



Ordinary Council Meeting 24 August 2022

Minutes

To: The President and Councillors.

Here within are the Minutes of the Ordinary Council Meeting of the Shire of Toodyay held on the above-mentioned date in the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566.

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.

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Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following an 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 25 August 2022.



Suzie Haslehurst

CHIEF EXECUTIVE OFFICER

Confirmed Minutes

These minutes were confirmed at a meeting held on 28 September 2022.

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 R Madacsi, Shire President, declared the meeting open at 1.01pm 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 ATTENDANCEMembers

Cr R Madacsi	Shire President
Cr B Ruthven	Deputy Shire President
Cr C Duri	Councillor
Cr P Hart	Councillor (via zoom)
Cr S McCormick	Councillor (via zoom)
Cr M McKeown	Councillor
Cr S Pearce	Councillor
Cr D Wrench	Councillor (via zoom)

Staff

Ms S Haslehurst	Chief Executive Officer
Mr J Augustin	Manager Infrastructure and Assets
Ms T Bateman	Manager Corporate and Community Services
Mr H de Vos	Manager Development and Regulation
Mr M Werder	Project Manager
Mr R Koch	CESM
Mrs E Francis	Emergency Management Officer
Mrs T Prater	Planning and Compliance Officer
Mrs K Hardie	Economic Development Coordinator (via zoom)
Mrs M Rebane	Executive Assistant

Visitors

P Ruthven
M Sinclair-Jones

2.1 APOLOGIES

Nil

2.2 APPROVED LEAVE OF ABSENCE

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

The Chief Executive Officer advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

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

Nil.

4.2 PUBLIC QUESTION TIME

Nil.

Cr Wrench left the meeting at 1.05pm.

5 CONFIRMATION OF MINUTES**5.1 Ordinary Meeting of Council held on 27 July 2022**

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO.
OCM158/08/22

MOVED Cr S Pearce

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 27 July 2022 be confirmed subject to an amendment being made to Item 9.1.3 Alternate Motion passed by Council (CRN: OCM135/07/22) as follows: That at point 1(c) the words "ensuring that the hair under the collar is shaved to ensure the collar works effectively" are inserted after the words "The dogs are to be fitted with effective barking collars".

Voted For: Crs R Madacsi, B Ruthven, C Duri, P Hart, S McCormick, M McKeown and S Pearce

Voted Against: Nil

MOTION CARRIED 7/0

5.2 Special Meeting of Council held on 10 August 2022

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO.
OCM159/08/22

MOVED Cr B Ruthven

SECONDED Cr C Duri

That the Unconfirmed Minutes of the Special Council Meeting held on 10 August 2022 be confirmed.

Voted For: Crs B Ruthven, C Duri, P Hart, S McCormick and S Pearce

Voted Against: Crs R Madacsi and M McKeown

MOTION CARRIED 5/2

Cr Wrench returned to the meeting at 1.08pm.

5.3 Agenda Briefing held on 17 August 2022

OFFICER'S	RECOMMENDATION/COUNCIL	RESOLUTION	NO.
OCM160/08/22			

MOVED Cr C Duri

That the Notes of the Agenda Briefing held on 17 August 2022 be received.

MOTION CARRIED 8/0

6 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**6.1 PETITIONS**

Nil.

6.2 DEPUTATIONS

Nil.

6.3 PRESENTATIONS

Nil.

6.4 SUBMISSIONS

Nil.

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9 OFFICER REPORTS**9.1 DEVELOPMENT AND REGULATION****9.1.1 Draft Local Planning Policy - Dams**

Date of Report:	25 July 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	H de Vos – Manager Development and Regulation
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	26 April 2022
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Draft Local Planning Policy - Dams; and ⇒ 2. Schedule of Submissions - LPP Dams. ⇒

PURPOSE OF THE REPORT

To review the Draft Local Planning Policy No.25 – Dams with a view to adopt a final version after consideration of submissions.

BACKGROUND

This draft Local Planning Policy (LPP) has been developed as part of the current review of the Shire's policy framework. The existing LPP.25 – Dams was last reviewed by the Council on 18 September 2012.

The review of this policy is timely given the following:

- The existing policy is ten (10) years old;
- The State Government has recently released its [Draft State Planning Policy 2.9 Planning for Water \(SPP.2.9\) and Planning for Water Guidelines](#) for public comment;
- A recent development proposal would have benefitted from having a more recent and robust Local Planning Policy to guide development.

On 25 May 2022, Council resolved (CRN OCM074/05/22) the following:

That Council:

1. *Adopts the draft Local Planning Policy - Dams as per Attachment 1 for the purpose of public advertising in accordance with the procedures set out in clause 4 of the Deemed Provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 subject to the following amendment:
That the Appendix I Table 1 of the Local Planning Policy - Dams be modified as follows:*

"That the assessment criterion for Moderate Dam Size to read as follows:

Dam storage capacity not exceeding that for specified for high but exceeding:

- *150m3, within a watercourse;*
- *750m3, outside of a watercourse; or*
- *1,500m3, greater than 100 metres from a watercourse"; and*

2. *Authorises the Chief Executive Officer to make any necessary minor typographical changes to the above policy, prior to publication.*

Pursuant to Clause 4(3) of Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*:

After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed policy in the light of any submissions made; and
- (b) resolve to —
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not to proceed with the policy.

It is recommended that the Council proceeds with the policy with modifications.

COMMENTS AND DETAILS

Officers have researched a range of local policies from a number of local government authorities to determine good policy examples. This draft policy has been developed using the best elements of these.

In accordance with the new naming conventions, Local Planning Policies will no longer be numbered. Therefore, this Local Planning Policy will now be known as *Local Planning Policy – Dams*.

IMPLICATIONS TO CONSIDER

Consultative:

Local Planning Policies Clause 4(1)-(3) of Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the statutory requirement and process for the advertising of Local Planning Policies.

If the local government resolves to create or amend a local planning policy, in accordance with the Regulations, the local government must, unless the WAPC otherwise agrees, advertise the proposed policy. Advertising of Local Planning Policies must be for a period of not less than twenty-one (21) days.

The policy was discussed with the Council at the Council Workshop in April and May 2022.

The advertising of this draft Local Planning Policy ended on 29 July 2022 and the Shire received two submissions.

The two submissions were from a ratepayer/resident and one from the Department of Planning Lands and Heritage (DPLH).

The first submission raised a query about the threshold for 'high impact' and that any impact on natural water courses should be treated as high impact. Officers propose that this view is subjective, and no changes are recommended.

The second part raised suggests that the wording of the policy under section 5.2.3 should be changed. There may be some instances where the placing of a dam on-stream is unavoidable, or results in better management of water resources. Therefore, the policy should remain flexible, and Officers propose no changes in response to this recommendation. The default understanding and intent of the policy is that damming on-stream is to be avoided. Using the word 'should' as opposed to 'must' provides the flexibility.

Lastly the submitter has recommended that the policy should reference the Shire's strong position about compliance and commitment to the protection of the environment. It is recommended that the policy should be modified to include a section about non-compliance and/or enforcement.

The second submission from the DPLH notes that the policy does not provide any exemptions from development approval and that this may create an unintended regulatory burden for the Shire, and it may be worth considering if some exemptions might be warranted. The policy should be modified to list exemptions in order to reduce unintended regulatory burden on the Shire.

This is only recommended where it can be demonstrated that a dam, crossing or rural drain and their associated clearing and site works manage water resources appropriately and do not result in unacceptable off-site impacts. In this instance, it is recommended that dams in Rural zoned land are exempt in the policy provided they meet the above and the general development requirements of the Local Planning Scheme in force at the time of the application.

For more information, please see **Attachment 2 - Schedule of submissions**.

Strategic:

Shire of Toodyay Community Strategic Plan – Toodyay 2028

Our Strategic Outcome: A Council that engages with the community and provides good governance on behalf of the community.

Objective 1: Provide accountable and transparent leadership for the community

S 1.1 Use the Strategic Community Plan as the blueprint for Council policy development and decisions.

S 1.2 Complete the development of a new Local Planning Scheme and related Local Planning Policies;

Objective 2: Consistently improve our governance practices

S 2.1 Build a positive culture of engagement between the Shire and the community.

S 2.2 Improve internal and external communication to maximise transparency

Policy related:

Local Planning Policy No. 25 – Dams

This policy was last reviewed in 2012. At a very basic level, the current policy is inconsistent with the planning framework – for example, it does not reference the *Planning and Development (Local Planning Schemes) Regulations 2015* – (the deemed provisions) and therefore any future iteration of the policy will need to address these factors.

Financial:

It is a requirement that Local Planning Policies undergo a formal advertising process which includes publication in a locally circulating newspaper. This cost to the Shire is approximately \$500 for the two advertisements and this has been allocated for in the Shire's adopted budget.

Legal and Statutory:

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Risk related:**Reputational**

The *Governance Review* (2021) identified that there was a desire by the elected members to become more involved in the development and review of policies.

Review of a policy framework is essential to good governance as it demonstrates the Shire's ability to adapt to changing circumstances to ensure that its policies remain contemporary and relevant.

If the Shire ignores this requirement and does not engage in routine review of this framework it risks reputational damage which is considered a medium risk.

Workforce related:

Reviews of this nature place additional, yet necessary additional demands on workforce time and resources. However, a benefit of successful and regular reviews of policies will ensure the Shire is operating as efficiently as possible by aligning these documents with the prevailing community expectations and state government frameworks of the day. This ultimately will reduce the burden on the workforce moving forward.

VOTING REQUIREMENTS

Simple Majority

The Manager Development and Regulation advised that amendments were made to the policy including all required grammatical changes.

Cr McCormick moved the Officer's Recommendation as follows:

That Council:

1. **Notes the submissions in relation to the Draft Local Planning Policy – Dams;**
2. **Pursuant to clause (3)(b)(ii) of clause 4 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the *Local Planning Policy - Dams* as per Attachment 1 with modification.**
3. **Requests the CEO to publish notice of the policy in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

Clarification was sought in regard to Point 2.

