POLICY</b>			
	• 11.3(1)	Consider amending Policy re prosecutions	M



**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

*The Chairperson, B Frayne, declared the meeting open at 3.03pm.*

**2. RECORDS OF ATTENDANCE / APOLOGIES**

**2.1 RECORD OF ATTENDANCE**

Members

B Frayne	Chairperson/Community Representative
Cr Hart	Councillor
B Keens	Community Representative
Cr Pearce	Councillor

Staff

M Ross	Economic Development Coordinator
M Eberle	Museum Curator / Cultural Heritage Officer
M Rebane	Executive Assistant

**2.2 APOLOGIES**

J Edgecombe	Community Representative
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**3. DISCLOSURE OF INTERESTS**

There were no disclosures of interest.

**4. CONFIRMATION OF MINUTES**

**4.1 Minutes of Meeting held on 25 February 2021.**

**OFFICER'S RECOMMENDATION/MAC RES. NO. 03/05/21**

**MOVED** B Keens

That the Unconfirmed Minutes of the Museum Advisory Committee Meeting held on 25 February 2021 be confirmed.

**MOTION CARRIED 4/0**

**5. INFORMATION ADDITIONAL TO THE AGENDA**

**5.1 Review of Museum Advisory Committee Status Report**

*Refer to the Status Report in the Agenda Attachments.*

**6. BUSINESS LEFT OVER FROM PREVIOUS MEETING (if adjourned)**

Nil.

## 7. OFFICER REPORTS

### 7.1 Current Activities – Shire Museum and its Collections

<b>Date of Report:</b>	18 May 2021
<b>File Reference:</b>	COC4
<b>Author:</b>	M Eberle – Museum Curator, Cultural Heritage Officer
<b>Responsible Officer:</b>	M Ross – Economic Development Officer
<b>Attachments:</b>	Nil

#### PURPOSE

To provide information on current activities involving the Shire museums and its collections

#### BACKGROUND

This update follows on from a verbal report presented at the Museum Advisory Committee meeting in February 2021.

#### OFFICER COMMENT

This report is on current activities – no further actions are recommended.

#### Collections

- Transcriptions
  - New Norcia Police Occurrence Book 1878 – checking of first draft is continuing by volunteer at home. Unfortunately, other commitments have impacted upon the amount of time they have been able to devote to this project during the last three months. Around 15 more pages have been checked since the last report. (estimated around 1/3 of the draft completed)
  - Newcastle Police Station Charge Book 1898-1903 – updating and expanding an earlier partial transcription is ongoing.
- High resolution photography of museum artefacts is continuing with one volunteer only. Our second volunteer on this project has now moved on from Toodyay.
- Data about the museum collection continues to be uploaded slowly to the online platform Collections WA. This process has initiated a parallel project to correct minor typing and spelling errors that have crept into our own database, and so progress to expand our online presence is slow and steady – 779 records out of 3,151 records uploaded. Not all of our records will be shared, due to possible confidentiality and copyright considerations. The broader reach of these records has already prompted enquiries from beyond Toodyay.

- Some objects identified as surplus to the museum collection and mentioned in a report to Council in November 2020 were collected in April by the Avondale Machinery Museum to be added to their heritage collections. These objects had been identified as being in poor or incomplete condition and had an unknown history. They were a partially & incomplete four-wheel trap, a roll of barbed wire, a metal bath in two sections, some components from disintegrated horse drawn vehicles (mainly from a light two-wheel cart and a four-wheeled dray), approximately 200 new cedar shingles (not associated with the gaol restoration), an egg incubator made of asbestos, a cast iron pot (made in Taiwan) and a set of metal gears.

#### On site Newcastle Gaol precinct

- Daily sanitising of the gaol precinct continues under the WA Government's Stage 4 Roadmap to Recovery Strategy guidelines.
- Museum workshop – internet connection lost for two extensive periods (27 Feb – 23 March & 27 April – 13 May) due to storm damage and faulty cable which impacted significantly on work behind the scenes during the past 3 months including transcriptions, database updates and preparation for new exhibition.
- A cost estimation for an urgently needed new museum storage shed was put forward for review to Shire senior management but this proposal has not been accepted for inclusion in the upcoming financial year's budget considerations.

#### Connor's Mill

- Daily sanitising of Connor's Mill continues under the WA Government's Stage 4 Roadmap to Recovery Strategy guidelines.

#### Promotion

- Articles about the museum, activities and heritage subjects are included in the monthly Shire newsletter.
- The Toodyay Herald continues to publish photographs from the Shire Collection on page 4.
- The ToodyayMuseums Facebook group continues to promote the activities of the museum to those who have joined.

#### Public programs / public engagement

- A successful National Trust Heritage Festival event was held at the Wicklow Shearing Shed in the Newcastle Gaol Museum precinct on Sunday May 16 between 12pm – 3pm. Titled "Families – linking our past, present and future", it was an informal afternoon sharing hints and practical strategies for uncovering and preserving family histories. It was run in partnership with the Toodyay Historical Society and around 60 people visited throughout the afternoon. Our grateful thanks to our

museum volunteers: Barry, Michelle and Geoff, Cr Phil Hart who acted as our event photographer, Doris Martin and members of the Toodyay Historical Society.

#### Displays

- New exhibition opened in the temporary exhibition room of the Newcastle Gaol supporting the Nationals Trust's Festival event at the Wicklow Shearing Shed on May 16. "Families – Linking our past, present & future". It has been decided to extend its run time until at least August 2021. Many portraits, photographs and objects that have not been on display for a long time have been brought out. A slide show produced by the Toodyay Historical Society about searching for family histories in Toodyay is included in the display.
- New metal display panels produced late last year and early this year have now been installed in the Police Stables, the Wicklow Shearing Shed, the Machinery Shed and on the footbridge leading up to it. These panels provide more historical information about various aspects of the Newcastle Gaol Museum site.

#### OFFICER'S RECOMMENDATION

The Museum Advisory Committee recommends to Council the following:

That Council receives the Museum update report on Current Activities – Shire Museum and its Collections is received.

Clarification was sought in relation to the above Officer's Report.

#### OFFICER'S RECOMMENDATION/MAC RES. NO. 04/05/21

**MOVED** B Frayne

**SECONDED** B Keens

The Museum Advisory Committee recommends to Council the following:

That Council receives the Museum update report on current activities – Shire Museum and its Collections, as contained in the Officer's Report.

**MOTION CARRIED 4/0**

#### 8. NOTICE OF BUSINESS FOR NEXT MEETING

Nil

#### 9. NEW BUSINESS OF AN URGENT NATURE

Nil

#### 10. NEXT MEETING

The next meeting of the Museum Advisory Committee is scheduled to be held on 26 August 2021 commencing at 4.00pm.

**11. CLOSURE OF MEETING**

The Chairperson closed the meeting at 3.34pm.

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## 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Mr B Foley, Chairperson, declared the meeting open at 4.07pm.

## 2. RECORDS OF ATTENDANCE / APOLOGIES

### Members

Mr B Foley	Chairperson/Community Member
Cr P Hart	Council Member
Cr R Madacsi	Council Member
Ms J Hart	Community Member

### Staff

Mr H de Vos	Acting Manager Planning and Development
Mr G Warburton	Reserves Management Officer
Mrs M Rebane	Executive Assistant

### Visitors

Nil.

### Apologies

Nil.

## 3. DISCLOSURE OF INTERESTS

The Chairperson advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

## 4. CONFIRMATION OF MINUTES

### 4.1 Minutes of Meeting held on 9 March 2021.

#### OFFICER'S RECOMMENDATION/EAC RES. NO. 05/06/21

**MOVED** Cr Madacsi

That the Unconfirmed Minutes of the Environmental Advisory Committee held on 9 March 2021 be confirmed.

**MOTION CARRIED 4/0**

## 5. INFORMATION ADDITIONAL TO THE AGENDA

### 5.1 Review of Environmental Advisory Committee Status Report

This was reviewed and amended.

## 6. BUSINESS LEFT OVER FROM PREVIOUS MEETING (if adjourned)

Nil.

## 7. OFFICER REPORTS

### 7.1 Review of Terms of Reference

<b>Date of Report:</b>	15 June 2021
<b>File Reference:</b>	Environmental Advisory Committee (COC14)
<b>Author:</b>	H de Vos – Acting Manager Planning and Development
<b>Responsible Officer:</b>	H de Vos – Acting Manager Planning and Development
<b>Attachments:</b>	1. 2020 Revision of EAC Guidelines

#### PURPOSE

To review the Terms of Reference for the Environmental Advisory Committee (EAC).

#### BACKGROUND

Pursuant to clause 17(2)(a) of the *Shire of Toodyay Standing Orders Local Law 2008*, a Council resolution to establish a committee under section 5.8 of the Act is to include the terms of reference of the committee.

The Committee Brief was set up at an Ordinary Meeting of Council held on 24 June 2014, where an excerpt of Council's Resolution stated the following:

"The Environmental Advisory Committee will have the following terms of reference:

- ***Provide advice to Council on the implementation of the environmental strategy;***
- ***Develop relevant documents including policies, strategies, leaflets, pamphlets or booklets consistent with the environmental strategy for consideration by Council; and***
- ***Provide advice on relevant matters referred to it by Council."***

The Committee Brief shall contain aims and objectives as follows:

#### Aims

To inform and advise Council on environmental and sustainability related issues and Council's role in improving the natural environment of Toodyay. The EAC particularly advises on the implementation, monitoring and review of the Shire's Environmental Strategy and Biodiversity Strategy, subsequent strategies, and actions.

#### Objectives

- i. ***Provide input and advice to Council on issues of environmental sustainability;***
- ii. ***To provide input to Council on behalf of the community and community organisations;***
- iii. ***To actively support Council's consultation with and advocacy to the broader community;***

- iv. *To provide input and advice to Council on the implementation of Council's Environmental Management Strategy and development and implementation of Council's Biodiversity Strategy;*
- v. *To monitor and review environmental and sustainability issues in Toodyay;*
- vi. *To provide input and assist in developing relevant documents including policies, strategies, leaflets, pamphlets or booklets consistent with Council's Environmental Management Strategy; and*
- vii. *To assist Council in determining of priority activities to be undertaken and annual objectives.*

This request to review the Terms of Reference (TOR) is at the behest of EAC member – Cr Madacs, who has provided:

*"The intent is discussing the relevance of the current Terms of Reference of the EAC which are heavily reliant on staff time, Shire resources and funds (printed material) rather than community and EAC committee resources to exact beneficial changes".*

#### **OFFICER COMMENT**

When the EAC was established in 2014, the Shire administration had a full-time Environmental Officer who had the responsibility for the administrative aspect i.e. report writing and research, for the EAC.

Unfortunately, this position was made redundant which has increased pressure on staff time and resources.

A review of the Terms of Reference to better reflect the current administrative limitations and with an emphasis on community and EAC committee resources is welcomed and will result in a better outcome for the productivity of the EAC.