Cr McKeown moved an amendment to Point 2 as follows:

That the words “with modification” be removed.

Cr McCormick accepted the amendment.

The substantive motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM161/08/22

MOVED Cr S McCormick

That Council:

1. Notes the submissions in relation to the Draft Local Planning Policy – Dams;
2. Pursuant to clause (3)(b)(ii) of clause 4 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the *Local Planning Policy - Dams* as per Attachment 1.
3. Requests the CEO to publish notice of the policy in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

MOTION CARRIED 8/0

9.1.2 Draft Dogs Policy

Date of Report:	25 July 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	POL1
Author:	H de Vos – Manager Development and Regulation
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	22 June 2022
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Draft Dogs Policy ↗ 2. Minutes - Item 9.1.7 - 22.6.22. ↗

PURPOSE OF THE REPORT

To review the new draft Shire Policy – *Dogs* for final adoption.

BACKGROUND

The current A.15 *Keeping of 3 to 6 Dogs* policy was adopted by the Council on 19 June 2012. It had previously manifested itself as a Local Planning Policy which had been adopted on 20 August 2009.

However, the Council revoked the Local Planning Policy at the 19 June 2012 as the policy did not relate to development under the provisions of the Local Planning Scheme. This policy provides direction on the number of dogs that can be kept on a property under the *Shire of Toodyay's Dog Local Law* and the *Dog Act 1976*. At the same meeting, the Council resolved to adopt the policy as an administration policy.

Given it is ten years since this iteration was adopted, it is an appropriate time to review the document to ensure it is consistent with the current legal framework and is in line with the expectations of the community.

At the Ordinary Council Meeting held on 22 June 2022, Council resolved (CRNOCM108/06/22) the following:

That Council:

1. *Adopts the Draft Dogs Policy (Attachment 1), as amended, for the purposes of public advertising subject to the following amendments:*
 - (a) *Amend p. 3 Exception Table to read:*
 - i. *Working Dog, amend Farm dog – to include “or, where it can demonstrated an additional dog is required because of an increase in stock or landholding”.*
 - ii. *Compassionate: To be amended to read: “New residents with pre-*

existing dogs provided;

- a. *The dogs were registered at the previous locality.*
- b. *The dogs have no history of aggression or nuisance behaviour.*
- c. *The owner has no previous breaches or offences under the Dog Act 1976*

(b) *Amend mandatory sterilization to read – sterilization is to be compliant with current State government legislation at the time of application.*

(c) *All dogs registered at previous locality have no history of aggression.*

(d) *In part 2 replace the ‘z’ in the word sterilization with an ‘s’.*

2. *Authorises the Chief Executive Officer to make any necessary minor typographical changes to the above policy, prior to advertising;*
3. *Requests that the Draft Dog Policy is brought back to the August 2022 Ordinary Council Meeting after the advertising is completed - for final review.*

COMMENTS AND DETAILS

The Shire is currently experiencing an unprecedented number of compliance issues relating to dog regulation. The most consistent compliance issue relates to landowners and occupiers having more than two dogs on their property. However, the Shire has also dealt with dangerous dog, dog confinement, dog noise and dog breeding issues.

Accordingly, the Council has had to deal with a number of retrospective applications for 3 to 6 dogs, some of which have also been challenged through the State Administrative Tribunal.

This has resulted in a considerable drain on already limited staff resources as often these retrospective applications and associated appeals are complex in nature.

Therefore, Council is seeking a more robust policy to clearly communicate its position on dogs within the Shire, whilst also providing clarity to dog owners (and prospective ones), as well as a clearer way for the issue to be administered and regulated by Shire staff and elected members.

A final draft policy is provided at **Attachment 1** for Council’s consideration.

IMPLICATIONS TO CONSIDER

Consultative:

This policy was advertised in the Toodyay Herald and on the Shire’s website and Facebook page for a period of 21 days.

The advertising of this draft Local Planning Policy ended on 29 July 2022 and the Shire received no submissions.

Strategic:

Shire of Toodyay Community Strategic Plan – Toodyay 2028

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

Policy related:*A.15 Keeping of 3 to 6 Dogs policy.*

The Shire of Toodyay is one of two Local Government Authorities (LGA's) in Western Australia, found to have a dedicated policy on the keeping of 3 to 6 dogs. Most other LGA's are relying instead on the Local Law for compliance and enforcement, and a series of fact sheets for educational purposes.

The benefit is that a policy does allow some discretion in that they are not wholly inflexible. Additionally, the process for amending a policy is relatively simple and therefore the Shire can tweak a policy to meet the changing needs and expectations of the community as well as being able to remain consistent with any changes to the statutory framework.

Financial:

There are no immediate financial implications as a result of this policy as it does not carry with it a mandatory statutory advertising requirement. Were the Council to determine that some advertising was warranted – then the Shire would be responsible for the cost of this. In a newspaper, two advertisements could be approximately \$500, though this money has been factored into the upcoming budget.

If and when the policy is adopted, the Shire potentially faces appeals to its decisions at the State Administrative Tribunal. Additionally, the Shire may be challenged over any punitive measures it decides to take, through the legal system.

In each instance, this is generally a costly exercise as the Shire must divert resources to pay for consultants and lawyers to navigate this process.

Legal and Statutory:

This policy is made pursuant to Section 2.7(2) (b) of the *Local Government Act 1995* and provides clarification to Clause 3.2 of the *Shire of Toodyay Dogs Local Law*, which has been made pursuant to the *Dog Act 1976*.

Risk related:

Health	Mental health issues arising from altercations and incidents.	Moderate (9)
Financial Impact	Legal action against Shire	Moderate (9)

Workforce related:

A renewed policy providing certainty and clarity will assist officers in administering and regulating the issue of dogs.

VOTING REQUIREMENTS

Simple Majority

At 1.15pm time was given by the Presiding Member to the Manager Development and Regulation to find the amendments made to the Dogs Policy as follows:

- A condition was added to the policy to state that the sterilisation status is to be compliant with State Government legislation.
- The spelling of sterilisation has been amended throughout the policy; and

- References to fees are linked back to the Shire's approved Schedule of Fees and Charges.

Clarification was sought.

Cr McCormick moved the Officer's Recommendation.

The motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM162/08/22

MOVED Cr S McCormick

That Council adopts the *Dogs Policy* as attached to this report at Attachment 1.

MOTION CARRIED 8/0

9.1.3 Lot Sub 101 Beaufort Street - 3 to 6 Dog Application - SATs. 31 reconsideration

Date of Report:	9 August 2022
File Reference:	A1320/SUB101BEAU/CC624 OF 2022
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	27 April 2022
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Minutes - Item 9.1.2 - 27 April 2022 ⇒

PURPOSE OF THE REPORT

For Council to reconsider its decision at the April 2022 Ordinary Council Meeting to refuse the application for four (4) dogs at Lot Sub 101 (17) Beaufort St, West Toodyay.

BACKGROUND

On 27 April 2022 Council resolved to refuse the application for the keeping of four (4) dogs at Lot Sub 101 (17) Beaufort St, West Toodyay.

For further details please review **Attachment 1** – Minutes – Item 9.1.2 – 27 April 2022.

On 15 June 2022, the applicant exercised their right of appeal in accordance with section 26(5)(b) of the *Dog Act 1976* which allows a review of a decision of the local government.

A Directions Hearing was held on 8 July 2022 where it was agreed that the matter would be sent back to Council for reconsideration under s.31 of the *State Administrative Tribunal Act 2004*.

COMMENTS AND DETAILS

Council is being requested to reconsider this application on the grounds that the applicants did not realise that not sterilising their dogs would lead to having to give them up. The applicants have now agreed to sterilise the two Labrador Retrievers.

Therefore, it is recommended that the Council supports the application for the additional dogs.

IMPLICATIONS TO CONSIDER**Consultative:**

Given there are no third-party appeal rights in Western Australia, there was no formal requirement to perform any further formal public consultation.

Strategic:

Shire of Toodyay Strategic Community Plan – Toodyay 2028

Our Strategic Outcome: A Council that engages with the community and provides good governance on behalf of the community.

Policy related:

This application is consistent with the Council's Dog policy with no more than for four dogs requested on this property. Where Council could support the application under compassionate grounds.

Financial:

There are no direct financial implications for the Shire regarding the recommendations of this report. However, if Council is of a mind to affirm its decision of 27 April 2022, the matter may proceed to a full SAT hearing. It is certain that this will trigger legal and other expenses as legal advice will be required, and a professional witness may be required to attend the hearing in support of the Shire's case.

Legal and Statutory:

Dog Act 1976

Shire of Toodyay Dogs Local Law

State Administrative Tribunal Act 2004

Section 31(1) of the *State Administrative Tribunal Act 2004* enables the SAT to invite the decision-maker (in this case the Shire of Toodyay) to reconsider the decision that is the subject of review proceedings before SAT.

While SAT mediations are generally confidential, if an amended decision is proposed during a SAT mediation, the Shire does not need to reconsider the proposal behind closed doors.

While the amended proposal can be considered in a public meeting, anything said or done during the mediation cannot be discussed in a public meeting, unless agreed by all parties to the mediation.

Risk related:

Financial

As discussed in the Financial Implications section of this report, if Council affirms its decision of 27 April 2022, the matter will proceed to a full SAT hearing, which may result in a monetary impact on the organisation.