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

The Environmental Advisory Committee recommends to Council the following:

That Council:

1. Amend the Terms of Reference for the Environmental Advisory Committee as follows:
  - a.
  - b.
  - c.

*There was discussion in relation to this report.*

**OFFICER'S RECOMMENDATION/EAC RES.NO. 06/06/21**

**MOVED** Cr Madacs

**SECONDED** J Hart

The Environmental Advisory Committee recommends to Council the following:

That Council amend the Terms of Reference for the Environmental Advisory Committee as follows:

Purpose

The EAC will provide guidance and assistance where possible on all matters that benefit or impact the natural environmental assets of the Shire of Toodyay.

Objectives:

The EAC will:

- (a) make recommendations to Council on matters relating to the environment including but not limited to:
  - Natural resources;
  - Native vegetation and landscape;
  - Biodiversity protection and enhancement;
  - Catchment drainage and water course management;
  - Resource recovery and waste management;
  - Pest and weed management;
  - Environmental sustainability;
  - Climate change impact adaption and mitigation.
- (b) generate community interest and participation in matters relating to the above items;
- (c) provide feedback to Council in relation to point (b) above;
- (d) provide input and advice to Council on the implementation of Environmental strategies and policies.

**MOTION CARRIED 4/0**

## 7.2 Community Verge Flora Survey

<b>Date of Report:</b>	15 June 2021
<b>File Reference:</b>	Environmental Advisory Committee (COC14)
<b>Author:</b>	H de Vos – Acting Manager Planning and Development
<b>Responsible Officer:</b>	H de Vos – Acting Manager Planning and Development
<b>Attachments:</b>	1. Assessing Roadsides: A guide for rating conservation value

### PURPOSE

To consider initiating a Community Verge Flora Survey.

### BACKGROUND

This matter is being brought to the Environmental Advisory Committee (EAC) at the behest of EAC committee member Cr. Madacsi, who has provided:

*"The concept of the Community Verge Flora Survey is based upon the premise of proactive, community and committee-based resources. Verge flora is an important part of maintaining the Shires flora and fauna diversity, tourism wildflower displays and our amenity. Unfortunately, it is constantly under threat from, clearing, fire mitigation, roadside works and property owners.*

*Largely, this occurs in ignorance and because the verge diversity has not been defined.*

*The intent is to utilise the community by running a program over winter and spring, encouraging every property owner to photograph their verge flora, identify the property and road location.*

*The EAC committee has the expertise to identify, collate and draft by road the locations of key areas. This road list with locations of key flora can be used by Works and contractors and in development applications or tourism promotion."*

### OFFICER COMMENT

In April 2021, the Council adopted its Verge Maintenance Policy.

#### Policy Intent

- To value the verge as an important component of the streetscape;
- To encourage ownership by owners/occupiers to improve and maintain verge presentation;
- Define the extent of general verge maintenance activities undertaken by the Shire;
- Reduce the impact of unwanted plants on agriculture, conservation and landscape values in the Shire;

- Ensure Council meets its legal responsibilities under the *Local Government Act 1995* and to control unwanted plants within the Shire under the *Agricultural and Related Resources Protection Act 1976*.

Part 4 of the policy speaks to high conservation roadsides - stating the Shire's commitment to identifying and preserving high conservation roadsides. And that this should be assisted by identifying and implementing verge management activities that preserve, support, and enhance the conservation value of the high conservation roadsides.

Thus, a survey would be the logical step to not only obtain this data, but also to encourage community buy-in into the process. It would be an approach that is consistent with this policy.

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

The Environmental Advisory Committee recommends to Council the following:

That Council:

This was discussed.

#### **OFFICER'S RECOMMENDATION/EAC RES. NO. 07/06/21**

**MOVED** Cr Hart

**SECONDED** J Hart

The Environmental Advisory Committee recommends to Council the following:

That Council:

1. Approves that the Environmental Advisory Committee will coordinate and run a staged community verge flora identification program by encouraging community participation through a variety of strategies that may include:
  - promotion through social media;
  - use of technology;
  - youth education and citizen science;
2. Endorses the objectives of the exercise and the expected outcomes of:
  - enhancement of verge protection,
  - improving the opportunity for flora-based tourism; and
  - creation of a database resource for the community and the Shire to support future development and protection of the environment.
3. Noting that:
  - (a) stage 1 will commence from August 2021; and
  - (b) updates be provided to Council through Council Forums.

**MOTION CARRIED 4/0**

**8. OTHER BUSINESS / NEW BUSINESS OF AN URGENT NATURE**

Regular informal report from RMO be provided to members via email on a regular basis that may be included as part of the EAC Agenda.

**9. NEXT MEETING**

The next meeting of the Environmental Advisory Committee is scheduled to be held on 7 September 2021 commencing at 3.00pm.

**10. CLOSURE OF MEETING**

The Chairperson declared the meeting closed at 6.05pm.



## Applying roadside conservation values

**Healthy, intact vegetation on roadsides is incredibly valuable for a number of reasons, including:**

- **habitat for native plants and animals – old trees with hollows are particularly valuable and are disappearing from many WA landscapes**
- **refuge for threatened species in highly cleared landscapes**
- **corridors linking larger areas of vegetation, extending the habitat animals can access**
- **landcare benefits such as shelter for adjacent stock, lowering of saline water table and protection from erosion**
- **weed suppression**
- **easily seen wildflowers that draw tourism**
- **aesthetics and sense of place.**

However, the long, thin shape of roadside vegetation means that it is vulnerable to impacts from adjacent land uses. Disturbance caused by roadworks and fire can contribute to the invasion of grassy weeds that make the roadside more prone to bushfire. Clearing of adjacent land for farmland or infrastructure exposes the vegetation to stronger winds and higher, sometimes saline, water tables.