Workforce related:

If Council affirms its decision of 27 April 2022, the matter will proceed to a full SAT hearing, which will impact on the organisation's workforce as Officers will need to devote additional time to prepare for a hearing. These matters can also create additional stress which will need to be managed.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. Revokes its decision, pursuant to Section 31(2)(c) of the *State Administrative Tribunal Act 2004*, resolves to set aside its decision of 27 April 2022 (Resolution No. 043/04/22).
2. Permits the keeping of four (4) dogs on Lot PT 101 (17) Beaufort Street, West Toodyay subject to the following conditions:
 - (a) When on the property all dogs must be confined and kept under control by the following means:
 - (i) Fencing and gates on the premises or a portion of the premises where the dogs are to be contained, must be of a suitable type, height, and construction to prevent the dogs at all times from passing over, under or through it, or
 - (b) Any proven complaints regarding the dogs offending against the Dog Act 1976 may result in the permit being revoked and the number of dogs having to be reduced to a maximum of two (2) within fourteen (14) days.
 - (c) The approval only applies to the following dogs:

Name	Breed	Sex	Reg No	Age	Colour
Rusty	Staffordshire Terrier cross	M	2200187	10 yrs.	Tan
Steve	Staffordshire Terrier	M	2200193	4 yrs.	Brindle/ White
Darcy	Labrador Retriever	F	TBA	2 yrs.	Black
Koda	Labrador Retriever	F	TBA	7 mths.	Golden

- (d) Upon the death or disposal of one or more of the above dogs, or lapse of registration, the permit will cease, and the number of dogs permitted will revert to the lesser number.

Clarification was sought in relation to amendments to be made to the Officer's Recommendation, from the Manager Development and Regulation and through discussion with Councillors as follows:

That the following points, and advice note be inserted:

- (e) **Sterilisation status to be compliant with the current State Government Legislation.**
- (f) **Applicant to provide proof from the institution, validating the dog's therapy role within 21 days of the date of this approval; and**
- (g) **Approval be revoked if this evidence is not provided in the required time.**

Advice note:

The applicant is advised to sterilise the two dogs within 21 days of the date of this approval. The Shire of Toodyay requests that it be provided with proof of

sterilisation of the animals within this time. In the future, pending the gazettal of the amendments to the Dog Act developed to reduce instances of puppy farming, the requirement to have the animals sterilised will be mandatory. This is reflected in the Condition above.

Further amendments were made to the Officer's Recommendation through discussion with Councillors as follows:

That Points (e), (f) and (g) be reworded to read as follows:

- (e) In accordance with the directions hearing with the State Administrative Tribunal, the Applicants agree to have the dogs sterilised within 21 days of the date of this approval.
- (f) Applicant to provide proof from the institution, validating the dog's therapy role within 21 days of the date of this approval; and
- (g) Approval to be revoked if this evidence and proof of sterilisation is not provided in the required time.

That the Advice Note be deleted.

Cr McCormick moved a motion as follows:

That Council:

1. Revokes its decision, pursuant to Section 31(2)(c) of the *State Administrative Tribunal Act 2004*, resolves to set aside its decision of 27 April 2022 (Resolution No. 043/04/22).
2. Permits the keeping of four (4) dogs on Lot PT 101 (17) Beaufort Street, West Toodyay subject to the following conditions:
 - (a) When on the property all dogs must be confined and kept under control by the following means:
 - (i) Fencing and gates on the premises or a portion of the premises where the dogs are to be contained, must be of a suitable type, height, and construction to prevent the dogs at all times from passing over, under or through it, or
 - (b) Any proven complaints regarding the dogs offending against the Dog Act 1976 may result in the permit being revoked and the number of dogs having to be reduced to a maximum of two (2) within fourteen (14) days.
 - (c) The approval only applies to the following dogs:

Name	Breed	Sex	Reg No	Age	Colour
Rusty	Staffordshire Terrier cross	M	2200187	10 yrs.	Tan
Steve	Staffordshire Terrier	M	2200193	4 yrs.	Brindle/ White
Darcy	Labrador Retriever	F	TBA	2 yrs.	Black

	Koda	Labrador Retriever	F	TBA	7 mths.	Golden																					
<p>(d) Upon the death or disposal of one or more of the above dogs, or lapse of registration, the permit will cease, and the number of dogs permitted will revert to the lesser number.</p> <p>(e) In accordance with the directions hearing with the State Administrative Tribunal, the Applicants agree to have the dogs sterilised within 21 days of the date of this approval.</p> <p>(f) Applicant to provide proof from the institution, validating the dog's therapy role within 21 days of the date of this approval; and</p> <p>(g) Approval to be revoked if this evidence and proof of sterilisation is not provided in the required time.</p> <p>Clarification was sought.</p> <p>Cr Ruthven moved an amendment to the motion as follows:</p> <p>That Point (f) of the recommendation to be reworded as follows:</p> <p>(f) Applicant to provide proof from the institution, validating the dog's therapy role to include the frequency and duration within 21 days of the date of this approval; and</p> <p>Further clarification was sought.</p> <p>Cr McCormick did not accept the amendment.</p> <p>The amendment was lost for want of a seconder.</p> <p>Cr McKeown moved an amendment to the motion as follows:</p> <p>That Point (f) of the recommendation to be reworded to read as follows:</p> <p>(f) Applicant to provide proof from the institution, validating the dog's therapy role within 21 days of the date of this approval;</p> <p>That a new Point (g) be inserted to read as follows:</p> <p>(g) If the dogs cease to carry out this role the effect of this approval lapses within three months.</p> <p>Further clarification was sought.</p> <p>Cr McCormick accepted the amendments.</p> <p>Cr Ruthven objected to the motion.</p> <p>Cr Pearce seconded the motion.</p> <p>Debate commenced.</p> <p>The substantive motion was put.</p>																											
<table><tr><td>AMENDED</td><td>OFFICER'S</td><td colspan="2">RECOMMENDATION/COUNCIL</td><td>RESOLUTION</td><td colspan="2">NO.</td></tr><tr><td>OCM163/08/22</td><td></td><td colspan="2" rowspan="2"></td><td></td><td colspan="2" rowspan="2"></td></tr><tr><td>MOVED</td><td colspan="6">Cr S McCormick</td></tr></table>							AMENDED	OFFICER'S	RECOMMENDATION/COUNCIL		RESOLUTION	NO.		OCM163/08/22							MOVED	Cr S McCormick					
AMENDED	OFFICER'S	RECOMMENDATION/COUNCIL		RESOLUTION	NO.																						
OCM163/08/22																											
MOVED	Cr S McCormick																										

SECONDDED Cr S Pearce

That Council:

1. Revokes its decision, pursuant to Section 31(2)(c) of the *State Administrative Tribunal Act 2004*, resolves to set aside its decision of 27 April 2022 (Resolution No. 043/04/22).
2. Permits the keeping of four (4) dogs on Lot PT 101 (17) Beaufort Street, West Toodyay subject to the following conditions:
 - (a) When on the property all dogs must be confined and kept under control by the following means:
 - (i) Fencing and gates on the premises or a portion of the premises where the dogs are to be contained, must be of a suitable type, height, and construction to prevent the dogs at all times from passing over, under or through it, or
 - (b) Any proven complaints regarding the dogs offending against the Dog Act 1976 may result in the permit being revoked and the number of dogs having to be reduced to a maximum of two (2) within fourteen (14) days.
 - (c) The approval only applies to the following dogs:

Name	Breed	Sex	Reg No	Age	Colour
Rusty	Staffordshire Terrier cross	M	2200187	10 yrs.	Tan
Steve	Staffordshire Terrier	M	2200193	4 yrs.	Brindle/ White
Darcy	Labrador Retriever	F	TBA	2 yrs.	Black
Koda	Labrador Retriever	F	TBA	7 months	Golden

- (d) Upon the death or disposal of one or more of the above dogs, or lapse of registration, the permit will cease, and the number of dogs permitted will revert to the lesser number.
- (e) In accordance with the directions hearing with the State Administrative Tribunal, the Applicants agree to have the dogs sterilised within 21 days of the date of this approval.
- (f) Applicant to provide proof from the institution, validating the dog's therapy role within 21 days of the date of this approval.
- (g) If the dogs cease to carry out this role the effect of this approval lapses within three months of cessation.
- (h) Approval to be revoked if this evidence and proof of sterilisation is not provided in the required time.

Voted For: Crs R Madacsi, C Duri, P Hart, M McKeown and D Wrench

Voted Against: Crs B Ruthven, S McCormick and S Pearce

MOTION CARRIED 5/3 BY ABSOLUTE MAJORITY

9.1.4 Lot 3 Stirling Terrace, Toodyay - Proposed external window changes and outbuilding/carport

Date of Report:	29 July 2022
File Reference:	P2022-67 / A2021/3STIT
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	No
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. P2022-67 - Application & Plans; and ⇒ 2. HCWA Submission. ⇒

SUMMARY

Applicant:	Cheryl Jean
Owner:	Cheryl Jean
Proposal:	External window changes and outbuilding/carport
Location:	Lot 3 Stirling Terrace, Toodyay

PURPOSE OF THE REPORT

To consider an application for development approval for the construction of an outbuilding/carport and external window changes located at Lot 3 Stirling Terrace in Toodyay. As this application is in the Roman Catholic Church precinct, it may only be determined by Council.

BACKGROUND

Lot 3 Stirling Terrace in Toodyay is a 2,034m² (0.2034 ha) property within the Central Toodyay Heritage Area. It is currently zoned 'Mixed Business' under the Shire of Toodyay's *Local Planning Scheme No. 4* (LPS4).

The property is also within the Roman Catholic Church Group which has been included into the *State Register of Heritage Places* (Place No. 4125) in 2019.

Proposal

On 24 June 2022, the Shire of Toodyay received an application to construct an outbuilding/carport, remove and recover an existing timber double hung sliding sash window from the kitchen and replace with a smaller timber sash window. Reinstate original timber double hung sliding sash window from the kitchen by removing the sitting room French doors at the front of the house.

AREA	PROPOSED WORKS
Kitchen	Remove and recover timber double hung sliding sash window that adjoins the kitchen and replace with a new smaller timber framed, fixed pane window. The smaller window will allow for more bench space in the kitchen.
Sitting Room	Reconstruct original timber double hung sliding sash window recovered from kitchen to the sitting room by removing French doors. This proposed change will bring back symmetry to the front of the house and provide additional security.
Outbuilding/Carport	Freestanding Skillion roof carport with attached outbuilding, located at the rear of the property.
Original Features	All reconstructed brickwork and render shall be carried out in a like for like manner that matches existing materials profiles and finishes.

For more information, please refer to the **Attachment 1: P2022-67 - Application & Plans.**

Timeframe to determine.

The Shire received this application on 24 June 2022 which required advertising. Pursuant to Schedule 2, clause 75(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, this application must be determined within 90 days, being 22 September 2022.

COMMENTS AND DETAILS

The applicant has been working closely with advice and instruction from the Heritage Council of Western Australia (HCWA) to produce an appropriate development outcome.

The HCWA, in its submission, has stated that the proposed development is supported subject to the conditions of which further information will be provided in the consultative implications to consider following this section of the report.

It is recommended that Council approves this application subject to conditions.

IMPLICATIONS TO CONSIDER

Consultative:

As the development site is located within a Heritage Place and is under the State Heritage Register (Place No. 4125), the development application must be formally referred to the Heritage Council. This was done in accordance with the referral process under Division 2, Section 73 of the *Heritage Act 2018*.

The HCWA, in its submission, has stated that they support the proposed development subject to the conditions:

1. All reconstruction of brickwork and render shall be carried out in a like for like manner that matches existing materials, profiles and finishes.
2. A photographic archival record shall be made according to the guide.

It is recommended that the HCWA conditions are applied to any development approval. For more details, please refer to **Attachment 2: HCWA Submission**

In addition, the application was referred to the Toodyay Historical Society (THS), which also supports the proposal.

Strategic:

Shire of Toodyay Strategic Community Plan -Toodyay 2028

In the built environment, the community wants to see the heritage of the town protected and restored.

Shire of Toodyay Heritage Master Plan 2015

2.2.1 Place No.11; Catholic Church Precinct

Encourage the private owners to retain and conserve the area.

Shire of Toodyay Local Planning Strategy 2018

A key objective of the LPS is to recognise and encourage the protection of places of cultural heritage value.

Policy related:

State Planning Policy 3.5 Historic heritage conservation

6.6 Development control principles

The following development control principles should be applied in considering planning applications in relation to a place entered in a heritage list, a place or area entered in the state register, or a heritage area designated pursuant to a local planning scheme.

The weight given to heritage as a consideration will vary, depending on the degree of significance of a place or area, and relevant economic, social, or environmental factors that may apply.

Alterations, extensions or change of use affecting a heritage place

- Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure and should involve the least possible change to the significant fabric.
- Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials, and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it.

Shire of Toodyay Local Planning Policy No. 20

Objectives

- To improve quality of development within the Central Toodyay Heritage Area.
- To improve the streetscape within the Central Toodyay Heritage Area.
- To ensure that development within the Central Toodyay Heritage Area occurs in a manner that complements the existing heritage buildings within Central Toodyay.
- To retain and enhance the heritage qualities within Central Toodyay.
- To facilitate quality development within the Shire of Toodyay.

The Catholic Group in Stirling Terrace comprises a group of mostly double story brick buildings and has cultural significance for the following reasons:

- It represents associations with the Sisters of Mercy, the Catholic Church and Catholic education in Toodyay since c.1863.
- The collective and individual landmark qualities of the buildings; and
- The cultural environment makes a significant contribution to the streetscape, townscape and character of Toodyay representing a significant landmark at the southern entry into Stirling Terrace.

Principles of Development

All applications within the Central Toodyay Heritage Area shall have regard to and respect the following principles of development:

- a) All development shall enhance and reinforce the historic character of the Central Toodyay Heritage Area.
- b) New construction, demolition, intrusions, or other changes that would adversely affect the setting or relationships within the Central Toodyay Heritage Area are not appropriate.
- c) Additions to heritage places must ensure that they do not visually intrude on the existing building or street context and that they are in sympathy with the character of the existing property. Additions should be distinguishable from the original building and the distinction may be subtle if desired.

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

Heritage Act 2018

Heritage Regulations 2019

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*.

Risk related:

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

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council, pursuant to clause 68(2)(b) of the deemed provisions for local planning schemes, approves the application for Development Approval for an outbuilding/carport and external window changes at Lot 3 Stirling Terrace, Toodyay, subject to the following conditions:

- (a) The development hereby permitted must be commenced within two years from the date of this decision letter.
- (b) The development hereby permitted taking place in accordance with the approved plans.
- (c) All reconstruction of brickwork and render shall be carried out in a like for like manner that matches existing materials, profiles and finishes.
- (d) A photographic archival record shall be made according to the guide.
- (e) The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM164/08/22**MOVED** Cr B Ruthven

That Council, pursuant to clause 68(2)(b) of the deemed provisions for local planning schemes, approves the application for Development Approval for an outbuilding/carport and external window changes at Lot 3 Stirling Terrace, Toodyay, subject to the following conditions:

- (a) The development hereby permitted must be commenced within two years from the date of this decision letter.
- (b) The development hereby permitted taking place in accordance with the approved plans.
- (c) All reconstruction of brickwork and render shall be carried out in a like for like manner that matches existing materials, profiles and finishes.
- (d) An archival record is to be made of the building to be demolished and submitted to the local government for approval prior to the issue of a Building Permit and shall include:
 - (i) Digital photographs taken of the building to include:
 - a general/overall photo of the building;
 - photos of all elevations; and
 - photos of any special architectural features.
- (e) The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.
- (f) The applicant is to liaise with the Shire of Toodyay and/or the Heritage Council of Western Australia to ensure that the brickwork and rendering being used are appropriate in order to meet the requirements of Condition (c).
- (g) The Shire of Toodyay will be custodians of the Heritage Archive, however copies of the digital photographs shall also be forwarded to the Heritage Council of Western Australia.

MOTION CARRIED 8/0

9.1.5 Lot 120 (132) Whitfield Road, Dumbarton - Development Approval Where Development Has Commenced - Second - Hand Transportable Single Dwelling

Date of Report:	9 August 2022
File Reference:	A5644/120WHIT
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	No
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	1. P2022-67 - Application & Plans ↗

SUMMARY

Applicant: Graham Martin
 Owner: Graham Martin
 Proposal: Development Approval where development has commenced.
 Location: Lot 120 Whitfield Road, Dumbarton

PURPOSE OF THE REPORT

For Council to consider an application for Development Approval for a second-hand transportable dwelling at Lot 120 (132) Whitfield Road, Dumbarton. Council is being requested to determine this application as it does not meet all the requirements of Council's *Transported and Relocated Dwellings* policy.

BACKGROUND

Lot 120 (132) Whitfield Road, Dumbarton is a 6.1ha property in the Walkey Heights subdivision. It is currently zoned 'Rural Living' under the Shire of Toodyay's Local Planning Scheme No.4 (LPS4)

On 3 February 2022, the Shire of Toodyay received an application for a second-hand transportable dwelling at Lot (132) Whitfield Road, Dumbarton. The application was placed on hold awaiting additional information to allow a full assessment.

On 31 May 2022, additional information was received and a site inspection was conducted. Upon inspection it was discovered that the second-hand transportable dwelling had already been placed upon the property without obtaining the necessary approvals.

Under the *Shire of Toodyay Local Planning Scheme No. 4* (the Scheme), the property is zoned 'Rural Living'. According to Table 1 (Zoning Table) in the Scheme, the use class 'Transportable Structure' is depicted with the symbol 'D'. 'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

The Application

The applicant was advised to apply for retrospective development approval under the provisions of the *Shire of Toodyay Local Planning Scheme No.4* as soon as practicable.

The development consists of a 65.45m² second-hand transportable dwelling, with a 41.85m² verandah equaling a total floor area 107.3m². See **Attachment 1 P2022-61 – Application & Plans** for further details

Timeframe to determine.

On 16 June 2022, the Shire received an application for retrospective development approval for a second-hand transportable dwelling.

Given this application requires advertising, Council must determine the application within 90 days which is 22 September 2022 or sooner.

COMMENTS AND DETAILS

The Shire's *Transported and Relocated Dwellings* policy stipulates that a transported or relocated dwelling can only be considered if it can be demonstrated that a dwelling has a minimum floor area of not less than 120m². Therefore at 65.45m² the applicant's transported dwelling is 45.45% smaller than the minimum standard expected.

The policy does also state that the Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical, or such variation is warranted in the circumstances of the case.

Additionally, the application has been made more complicated by the fact that the structure must be assessed retrospectively.

Whilst the dwelling is well under the stipulated minimum floor size stated in the *Transported and Relocated Dwellings Policy* it does not detract from the amenity and character of the Dumbarton area which is a made up of a mix of small rural land uses. For example, residential, some stock management, and outbuildings.

The applicant has painted the exterior of the dwelling to complement the landscape and has provided screening to hide the void beneath the structure.

Additionally, the applicant will provide engineered drawings depicting a 20-degree roof pitch.

The future amenity and character of this area will remain relatively unchanged even though it has been identified to be rezoned from Rural Living to Rural Smallholding under the *Draft Local Planning Scheme No. 5*.

Therefore, Officers recommend that, whilst the smaller size of the transported dwelling will have some impact on the amenity of the locality, the impact is not sufficiently averse to refuse the proposal.

Furthermore, it is recommended that should Council choose to approve this development, that conditions are imposed to mitigate impacts as discussed earlier in this section.

The key issue for consideration regarding this application is the appearance of the building and whether or not the building will, in the opinion of the local government, adversely affect the amenity of other properties in the vicinity. Through this, Council can choose to exercise its discretion.

IMPLICATIONS TO CONSIDER**Consultative:**

The application was advertised in accordance with the Shire's recently adopted Local Planning Policy – *Advertising of Planning Proposals*. This consisted of a mail out including covering letter and plans which was sent to adjoining affected landowners who were given 14 days to comment.