Identifying areas of different conservation value gives road managers important information to help make planning decisions, enable staff to prioritise areas needing extra care and attention during roadwork operations, identify strategic sites for rehabilitation, and more. The Roadside Conservation Committee offers a free service to map the conservation value of roadsides. This Verge Note contains information on that service and outlines its benefits.



*An example of a high conservation value roadside in the State's Wheatbelt. Photo – Kylie Payne*

## Roadside conservation value (RCV) mapping

The Roadside Conservation Committee (RCC) can map the conservation value of roadside vegetation, at the request of local governments.

The process involves extensive on-site roadside surveys within a shire to collect data using mobile devices. This data is used to produce a GIS-based map, which is provided to the shire with a report detailing and interpreting results.

Data collected includes an indication of the roadside vegetation's:

- structure (presence of trees, shrubs, ground cover)
- diversity (number of different native plant species present)
- extent (continuous or patchy)
- habitat/corridor value (presence of features commonly used by native animals)
- weed invasion
- distribution and abundance of several shire-nominated weeds.

Based on this information, each section of road surveyed is assigned a score from 0–12 to indicate the biodiversity conservation value the roadside vegetation demonstrates. These are displayed on a map as areas of high, medium-high, medium-low and low conservation value.

The RCC offers the mapping service to shires free of charge, relying on local volunteers to undertake the survey component. At least 80 per cent of the shire-managed roads need to be surveyed to ensure that the results are useful for management. Many shires contribute staff time to coordinate volunteer surveys, or even undertake some of the survey component. Some shires obtain external funding to employ people to complete surveys.

Conservation value	Score	Typical features
<b>High</b>	9–12	A wide range of native trees, shrubs and ground covers present; continuous cover of native vegetation; presence of habitat features such as tree hollows and/or food sources like seeds, fruits or nectar; few weeds/less aggressive weeds.
<b>Medium-high</b>	7–8	A range of native plants present; fairly good cover of native vegetation; small weedy patches; some habitat features present.
<b>Medium-low</b>	5–6	A smaller range of native plants present; patchy cover of native vegetation; larger weedy patches, often of aggressive weeds; few habitat features present.
<b>Low</b>	0–4	Few native plants present; extensive weed presence/weeds aggressive.



An example of a low conservation value roadside. Photo – Tamara Wilkes-Jones/Shire of Kalamunda

## Uses of RCV information

RCV information can be used by shires and natural resource management (NRM) groups to:

- inform planning decisions, such as strategic road upgrades for the transport of agricultural products
- plan roadwork (capital and maintenance) operations to minimise their impact on native plants, animals and roadside vegetation. Low conservation value roads require less care than those with high conservation values
- identify possible Flora Roads, which may be used to promote a shire to tourists
- strategically prioritise and plan weed control
- apply for grants to fund strategic weed management, revegetation etc
- consider landscape-scale planning – for example, to help identify areas that could be rehabilitated to form a wildlife corridor between large areas of bush, helping animals to move between them.

A downloadable copy of completed RCV maps and supporting reports can be accessed through the RCC website ([www.dpaw.wa.gov.au/rcc](http://www.dpaw.wa.gov.au/rcc) – look for 'Roadside conservation value mapping program', and then 'Data from surveyed shires').

Spatial data is available online from the Shared Land Information Platform (SLIP – more information at [www2.landgate.wa.gov.au/web/guest](http://www2.landgate.wa.gov.au/web/guest)) or through the WA Local Government Association's Environmental Planning Tool (more information at <http://ppb.walga.asn.au/Tools/EnvironmentalPlanningTool.aspx>). Access to raw data may be requested by email to [rcc@dpaw.wa.gov.au](mailto:rcc@dpaw.wa.gov.au).



Maps such as this one produced for the Shire of Kalamunda can be used in natural resource management planning, such as the planning of potential wildlife corridors. Sections of high conservation value roadsides (bright green) can link remnant vegetation, bushland reserves and watercourses. This allows animals, such as birds, reptiles and insects to move between patches of bush to search for food, mates and other requirements.

The map can also be used to identify degraded sections that can be targeted for revegetation to achieve a good conservation outcome at the local landscape level. Reinstating native vegetation in these areas improves its ability to act as habitat and a corridor between remnant vegetation on the roadside and on surrounding properties.



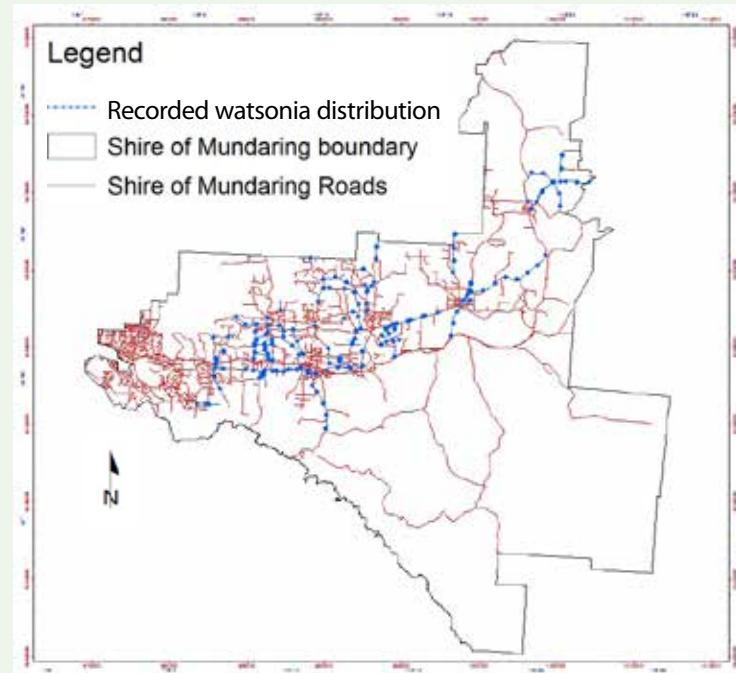
*Phascogale: this charismatic small carnivore needs large trees with hollows for shelter from foxes and cats, and enough insects and small vertebrates to fuel its high metabolism. Photo – Babs and Bert Wells/Parks and Wildlife*