This period expired on 1 August 2022 with no submissions received. Additional consultation about the proposal was held with the Department of Planning, Lands and Heritage on 10 August 2022. The Department advised that as the single dwelling land use is a permitted use for the zone, and that there were no equivalent minimum floor area requirements generally for a new transported dwelling – or a normal transported dwelling, that it would be hard to defend a position to refuse if the application was challenged at the tribunal. The department was supportive of the suggestion to require measures to improve the roof pitch and external appearance of the structure.

Strategic:**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.

Objective 2: Consistently improve our governance practices

S 2.1 Build a positive culture of engagement between the Shire and the community.

S 2.2 Improve internal and external communication to maximise transparency.

Policy related:**Local Planning Policy – Advertising of Planning Proposals.**

This policy was applied during the community consultation phase.

Local Planning Policy – Transported and Relocated Dwellings

The application does not meet all the requirements of the Shire's *Transported and Relocated Dwellings* policy. However, a Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for development approval, but the Council shall have due regard to the provisions of any policy and the objectives which the policy is designed to achieve before making its decision.

The objectives of the policy are:

- To provide guidance on the standards of building construction and appearance required for transportable or relocated dwellings.
- To define guidelines by which the Council will assess proposals for the placement of transportable or relocated buildings (including relocated dwellings) on land within the Shire of Toodyay.
- To ensure that the amenity and appearance of the locality in which the transportable or relocated building will be situated is maintained

It is considered that the objectives of this policy can still be met despite the reduced size not meeting the prescribed standard.

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 (the Regulations encompass the “deemed provisions for local planning schemes”);

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*.

Risk related:

If Council is of a mind to refuse the application, Council is reminded that the applicants might have a right of appeal to the State Administrative Tribunal (SAT). Should the applicants elect to appeal Council’s decision (refusal or dissatisfied with conditions of approval), the Shire may be required to assign resources to defend its position at SAT.

Financial Impact	Legal action against Shire	Moderate (9)
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Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION

That Council, pursuant to Clause 68(2)(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the retrospective development of a second-hand transportable dwelling at Lot 120 (132) Whitfield Road, Dumbarton, subject to the following conditions:

1. The development hereby permitted taking place in accordance with the approved plans.
2. Vehicle crossover(s) shall be constructed to the specification and satisfaction of the local government.
3. The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.
4. Engineering drawings to the satisfaction of the Shire of Toodyay demonstrating a modified roof pitch of 20 degrees, to be approved prior to the issuing of a Building Permit and within 21 days of the date of this approval.
5. Lattice screening or similar to be installed around all sides of the structure to screen stumps and void.

The Manager Development and Regulation made amendments to Point 4 of the Officer's Recommendation to read as follows:

4. **The structure must be modified to include a 20 degree roof pitch and the Applicant is to provide engineering drawings to the satisfaction of the Shire of Toodyay demonstrating a modified roof pitch of 20 degrees, to be approved prior to the issuing of a Building Permit and within 21 days of the date of this approval.**

The Manager Development and Regulation made an amendment to the Officer's Recommendation to add a Point 6 to read as follows:

6. **Requests the CEO to direct the Administration to issue the maximum fine of \$500 per offence committed pursuant to regulation 42 of the Planning and Development Regulations 2009 to the Applicant for breaching s.214 of the Planning and Development Act 2005.**

Cr Pearce moved the Amended Officer's Recommendation as follows:

That Council, pursuant to Clause 68(2)(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the retrospective development of a second-hand transportable dwelling at Lot 120 (132) Whitfield Road, Dumbarton, subject to the following conditions:

1. **The development hereby permitted taking place in accordance with the approved plans.**
2. **Vehicle crossover(s) shall be constructed to the specification and satisfaction of the local government.**
3. **The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.**
4. **The structure must be modified to include a 20 degree roof pitch and the Applicant is to provide engineering drawings to the satisfaction of the Shire of Toodyay demonstrating a modified roof pitch of 20 degrees, to be approved prior to the issuing of a Building Permit and within 21 days of the date of this approval..**
5. **Lattice screening or similar to be installed around all sides of the structure to screen stumps and void.**
6. **Requests the CEO to direct the Administration to issue the maximum fine of \$500 per offence committed pursuant to regulation 42 of the *Planning and Development Regulations 2009* to the Applicant for breaching s.214 of the *Planning and Development Act 2005*.**

Clarification was sought.

Cr McKeown moved an amendment to the motion as follows:

That the word "retrospective" in the Officer's Recommendation, be replaced with the words "application for"

Cr Pearce accepted the amendment.

Further clarification was sought.

The motion was put.

**AMENDED OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO.
OCM165/08/22****MOVED** Cr S Pearce

That Council, pursuant to Clause 68(2)(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the application for development of a second-hand transportable dwelling at Lot 120 (132) Whitfield Road, Dumbarton, subject to the following conditions:

1. The development hereby permitted taking place in accordance with the approved plans.
2. Vehicle crossover(s) shall be constructed to the specification and satisfaction of the local government.
3. The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.
4. The structure must be modified to include a 20 degree roof pitch and the Applicant is to provide engineering drawings to the satisfaction of the Shire of Toodyay demonstrating a modified roof pitch of 20 degrees, to be approved prior to the issuing of a Building Permit and within 21 days of the date of this approval.
5. Lattice screening or similar to be installed around all sides of the structure to screen stumps and void.
6. Requests the CEO to direct the Administration to issue the maximum fine of \$500 per offence committed pursuant to regulation 42 of the *Planning and Development Regulations 2009* to the Applicant for breaching s.214 of the *Planning and Development Act 2005*.

MOTION CARRIED 8/0

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 List of Payments - July 2022

Date of Report:	8 August 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN24
Author:	C Murcott – HR/Payroll Officer
Responsible Officer:	N Mwale – Finance Coordinator
Previously Before Council:	NA
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. List of Payments - July 2022 ⇒

PURPOSE OF THE REPORT

To present cheques and electronic payments raised during July 2022.

BACKGROUND

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

COMMENTS AND DETAILS

The list of all payments processed under delegated authority during July 2022 are attached at **Attachment 1**. Electronic Funds Transfers (EFT) are for payments transferred directly to creditor bank accounts. Direct Debits are for direct debits against the bank account such as bank fees, leases, loans, and other charges etc. Payroll Direct Debits are for payroll and superannuation expenditures which are paid through Council's online (internet) banking system.

IMPLICATIONS TO CONSIDER**Consultative:**

Nil

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

Objective 1: Provide and accountable and transparent leadership for the community.

Objective 3: Ensure rigorous organisational systems.

Policy related:

Council has delegated authority to the Chief Executive Officer to make payments from the Municipal and Trust Accounts. Creditor invoices and other charges paid have been duly incurred and authorised for payment in accordance with Shire policies F.2 Authorised Signatories Policy and F.3 Purchasing Policy.

Financial:

Whilst the 2022/2023 Annual Budget has not yet been adopted, payments of accounts made in July 2022 are consistent with the ongoing operational requirements of the Shire or for previously approved projects in accordance with section 6.8 (1)(a) of the *Local Government Act 1995*.

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.

Section 6.8(1)(a) of the *Local Government Act 1995* states a local government must not incur expenditure for an additional purpose except where it is incurred before the adoption of the annual budget.

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 for each month and presented to Council.

Risk related:

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

Workforce related:

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM166/08/22

MOVED Cr M McKeown

That Council notes as being paid, payments listed and presented for the month of July 2022 as attached to this report, summarised as follows:

Direct Debits	\$ 47,668.24
EFTs	\$ 608,718.49
DD Loans	\$ 0.00
Payroll	\$ 228,498.35
Municipal Cheques	\$ 31,650.57
TOTAL	\$916,535.65

MOTION CARRIED 8/0

9.2.2 Monthly Financial Statements - July 2022

Date of Report:	9 August 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN24
Author:	N Mwale– Finance Coordinator
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	NA
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative/Review
Attachments:	1. Monthly Financial Statement as at 31 July 2022 ↗

PURPOSE OF THE REPORT

This report provides Council with monthly financial information for the period ending 31 July 2022.

BACKGROUND

Local governments are required to prepare general purpose financial reports in accordance with the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the *Australian Accounting Standards*.

A statement of financial activity and any accompanying documents are to be presented at an ordinary meeting of the Council within two months after the end of the month to which the statement relates.

DETAILS:

The following documents, included as **Attachment 1**, comprise the statement of financial activity for the period ending 31 July 2022:

Note	Description	Page
1	Statement of Financial Activity by Program Report	1
2	Variance Analysis Report	2
3	Rating Information	3
4	Debtors Report	4

COMMENTS AND DETAILS

The Statement of Financial Activity summarises the Shire's operating and capital activities and provides an indication of the Shire's financial performance as the year progresses. In accordance with *FM Regulation 34(1)* this statement is to include comparisons with the annual budget and the year-to-date budget. However, the budget figures reported for July 2022 are yet to be uploaded into Datascape. The attached reports include the Statement of Financial Activity (SFA) for July 2022. Though, Datacom has done some advanced work on reports supporting Annual Financial Statements in Datascape, for monthly reports, officers are still using excel spreadsheets to construct the reports. Officers continue to work alongside Datacom to rectify the situation.

Key Financial areas

The following information provides balances for key financial areas for the Shire of Toodyay's financial position for month ending 31 July 2022.

Outstanding Rates and Services

Rating Information

The notices for rates and charges levied for 2021/22 were raised on 13 October 2021 after the adoption of the budget. The rates for 2022/2023 will be raised in September 2022.

The *Local Government Act 1995* provides for ratepayers to pay rates by four instalments. The due dates for each instalment for 2021/22 were:

Instalment	Due Date
First Instalment	17 November 2021
Second Instalment	17 January 2022
Third Instalment	18 March 2022
Fourth Instalment	18 May 2022

The total outstanding rates and charges balance at the end of July 2022 was \$685,188.81 compared to June 2022 closing balance of \$767,236.36. Further detail regarding the composition of outstanding rates is included in **Attachment 1**.