## Case study – Shire of Mundaring

The Shire of Mundaring is a peri-urban shire, with many residents attracted to the area by the presence of remnant bush. The density of homes with gardens provides a challenge for weed control, with plants escaping from gardens into the native vegetation, and soil disturbance helping them to establish as weeds. The shire was presented with an RCV map and report in 2008, and has used the information in a number of ways since.

1. The digital information has been included on the shire's GIS system, which is used for planning capital works and maintenance tasks. It provides a trigger mechanism for engineering and operational staff to request advice from environmental staff on issues.
2. The shire nominated watsonia as one of their priority weeds for mapping, so data identifying where the weed occurred and in roughly what density (low, medium or high) was collected. They used this data and the distribution map of watsonia to:
  - identify and prioritise areas where weed control would be of greatest long-term benefit
  - gain external State NRM funding to pay for watsonia control on strategically selected shire-managed road reserves.
3. Giant reed (*Arundo donax*, also called bamboo) was identified as a problem weed in the shire. Although this weed was not mapped specifically, the data included records of places it occurred, and this was used to identify sites suitable for control. External funding was again received to support this work.
4. The information is being fed into the shire's draft *Roadside Conservation Strategy*. Mundaring Council is very interested in roadside conservation, and associated responsibilities such as fire management.
5. The shire assessed the locations of large jarrah habitat trees from the data. Staff will combine this with other data about dieback risk areas, inspect large trees at risk and consider whether they would benefit from phosphite treatment to promote tree health and longevity.

The RCV project has provided the shire with direct management information which has assisted in achieving a strategic approach to roadside management and the sourcing of funds to support this work.



Map showing the distribution of watsonia in the Shire of Mundaring.



RCV mapping enabled the Shire of Mundaring to target areas of problem weeds like watsonia. Note how the weed became densely established on an area of disturbed ground. If left untreated it would have progressively invaded the neighbouring native vegetation. Photos – Brad Thompson/ Shire of Mundaring



## For more information and advice

Executive Officer  
Roadside Conservation Committee  
Locked Bag 104, Bentley Delivery Centre WA 6983  
Phone: (08) 9219 9519 Email: [rcc@dpaw.wa.gov.au](mailto:rcc@dpaw.wa.gov.au) Web: [dpaw.wa.gov.au/rcc](http://dpaw.wa.gov.au/rcc)  
347  
Information current at March 2016. This information is available in alternative formats on request.

**Roadside  
Conservation  
Committee**





# FACT SHEET

## COMMERCIAL USE OF NATIVE FLORA & TIMBER

The Biodiversity Conservation Regulations 2018 come into effect on 1 January 2019. This fact sheet provides information on the regulatory arrangements for the commercial use of native flora and timber, but not sandalwood.

### Key points

- New licensing arrangements apply to taking, supplying, processing and dealing native flora (including flowers, seeds, whole plants, timber and firewood).
- Holders of existing licences relevant to these activities will continue to be authorised under the new Regulations until the existing licence expires.
- When an existing licence expires, a new application can be made online at [www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits](http://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits) or by contacting DBCA on [wildlifelicensing@dbca.wa.gov.au](mailto:wildlifelicensing@dbca.wa.gov.au)
- Taking flora (including flowers, seeds, whole plants, timber and firewood) from Crown land is not permitted unless done under a lawful authority. Taking flora for commercial uses from Crown land may be authorised under a *Flora taking (commercial purposes) Crown land licence*. Flora otherwise lawfully taken from Crown land may be supplied for commercial use under a *Crown land supplier's licence*. Flora may also be taken from Crown land for a commercial purpose under a *Bioprospecting licence*.
- A *Private land supplier's licence* is required where flora (including native timber) is taken from private land and is to be sold either directly to the public or to a flora wholesaler or timber mill (for the native timber and firewood industry).
- People will only be able to sell flora taken from private property under a *Private land supplier's licence* if the flora has been lawfully taken and the owner or occupier has given their permission.
- A licence is not required to take flora from the owner's property for personal use, or to give this flora including firewood away (e.g. to family or friends who do not intend to sell it).
- The taking of flora may also be authorised under a *Flora taking (other purposes) Crown land licence* or *Flora taking (biological assessment) licence*, however, this flora may not be sold or used for a commercial purpose.
- The Biodiversity Conservation Regulations can be accessed via [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au).

## Background Information

All native plants and animals are protected in Western Australia under the *Biodiversity Conservation Act 2016* (BC Act). The removal of native vegetation (or 'flora') is regulated under the *Environmental Protection Act 1986* (EP Act), the *Conservation and Land Management Act 1984* (CALM Act), the *Forest Products Act 2000*, and the BC Act.

On State forests and timber reserves (categories of Crown land), the commercial harvest and sale of timber is managed by the Forest Products Commission, which award contracts to harvest and supply through competitive tender processes. The type, quantities and location of wood made available are regulated by DBCA.

Where the Forest Products Commission does not regulate the supply of timber from areas of Crown land, DBCA may regulate the supply through the CALM Act or BC Act.

DBCA regulates the harvesting and supply of other flora (flowers, foliage, seeds, whole plants) from Crown land. A management plan covering the harvest of this other flora is prepared by DBCA and approved by the Australian Government to authorise flora exports under the *Environment Protection and Biodiversity Conservation Act 1999*.

On private property, the EP Act and its associated regulations provide restrictions and exemptions for clearing native vegetation, while the BC Act and its associated regulations provide for licences to be issued where vegetation that has been taken is to be sold.

## Transitional Licensing Arrangements

From 1 January 2019, new licensing arrangements for the taking, supplying, processing and dealing of flora (including flowers, seeds, whole plants, native timber and firewood) apply.

Holders of existing licences relevant to these activities will continue to be authorised under the new regulations without needing to apply for a new licence. When the existing licence expires, a new application will be required.

Online applications for licences will be available from DBCA's website [www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits](http://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits) from early 2019 or by contacting DBCA Wildlife Licensing on [wildlifelicensing@dbca.wa.gov.au](mailto:wildlifelicensing@dbca.wa.gov.au).

Taking, supplying, processing and dealing flora (including flowers, seeds, whole plants, native timber and firewood) is principally covered in Regulations 60-66 as summarised in the table below.

Previous licence under the <i>Wildlife Conservation Act</i>	New licence under Biodiversity Conservation Regulations 2018
Licence to take protected flora on Crown land for commercial purposes (other than sandalwood)	Flora taking (commercial purposes) Crown land licence
No equivalent	Crown land supplier's licence
Commercial producer's licence or nurseryman's licence (other than sandalwood)	Private land supplier's licence
No equivalent	Flora processing licence
No equivalent	Flora dealing licence

The commercial use of flora through bioprospecting activities is a specialised area and is covered in Regulation 72. A *Bioprospecting licence* may be applied for this activity.

### When is a licence required?

Taking flora (including flowers, seeds, whole plants, timber and firewood) from Crown land is not permitted unless done under a lawful authority. Taking for commercial uses may be authorised under a *Flora taking (commercial purposes) Crown land licence* which also authorises the supply of the flora taken. Flora otherwise lawfully taken (eg lawfully under the EP Act) may be supplied for commercial use under a *Crown land supplier's licence*.

The taking of flora from Crown land may also be authorised under a *Flora taking (other purposes) Crown land licence* or *Flora taking (biological assessment) licence*, however, flora taken under these licences may not be sold or used for a commercial purpose.

The permission of the owner or occupier is required to take flora on that land.

**A licence is not required to take flora from the owner's property for personal use, or to give this flora including firewood away (e.g. to family or friends who do not intend to sell it).**

**The regulations do not apply to plantation-grown wood of non-native species such as pine and bluegum.**

**If the flora is being supplied to a not-for-profit organisation or by a not-for-profit organisation, then a licence is not required (e.g. flowers or firewood for a raffle or other fund-raising activity).**

A *Private land supplier's licence* is required where flora has been lawfully taken (including under provisions of the EP Act) from private land and is to be sold. This

includes where native timber or firewood is to be sold either directly to the public or to a wholesaler or timber mill for the native timber and firewood industry.

The Environmental Protection Regulations 1987 contain specific clearing exemptions (e.g. for maintaining fences or tracks or if the flora is lawfully taken under a *Private land supplier's licence*). If an exemption is not applicable, the EP Act provides for the issue of a clearing permit.

To ensure the sustainability of timber harvesting, when applying for a *Private land supplier's licence* for the sale of firewood or timber, in addition to providing the private property owner's consent, the applicant will need to demonstrate that the firewood or timber they intend to sell has been taken in accordance with either a clearing exemption or a clearing permit.

It is a requirement of the regulations that a person intending to supply flora in the future continues to hold either a valid Crown land or private land supplier's licence until the flora is supplied to another person. The holder of the licence must also provide a copy of their licence or their licence number to the purchaser or include it on any packaging.

### **Is a licence required for cultivated flora or cultivars of flora?**

It is necessary to licence cultivated flora in the same manner as wild-sourced flora for industry compliance purposes. Flora that is cultivated is not easily distinguished from wild-sourced stock. See note below on cultivars.

Cultivated flora is defined in the BC Act as flora that has been intentionally sown, planted or propagated, unless it has been sown, planted or propagated under a requirement of the BC Act or another law.

Regulation 4 prescribes classes of flora that are excluded from the definition of cultivated flora (i.e. they are not cultivated flora) including:

- sandalwood that is sown or regenerated in connection with sandalwood being lawfully taken (whether at the same place or at another place);
- flora cultivated or translocated under an approval under Part 7;
- flora that is established for the purposes of meeting a requirement under this Act, the EP Act, *Mining Act 1978*, *Planning and Development Act 2005* or any other written law.

Flora cultivars are a type (subset) of cultivated flora. Flora cultivars are native species that have been bred, selected for and improved over many generations to produce a variety or 'cultivar' that may have particular traits, such as larger flowers or different growing habits.

Cultivars are generally distinguishable from native flora by their appearance as this is usually the objective of creating the cultivar. Examples include forms of Geraldton wax (*Chamelaucium uncinatum*) which have been selected over many generations and grown under trade names such as 'purple pride', and 'western' bluegum (*Eucalyptus globulus*) which has been bred for its timber qualities.

A person will be exempt from needing a *Private land supplier's licence* or *Crown land supplier's licence* to authorise supply of flora cultivars.