Outstanding Sundry Debtors

Sundry Debtors Information

The total outstanding sundry debtors balance at the end of July 2022 was \$714,215.89 broken down as follows:

Category	30/06/2022	31/07/2022
> 90 days and over	142,076.38	144,549.04
> 60 days and over	6,316.37	1,398.12
> 30 days and over	-327.71	18,210.16
Current	231,838.67	550,058.57
TOTAL	379,903.71	714,215.89

The table above shows a significant increase in the outstanding sundry debtors balance compared to the previous month. During the month of July, Officers submitted funding claims

to Main Roads WA for upcoming road projects amounting to approximately \$440,000. The composition of outstanding debtors is included in **Attachment 1**.

IMPLICATIONS TO CONSIDER

Consultative:

Datacom

Strategic:

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

Objective 3: Ensure rigorous organisational systems.

Policy related:

F.02 Authorised Signatories

F.03 Purchasing

F.11 Corporate Credit Cards

F.16 Financial Governance

CS.1 Payments from the municipal or trust fund (referred to in Section 6.10 "Financial management regulations" of the Local Government Act 1995)

Financial:

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

Legal and Statutory:

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare financial reports. Section 6.8(1)(a) of the *Local Government Act 1995* states a local government must not incur expenditure for an additional purpose except where it is incurred before the adoption of the annual budget. Regulation 34 of the *Local Government (Financial Management) Regulations 1996* sets out the form and content of the financial reports.

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.

VOTING REQUIREMENTS

Simple Majority

Clarification was sought in regard to Datascope and reports for Nature and Type.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM167/08/22

MOVED Cr C Duri

That Council receives the Monthly Financial Statements for the month ending 31 July 2022.

MOTION CARRIED 8/0

9.3 EXECUTIVE SERVICES

9.3.1 Governance Review Action Plan - Final Report

Date of Report:	11 August 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN12
Author:	S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	OCM 23 February 2022 Item 9.3.1
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Governance Review Action Plan Final Report ⇒

PURPOSE OF THE REPORT

To present a progress report on the Governance Review Action Plan for Council's consideration.

BACKGROUND

In response to a recommendation contained in the Authorised Inquiry Report on the Shire of Toodyay, Hammond Woodhouse Advisory was engaged to conduct a Governance Review of the Shire. The final report and proposed actions to be undertaken were adopted by Council at the Ordinary Council Meeting (OCM) held on 28 September 2021 and subsequently forwarded to the Director-General of the Department of Local Government, Sport and Cultural Industries (DLGSC).

Officers have been progressing the endorsed actions and a progress report was presented to Council at the OCM held 23 February 2022 where it was resolved:

That Council:

1. *Receives the Governance Review Action Plan Progress Report as attached at Attachment 1 to this report and notes the progress made.*
2. *Requests the CEO to provide a final Governance Review Action Plan Progress Report to the August 2022 Ordinary Council Meeting to report on any outstanding items.*

A final report is attached (**Attachment 1**) for Council's consideration in accordance with part 2 of the above resolution.

COMMENTS AND DETAILS

Officers have provided comments in the attached report using the following 'traffic light' system:

- **Green** has been used where actions are completed, or the objectives of the recommendation have been satisfied. The majority of actions are complete.

- **Orange** indicates that while some progress has made, circumstances have impacted the ability to fully address the action. These include actions associated with the Strategic Community Plan, Long Term Financial Plan and Corporate Business Plan which have been delayed due to the challenges associated with the transition from Synergysoft to Datascape. Council considered and agreed a revised process for the finalisation of these documents in June 2022.
- **Red** signals that the action has not been commenced and/or completed. These include two actions relating to the development of a formalised CEO Directive. This process has been delayed due to the Governance role vacancy and recruitment challenges.

Options

Council could if it wished, request a further report to be brought back to Council to finalise outstanding matters. However, as those actions that are rated **red** are administrative in nature, it is proposed that Officers address these as on-going operational matters.

IMPLICATIONS TO CONSIDER

Consultative:

The Governance Review was conducted by Hammond Woodhouse Advisory. The Governance Review and Action Plan were submitted to the Director-General of the DLGSC as part of the Shire's response to the Authorised Inquiry.

Council could choose to submit the Final Report to the DLGSC; however Officers have been advised verbally that this is not necessary.

Strategic:

Governance: The Way the Shire Leads and Operates

O2: Consistently improve our governance practices.

Policy related:

Nil

Financial:

There are no anticipated costs related to the actions contained in the Governance Review Action Plan.

Legal and Statutory:

Section 8.25 of the *Local Government Act* deals with the requirement for Council to comply with the recommendations of the Inquiry Report.

- (5) *The Minister may order the local government, or any member of its council (if the council, or the member, is not suspended or dismissed) or any of its employees to give effect to any one or more of the recommendations of the Inquiry Panel in a manner and within a time ordered by the Minister.*

Risk related:

Failure to address the actions contained in the Governance Review Action Plan could result in reputational risk considered high and compliance risk rated moderate. The attached Report is intended to close out the findings of the Governance Review.

Workforce related:

Workload and staff shortages have affected the progress of a number of initiatives across the Shire. In addition, officer resources continue to be focused on the transition of the Shire's enterprise software.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the Governance Review Action Plan Final Report as attached at Attachment 1 to this report and notes that any outstanding actions will be dealt with by Officers as operational matters.

Cr McKeown moved a motion as follows:

That Council receives the Governance Review Action Plan Final Report as attached at Attachment 1 to this report and notes that any outstanding actions will be dealt with by Officers as operational matters and will be reported to Council at the next Ordinary Council Meeting following any action being taken.

Clarification was sought.

Cr McKeown moved an amendment to the wording of the motion, after the words "operational matters" to read as follows:

and will be reported to Council by inclusion in the Agenda for the next Ordinary Council Meeting following any action being taken.

Further clarification was sought.

Cr McKeown moved an amendment to the wording of the motion, after the words "operational matters" to read as follows:

and will be reported to Council at the next Ordinary Council Meeting as soon as practicable, following any action being taken.

The substantive motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM168/08/22

MOVED Cr M McKeown

That Council receives the Governance Review Action Plan Final Report as attached at Attachment 1 to this report and notes that any outstanding actions will be dealt with by Officers as operational matters and will be reported to Council at the next Ordinary Council Meeting as soon as practicable, following any action being taken.

MOTION CARRIED 8/0

9.3.2 Toodyay Recreation Centre - Management Review

Date of Report:	9 August 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15
Author:	T Bateman – Manager Corporate and Community Services
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	May 2022.
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Shire of Toodyay Management Review. (confidential) (under separate cover)

The attachment to this report is confidential under section 5.23(2)(e)(ii) of the Local Government Act 1995 as it contains information that has a commercial value to a person. Regulation 14(2) of the Local Government (Administration) Regulations 1996, enables the CEO to make the attachment confidential. Councillors may decide to move behind closed doors to discuss the content of the attachment.

PURPOSE OF THE REPORT

This report presents the outcome of work undertaken by Executive Compass regarding the management of the Toodyay Recreation and Aquatic Centre (TRC), as attached to this report.

BACKGROUND

An investigation into the management of the TRC was initiated as a result of recommendations made in the Shire of Toodyay Independent Governance Review Report (the Report) and associated action plan, as adopted by Council at the Ordinary Council Meeting, held 28 September 2021.

The authors of the Report - Hammond Woodhouse - highlighted potential flaws in the process relating to calling for invitations to tender for the management TRC. Noting that at the time of the review, a contract had already been entered into with Clublinks, Hammond Woodhouse provided recommendations for improvements for future tender, procurement and contract management practices.

Of particular relevance, the Report stated the following (Clause 9.3(20));

“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.”

As a result of this recommendation, the following item was added to the Governance Review Action Plan, endorsed by Council in September 2021;

Ref - s.9.3: (20) CEO to provide report to Council regarding Recreation Centre Options - the report presented to Council will provide options for management of the Recreation Centre, comparing in-house and outsourced management.

The CEO committed to investigating options for the ongoing management of the TRC by August 2022 and engaged the services of Executive Compass to assist with the process.

The initial term of the contract with Clublinks expires on 30 November 2022 with a further two year term available.

COMMENTS AND DETAILS

The management review undertaken by Executive Compass addresses the recommendation and satisfies the requirements of the Action Plan. This report does not recommend changing the management model, but rather, provides information around the future options available to Council. It should be noted, that in the event Council is of a mind to alter the existing management model, the requirements of the contract must be considered first. This was highlighted in a report presented to the Special Council Meeting held 6 July 2022.

In this report, officers explained that although some contract clauses appeared to contradict others, the intent of the contract was that unless there is subsisting default by the contractor, the Shire would be required to enter into a further two-year term. This is supported by the consultant's review and comments relating to the contract.

Executive Compass has provided a report (**Confidential Attachment 1**) which outlines four management models, including the advantages and disadvantages of each model; and a recommendation of the model that provides the best outcome for the Shire, users and the community. These are as follows:

- Lease Management model;
- Contract Management model;
- Internal Council Staff Management model; or a
- Council Owned Company.

Key points for consideration

Lease Management Model

Whilst not dissimilar to the existing arrangement, in this model the lessee takes greater responsibility for the general operation of the facility. The consultant indicates however, that the size and scale of operations at the TRC are potentially too small to support this kind of model. Furthermore, the Shire would be relinquishing a high level of control over the asset and operations, which creates the risk of inheriting a sub-standard asset at the end of the lease.

Contract Management Model

The contract management model is currently in place at the TRC. Under this model, Council retains overall control of the facility but engages Clublinks to manage day to day operations. Council retains a high level of responsibility for ongoing grounds and building maintenance in addition to regulating hours of operation and fees and charges.

The consultant indicates a preference for this management model in relation to the TRC. This is partly due to the size of the operation and the flexibility it provides, subject to clear

contract conditions. The contract can be made to suit the situation and the responsibilities can be monitored and managed effectively with clear procedures in place.