## What other permission is needed to take flora?

Although owners or occupiers can take flora from their own land, the permission of the owner or occupier is required to take flora from someone else's private land, and from Crown land. This permission must be provided by an authorisation that is:

- a) in writing; and
- b) identifies the relevant land, and the period during which access to the relevant land is authorised; and
- c) has been signed and dated by the owner or occupier of the land providing the authorisation.

## What requirements apply to dealers?

People who are buying and selling (dealing) flora are exempt from needing a *Flora dealing licence* as a result of an order made under the BC Act. The flora being bought and sold must have been acquired from a person with a supplier's licence or otherwise lawfully obtained. The exemption requires the dealer to maintain records of the purchase and sale of the flora. These records are to be retained for two years and must be provided to a wildlife officer on request.

The exemption also means a *Flora dealing licence* is not required for flora that is being supplied as a potted plant or directly retailed to the public. Records do not need to be kept of these transactions.

## What requirements apply to processors?

Anyone (other than a saw mill receiving forest products taken under contract as per Part 8 of the *Forest Products Act 2000*) processing native timber into carved wood, craft wood, wood chips, wood dust, oil, log timber and sawn timber will require a *Flora processing licence*.

Prescribed methods include carving, drilling, shaving, sanding, cutting, grinding, turning, chipping, crushing, sawing, extracting or any separation method. These 'things or substances of a prescribed kind' and 'prescribed methods' are outlined in Regulation 5.

## Licence Fees

The following table sets out the application and licence fees applicable to flora licences.

Licence type	New application and licence fee	Renewal application and licence fee
Flora taking (commercial purposes) Crown land licence	\$145	\$120
Crown land supplier's licence	\$60	\$60
Private land supplier's licence	\$45	\$30
Flora processing licence	\$215	\$180
Flora dealing licence	\$215	\$180

To find out more about the Biodiversity Conservation Regulations 2018 visit:

[www.dpaw.wa.gov.au/plants-and-animals/biodiversity-conservation-act](http://www.dpaw.wa.gov.au/plants-and-animals/biodiversity-conservation-act)

For further information about licensing visit:

[www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits](http://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits)

### DBCA headquarters

17 Dick Perry Avenue KENSINGTON WA  
Locked Bag 104, BENTLEY DELIVERY CENTRE WA 6983  
Phone (08) 9219 9000  
Fax (08) 9334 0498

Current as at 20 December 2018

### FURTHER INFORMATION

Contact your local office of the Department of Biodiversity, Conservation and Attractions. See the department's website for the latest information [www.dbca.wa.gov.au](http://www.dbca.wa.gov.au)



Department of Biodiversity,  
Conservation and Attractions



## APPLICATION FOR FLORA TAKING (OTHER PURPOSES) CROWN LAND LICENCE

(Pursuant to Regulation 61 of the *Biodiversity Conservation Regulations 2018*)

### NOTE TO ALL APPLICANTS:

- Please complete ALL sections, and all relevant forms. Further information may be obtained from the Wildlife Licensing Section, 9219 9836 or [wildlifelicensing@dbca.wa.gov.au](mailto:wildlifelicensing@dbca.wa.gov.au).

**Application should be mailed to:** Wildlife Licensing Section  
Department of Biodiversity, Conservation and Attractions (DBCA)  
Locked Bag 30, Bentley Delivery Centre, WA 6983.

Email to [wildlifelicensing@dbca.wa.gov.au](mailto:wildlifelicensing@dbca.wa.gov.au), faxed to (08) 9219 8242

### 1. Applicant details

Mr / Mrs / Ms / Dr	First Name			
	Other names (middle)			
	Surname			
Residential Address				
Suburb	Postcode		State	
Postal Address				
Suburb	Postcode		State	
Email:				
Phone Contact No.	Date of Birth	____ / ____ / ____		
Previous Licence No.	Previous Licence expiry	____ / ____ / ____		
Proof of identification (photo identification required, eg, driver's licence, passport)	<input type="checkbox"/>	Attached		

### 2. Prior Convictions

Have you been convicted of any wildlife or plant related offence in the past 5 years?  Yes  No

If Yes, please provide details (offence, date)

### 3. Purpose of taking activities and application fee (Payment details on last page of application)

Purpose	New application		Renewal application*	
	1 year	3 years	1 year	3 years
Research/study – <i>attach proposal</i>	<input type="checkbox"/> \$90 (\$45)	<input type="checkbox"/> \$160 (\$80)	<input type="checkbox"/> \$60 (\$30)	<input type="checkbox"/> \$130 (\$65)
- Specimen vouchering/identification	<input type="checkbox"/> \$45 (\$22.50)	<input type="checkbox"/> \$75 (\$37.50)	<input type="checkbox"/> \$30 (\$15)	<input type="checkbox"/> \$60 (\$30)
- Non-commercial propagation				
- Wildflower show/display				
Educational Institution or Government staff	<input type="checkbox"/> \$45	<input type="checkbox"/> \$75	<input type="checkbox"/> \$30	<input type="checkbox"/> \$60
Other (eg. Hobby, art, personal use)	<input type="checkbox"/> \$45	<input type="checkbox"/> \$75	<input type="checkbox"/> \$30	<input type="checkbox"/> \$60

\* A renewal is only granted when an application is received prior to a current licence expiring

Please briefly describe the purpose of flora taking activities:

**A 50% fee reduction (amount shown in brackets in payment table) applies for the following:**

- Full-time undergraduate students undertaking research/study
- Volunteers taking specimens for identification purposes for local regional herbariums
- Volunteers taking for non-commercial propagation for registered not-for-profit organisations
- Volunteers collecting for wildflower shows (where the flora is not sold)

<input type="checkbox"/>	Applying for fee reduction	Fee payable \$ _____
Written evidence (proof of course enrolments/requirements, society membership or reference from not-for-profit organisation) must be attached to this application before any fee reduction will apply.		
<input type="checkbox"/> Attached		

**4. Locations to which application applies (detail all that you propose to collect on)**

Tenure	Write details in the tenure sections that are relevant
<b>Crown land not managed by DBCA</b> (written permission must be obtained from the relevant Crown land manager eg. LGA/Department/etc)	Crown land manager/s: _____ _____ _____
<b>Unallocated Crown Land (UCL)</b> (permission granted by the relevant DBCA district/region via an 'Access to land' permission)	DBCA District/Region where UCL is located: _____ _____ _____
<b>CALM Act lands</b> eg. National Parks, Nature Reserves, State Forests (contact Wildlife Licensing for a Regulation 4 Authority application form)	Name/s of CALM Act land: _____ _____ _____
	<input type="checkbox"/> Proposal attached which includes information to justifying taking flora from CALM Act land as opposed to other Crown lands or private property

**5. Flora to be taken**

<input type="checkbox"/>	Propagation material, other than threatened species
<input type="checkbox"/>	Specimens for identification purposes only, other than threatened species
<input type="checkbox"/>	Targeted species (attach list if more space is required)

Scientific name	Common name	Part to be taken (eg. Flowering stems, cones, seeds, whole plant)

<input type="checkbox"/>	As attached (detailing species and parts proposed to be taken)
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## 6. Other information

Please attach any other documentation or comments relevant to your application

## 7. Use and disclosure of information

Information that you provide will be used and disclosed in accordance with sections 274 and 275 of the Biodiversity Conservation Act 2016 (WA). This may include use for licence monitoring and compliance, to information you of any licence of legislative requirements or changes, to seek your feedback on wildlife related licensing and legislation, and disclosure to other State and Commonwealth agencies for administration or enforcement purposes. You also consent to the release of information concerning the grant of the licence, and of any conditions of the licence, in response to inquiries made to the Department.

## 8. Declaration by applicant

<input type="checkbox"/>	Yes	I understand that there are penalties for making false or misleading statements in or in connection with a licence application and that making false or misleading statements may lead to the cancellation of my licence and may affect my ability to hold licences in the future. All details provided by me to DBCA in relation to this application are true and correct, and I consent to the use and disclosure of information for the purposes described in the 'Use and disclosure of information' section above.
<b>Signed:</b>		<b>Date:</b> ____/____/____

## PAYMENT METHODS

<input type="checkbox"/> CASH (enclosed)		
<input type="checkbox"/> CHEQUE / MONEY ORDER (enclosed)	Payable to Department of Biodiversity, Conservation and Attractions ("DBCA") to be attached to completed application form.	
<input type="checkbox"/> EFT TRANSFER	Acct Name: DBCA BSB: 066-040 Account No.: 11300006	Ref: "61 Surname, Initial" (max 18 characters)
<input type="checkbox"/> CREDIT CARD (details below)		
<input type="checkbox"/> Payment received at DBCA district/regional office	Date:	
	Name of officer:	
	<input type="checkbox"/> Copy of receipt attached	

**\*Any details below will be detached and destroyed once payment is processed. Please print clearly**

### **VISA / MASTERCARD (Please circle)**

Name of Cardholder: \_\_\_\_\_ Signature: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Card No: \_\_\_\_\_ Expiry Date: \_\_\_\_/\_\_\_\_

## ACCESS TO LAND FOR A DESIGNATED ACTIVITY

(Pursuant to Regulation 101 of the *Biodiversity Conservation Regulations 2018*)

A person who is authorised to carry out a designated activity under a licence must not, for the purposes of the designated activity, enter land that is not in the possession or under the control of the holder of the licence without written authorisation of an owner or occupier of the land to enter the land and to carry out the designated activity.

**Written approval from the land owner or occupier must be attached to the licence during licensed activities.**

<b>1. Designated Activity</b>		Taking flora in accordance with a Biodiversity Conservation Regulations 2018 Reg 61 Flora taking (other purposes) licence.		
<b>2. Land Owner / Occupier Information</b>				
<input type="checkbox"/> Land Owner / Land Owner representative		<input type="checkbox"/> Land Occupier		
First name				
Surname				
Job Title				
Phone contact No.				
Location details				
<b>3. Person authorised to take flora</b>				
First name				
Surname				
Residential address				
Phone contact No.				Licence No. (reg 61)
<b>4. Approval</b>				
Approval is valid		<input type="checkbox"/> Until r. 61 licence expiry of listed person		
		<input type="checkbox"/> From _____ / _____ / _____ to _____ / _____ / _____		
<input type="checkbox"/>	I give approval for the person listed on this authorisation to take flora according to their BC Reg 61 licence, on the above-mentioned property.			
Signature		Date signed		/ /
<b>5. Additional Information</b> (information relevant to access to the specified land for this designated purpose)				

### NOTE

*This is not a prescribed form. Written authorisation to access land for this designated activity may be provided by a land owner/occupier in any format providing it details location (including lot or location number, street/road, suburb and local government authority where relevant), land owner or occupier name and contact phone number, the time period that the authorisation is valid for, and is signed and dated.*

*A land owner/occupier may revoke an access to land permission if the person licensed to undertake the designated activity is not acting in accordance with any information as indicated for access to the specified land.*