Based on comments from the Governance Review Report however, the preparation of the contract appears to have been rushed, resulting in a number of deficiencies. Officers recognise the need for improvements to the contract to provide clarity around the responsibilities of each party. It is anticipated that variations will be developed and negotiated with Clublinks and, subject to agreement of both parties, will be in place for the further term of the contract.

Internal Council Staff Management Model

This model assumes the Shire takes full responsibility of management of the TRC including the aquatic facilities. Whilst there may be some operational efficiencies and benefits of having full control of the centre as a result, there would be a significant additional cost to the community overall. In addition, considering the current employment market, the challenge of attracting and retaining staff poses a significant risk.

The estimated additional costs would relate largely to the differences in the pay structures between the local government and recreation industries. The review indicates that at a minimum, the rates contained in the Local Government Industry Award 2020 are around 15% higher than the minimum rates applicable to those employed at recreational facilities. This is mainly due to the difference in the span of ordinary hours and the requirement for a local government to pay additional loading outside of these hours. It is estimated that, after factoring in the savings from the management and incentive fees, the additional cost to Council would be in excess of \$110,000 per year if the Shire was to bring the management in-house.

Council Owned Company

Under this model, Council establishes a company for the specific purpose of managing aquatic/ leisure facilities. This option is not recommended for the Shire of Toodyay due to the relatively small-scale operation and the capacity of the Shire to effectively manage the additional aspects of establishing a separate entity.

Conclusion

When considering the outcomes of the review, it appears that the existing Contract Management Model is best suited for the management of the TRC. It is also noted, in the event Council did not wish to enter into a further term with Clublinks, this decision could be challenged if it didn't align with the conditions of the contract.

The review does, however, recommend improvements for the measurement and monitoring of agreed KPIs. This could be achieved through a number of actions, such as;

- Implementing quarterly KPI reviews;
- Varying parts of the agreement for role clarity; and
- Engaging an external party to assist with the development and measurement of KPIs on an annual basis.

It is further recommended that formal KPI reviews be facilitated independently and without bias to assist mutual outcomes. In relation to contract matters, it is envisaged that Officers will workshop potential variations with Councillors and Clublinks over the coming months with a view to implementing any changes in the event a further term is negotiated.

IMPLICATIONS TO CONSIDER**Consultative:**

The Independent Governance Review Report prepared by Hammond Woodhouse, recommended that officers investigate management options for the TRC at the end of the contract. The findings and recommendations within the Report, provide a strong foundation on which to manage the procurement and contract management process when considering future management options for the TRC.

Executive Compass was engaged to undertake a review of the different management models available for the TRC management and to provide recommendations for improvements to management of the existing contract.

Clublinks was also consulted during the process.

Strategic:**Strategic Community Plan – Toodyay 2028**

Governance Objectives: The way the Shire Leads and Operates

O 1: Provide accountable and transparent leadership for the community.

O2: Consistently improve our governance practices

O3: Ensure rigorous organisational systems

Social Objectives – Our community wellbeing and connection:

O 1: Maintain and develop services that meet the requirements of our diverse community.

O 2: Facilitate community safety and wellbeing.

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

Policy related:

Nil.

Financial:

There is a significant commitment required from the Shire to fund the operational costs of the TRC, with an expectation that the TRC is being operated to best practice standards and the community's needs are being met.

The 2022/23 budget allocation for the TRC is \$539,000. If the Shire considered moving to an in-house management model, it is expected that the budget allocation would increase, at a minimum, by \$110,000 – this equates to approximately 1.50% of the 2022/23 budgeted rates.

Legal and Statutory:

Contract Agreement with Clublinks for the management of the Toodyay Recreation Centre
Section 5.23 of the *Local Government Act 1995* - Meetings generally open to the public
Regulation 14 *Local Government (Administration) Regulations 1996*

Risk related:

Findings of both the Governance and Management Reviews highlight areas for improvement in procurement and contract management matters associated with the TRC.

In the event the Shire ignored the recommendations and failed to rectify some of the existing issues, or in the event Council determined not to enter into a further contract term, it could pose serious financial, reputational, compliance and service interruption risks. These risks are rated extreme (20).

Acting on the advice and recommendations from both reports could help to mitigate this risk.

Workforce related:

Resources will be required to workshop, develop and implement improvements to the existing contract and arrangements. If the further contract term was not entered into, service interruptions would be unavoidable as the Shire of Toodyay currently does not have the required resources to manage the TRC.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM169/08/22

MOVED Cr S Pearce

That Council:

1. Receives the report prepared by Executive Compass regarding the management of the Toodyay Recreation Centre (**Attachment 1**) noting the recommendations provided therein.
2. Requests the CEO to report back to a Council workshop no later than November 2022, with details of potential contract variations for discussion with Clublinks Pty Ltd prior to entering into a further contract term.

MOTION CARRIED 8/0

9.3.3 Correspondence - Department of Local Government, Sport & Cultural Industries

Date of Report:	9 August 2022
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
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Correspondence with the Department of Local Government, Sport and Cultural Industries. ↗

PURPOSE OF THE REPORT

To receive and note correspondence between Shire Officers and the Department of Local Government, Sport and Cultural Industries (DLGSC) from 15 July 2022 to 10 August 2022.

BACKGROUND

A June 2018 Council Resolution (CRN. 122/06/18) stated the following:

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

A report will be presented whenever there has been such correspondence.

COMMENTS AND DETAILS

Correspondence between the Shire of Toodyay and the DLGSC is provided at **Attachment 1** and includes:

- Update on matters relating to Governance at the Shire of Toodyay; and
- Advice regarding Council's Differential Rates decision at their Special Council Meeting held on 13 July 2022.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Local Government, Sport and Cultural Industries.

Strategic:

Governance: The way the Shire leads and operates

Objective 1 Provide accountable and transparent leadership for the community

Objective 2 Consistently improve our governance practices

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995

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

Risk related:

There is a reputational and compliance risk if a Council resolution is not implemented. These are both rated high.

Workforce related:

Officer resources are required to formally report on all correspondence with the DLGSC.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM170/08/22

MOVED Cr B Ruthven

That Council receives and notes the correspondence between the Shire of Toodyay and the Department of Local Government, Sport and Cultural Industries between 15 July 2022 to 10 August 2022, as attached.

MOTION CARRIED 8/0

9.3.4 Voting Delegates - WALGA 2022 Annual General Meeting

Date of Report:	16 August 2022
Applicant or Proponent:	WALGA
File Reference:	MEM2
Author:	M Rebane – Executive Assistant
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
Attachments:	1. Voting Delegates Registration Form. ↗

REASON FOR URGENT BUSINESS

The Shire is required to nominate Voting delegates for the WALGA 2022 Annual General Meeting by Friday 23 September 2022, which is one week prior to the 28 September 2022 Ordinary Council Meeting.

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 Monday, 3 October 2022 at Crown Perth.

BACKGROUND

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

Only registered Voting Delegates (or Proxies) are permitted to exercise voting entitlements on behalf of Members. Delegates must be Elected Members or serving officers.

COMMENTS AND DETAILS

The 2022 WA Local Government Convention will be held at Crown Perth on 3-4 Oct 2022 (Monday and Tuesday).

The theme for the 2022 WA Local Government Convention is *Embracing Change*. With increasing community expectations of Local Governments, legislative reform, and a rapidly changing economic, social and political environment, Local Governments must find new ways of serving and engaging with their communities. This Convention will explore changes to the Local Government landscape over the coming years and how the sector can come together to inform, guide and embrace change.

It is proposed that Council nominates the Shire President and Deputy Shire President as voting delegates with proxy voting delegates to be determined.

IMPLICATIONS TO CONSIDER**Consultative:**

Information about the WALGA Local Government Convention was distributed to Councillors electronically via the Council Hub. Councillors have the opportunity to register as delegates to the Convention through the Office of the CEO.

Strategic:

Providing good governance relies on decision-makers having relevant knowledge and experience. The Convention provides professional development and networking opportunities for elected members.

Policy related:

Council's policy *Continuing Professional Development* provides for all elected members to attend the WALGA Annual Local Government Week Conference.

Financial:

Council's policy *Continuing Professional Development* provides that the Shire will meet the full cost of registration, travel, accommodation, meals, transport, and parking; verified through the provision of receipts, subject to the Local Government Payments and Gifts Council Policy, and other conditions specified in the *Continuing Professional Development* policy.

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:

It is recommended that Council nominate Voting Delegates. To not do so would be seen as a low risk from an advocacy perspective. This report mitigates the risk.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council nominates the Shire President and Deputy Shire President as voting delegates and Councillors _____ and _____ as proxy voting delegates for the WALGA 2022 Annual General Meeting.

Cr Pearce nominated herself as a Proxy Delegate.

Cr Duri nominated herself as a Proxy Delegate.

Cr McKeown moved the Officer's Recommendation with the two nominations included.

The motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM171/08/22

MOVED Cr M McKeown

That Council nominates the Shire President and Deputy Shire President as voting delegates and Councillors Pearce and Duri as proxy voting delegates for the WALGA 2022 Annual General Meeting.

MOTION CARRIED 8/0

9.4 INFRASTRUCTURE AND ASSETS

Nil.

9.5 COMMITTEE REPORTS**9.5.1 Recommendations of the Bush Fire Advisory Committee Meeting held 3 August 2022.**

Date of Report:	9 August 2022
Applicant or Proponent:	Bush Fire Advisory Committee
File Reference:	FIR3
Author:	R Koch – Community Emergency Services Manager E Francis – Emergency Management Officer
Responsible Officer:	J Augustin – Manager Infrastructure and Assets
Previously Before Council:	Resolution 236/07/20 – BF Preparedness/Strategy Resolution 059/04/22 – Bush Fire Operational Procedures
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Extract of BFAC Minutes from 3 Aug 2022; ⇒ 2. FCO Nomination Report 2022/2023; and (confidential) (under separate cover) 3. Shire of Toodyay Bush Fire Preparedness and Resilience Strategies. ⇒

PURPOSE OF THE REPORT

To receive the minutes of the Bush Fire Advisory Committee (BFAC) and consider recommendations made at their meeting held on 3 August 2022 in respect to:

1. Appointment of Bush Fire Control Officers (FCOs) and the designation of Chief and Deputy Chief Bush Fire Control Officer roles; and
2. Receiving and endorsing the Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report and providing short term priority recommendations; and
3. Deferment of Bush Fire Operational Procedures.

BACKGROUND

A meeting of the BFAC was held on 3 August 2022 where recommendations were made to Council (refer to **Attachment 1**). The background information is below:

Appointment of Bush Fire Control Officers (FCOs) and the designation of Chief and Deputy Chief Bush Fire Control Officer roles

At the BFAC meeting held on 3 August 2022, a ballot process was held to formulate and recommend FCO nominated candidates to Council for appointment.

The process was conducted in line with items 11.4 and 11.5 of the Shire of Toodyay Bush Fire Operating Procedures, which provides a process for making/receiving nominations and absolute majority ballot system of recommending candidates to Council. In this instance all seven candidates achieved the absolute majority to be recommended to Council as FCOs (refer to **Attachment 2**).

Shire of Toodyay Bush Fire Preparedness and Resilience Strategies

The Shire of Toodyay commissioned a report in 2015 that predominantly reviewed and made recommendations related to subdivision egress and a collection of other bush fire related matters.

The report did not cover all subdivision areas within the Shire and over time, the Shire has needed to deal with matters relating to areas not covered, or adequately covered, by the 2015 Report.

In 2020, Council requested a review of the 2015 Report.

In 2021, Council agreed to allocate additional resources to emergency management to enable a greater focus on outstanding issues. Officers have undertaken a comprehensive review of the 2015 report and developed the Bush Fire Preparedness and Resilience Strategies Report which is provided at **Attachment 3**.

Deferment of Bush Fire Operational Procedures

At the April 2022 Ordinary Council Meeting, resolution 059/04/22 authorising ‘...the CEO to arrange for the Bush Fire Operational Procedures to be reviewed and brought back to Council through the Bush Fire Advisory Committee (BFAC) by December 2022’, was made by Council. This was added to the BFAC Status report for the 04 May 2022 meeting of BFAC.

COMMENTS AND DETAILS

Comments and details in regard to the recommendations made by the BFAC are below:

Appointment of Bush Fire Control Officers (FCOs) and the designation of Chief and Deputy Chief Bush Fire Control Officer roles

This information is available to Councilors via the Confidential attachment (**Attachment 2**).

Shire of Toodyay Bush Fire Preparedness and Resilience Strategies

The Bush Fire Preparedness and Resilience Strategies Report seeks to:

- Review subdivisions areas not covered, or adequately covered in the 2015 Report
- Update the status and intent of 2015 Report Recommendations
- Provide new or amended recommendations

Recommendations made within the report bare a variety of financial, planning, construction and administrative implications. It should be noted that construction orientated recommendations are not achievable all at once, however other recommendations can be actioned now that support future construction or planning.

Therefore a select few construction recommendations are put forth, accompanied by recommendations of a more administrative or planning nature, that are somewhat more achievable in the short term.

As construction projects initially prioritised are concluded, additional projects can then be prioritised through Council.

The attached report forms the basis of proposed, future actions covering recommended Council/Shire positions, projects and strategic planning. The request to endorse the

attached report is not intended to commit the organisation to any projects which have financial implications.

Such projects will be brought before Council, either as part of budgetary process or as standalone items.

Council is however, advised that a current budget project brief (for 2022/2023) which seeks \$100,000 to be transferred to the Egress Access Reserve fund, relates directly to a recommendation of the attached report.

The BFAC was asked to consider the report and make recommendations to Council regarding short term priorities. The BFAC seeks Council's endorsement of 14 of the 44 recommendations contained in the report as actions for the short term.

Deferment of Bush Fire Operational Procedures

The responsible officer has discussed with the CEO and subsequently BFAC, about the relatively short timing of the request, given; a) its proximity to the May 2022 BFAC meeting; b) the number of BFAC meetings between April and December, being insufficient to allow drafting with suitable time for consideration by BFAC and c) competing priorities of the responsible officer. The Shire of Toodyay Bush Fire Operating Procedures are integral to the operation of the Shire's Bush Fire Service and as such a considerable amount of work to review. As such, the BFAC has made a recommendation to Council to extend the time frame related to Council resolution 059/04/22, to a point after February 2023.

Officers are proposing that this recommendation is amended to provide a specific timeframe for review and have suggested the May 2023 meeting of the BFAC to allow time for review following the end of the fire season.

As per the attached minutes of the 03 August 2022 BFAC, an interim update (addition) to the Shire of Toodyay Bush Fire Operating Procedures has been tabled with the committee for review, with an additional Status Report item requesting further change to the document. The officer expects this to result in an interim partial update of the current document, prior to the tabling of a fully reviewed document to BFAC, and subsequently Council.

IMPLICATIONS TO CONSIDER

Consultative:

Appointment of Bush Fire Control Officers (FCOs) and the designation of Chief and Deputy Chief Bush Fire Control Officer roles

The recommendations in this report have been compiled in line with the recommendations made by the BFAC at their meeting held on 03 August 2021. A confidential report, the content of which is included in the confidential attachment to this report, was provided to the BFAC membership which included candidates, levels of training and levels of activity with respect to turnouts to bush fire incidents.

Shire of Toodyay Bush Fire Preparedness and Resilience Strategies

The contents of the 2015 Report and an incomplete draft of this Report have been circulated to members of the Bush Fire Advisory Committee and where appropriate, feedback has been incorporated into this report.

Consultation with Shire Senior Management occurred in May/June 2022.

The completed draft report was taken to Council Forum in July 2022.

The completed draft report was taken to Bush Fire Advisory Committee in August 2022.

The completed draft report was taken to Local Emergency Management Committee in August 2022. A number of meetings with senior management have occurred during the development of the attached report.

Deferment of Bush Fire Operational Procedures

This was considered by BFAC ad-hoc at their meeting held on 3 August 2022.

Strategic:

Bushfire Management is an outcome that the Council has identified to meet the aspirations for Toodyay as a liveable and thriving Shire in the Toodyay 2023 Strategic Community Plan. The focus of the outcome is to increase the number of registered volunteers for the Bush Fire Brigades. Provision of effective leadership and incident control personnel for bushfire events is a key component of effective management of volunteers.

Recommendations within the attached Bush Fire Preparedness and Resilience Strategies Report may have implications on asset, financial and planning management over the short, medium and long term.

Policy related:

Section 11.3 of the *Volunteer Bush Fire Brigade – Bush Fire Operating Procedures Administration Manual* outlines the role, duties, responsibilities and qualifications of a Bush Fire Control Officer. Recommendations within the attached Bush Fire Preparedness and Resilience Strategies Report may require changes to Shire planning policy/documentation.

Financial:

Recommendations contained within the attached Bush Fire Preparedness and Resilience Strategies Report would likely represent significant financial investment, which will need to be appropriately managed over the short, medium and long term.

Legal and Statutory:

Local Governments appoint Bushfire Control Officers under Sections 38 and 38A of the *Bushfires Act 1954* and the duties of Bush Fire Control Officers are set out in the legislation. The Shire must appoint, at a minimum, a Chief and Deputy Chief Bush Fire Control Officer.

A section of the attached Bush Fire Preparedness and Resilience Strategies Report relates to potential liability posed by easement responsibilities under the *Land Administration Act 1997*, for which the organisation may have exposure. The Shire also has responsibilities under the *Bushfires Act 1954* and *Emergency Management Act 2005*, which are relevant to some aspects of the report. With respect to subdivision egress, the attached report references guidelines and best practise, however, is not compelled by legislation.

Risk related:

Appointment of Bush Fire Control Officers (FCOs) and the designation of Chief and Deputy Chief Bush Fire Control Officer roles

FCOs are provided powers under Section 39 of the *Bush Fires Act 1954*. While the appointment of FCOs aim to reduce risk to the community by providing leadership in control of bush fire incidents, having an untrained or under-skilled FCOs increases the potential exposure to the following risks:

Risk 1: *Reputational* – There is a potential reputational risk to the Shire should review of a major incident expose unacceptable levels of training/skill or oversight in the appointment of FCOs. Rated: Medium

Risk 2: *Social/Economic/Environmental Risk* – There is the potential for social, economic and environmental impact of incidents, where life or property or other significant asset is lost due to unacceptable levels of training/skill or oversight in the appointment of FCOs. Rated: High

In response to this risk, Council moved to adopt the *Volunteer Bush Fire Brigade – Bush Fire Operating Procedures* as Council's Interim Policy on 24 June 2014 (with most recent amendments adopted 15 February 2022) which sets out the qualities and qualifications of a FCO. In addition, the 21 October 2014 Special Meeting of Council resolved to limit the number of BFCOs (to 11) to improve the capacity for a FCO to maintain and/or increase their skills.

Shire of Toodyay Bush Fire Preparedness and Resilience Strategies

Risk 1: *Health* - There is a risk that failure to effectively manage bush fire safety and emergency management responsibilities, could result in injury or death within the community. Rated: High.

Risk 2: *Reputational* - There is a risk that failure to effectively manage bush fire safety and emergency management responsibilities could result in a negative public perception of the Shire. Rated: High

Risk 3: *Compliance* - There is a risk that the Shire may be financially exposed to easement responsibilities for it is unaware *under the Land Administration Act 1997*. Rated: Moderate
The review and resulting recommendations aim to assist in mitigating the above risks.

Deferment of Bush Fire Operational Procedures

Risk 1: *Reputational Risk* – There is a potential reputational risk to the Shire should review of a major incident expose unacceptable levels of training/skill or oversight of the management of the Bush Fire Service. Rated: Moderate

Risk 2: *Social/Economic/Environmental Risk* – There is the potential for social, economic and environmental impact of incidents, where life or property or other significant asset is lost due to unacceptable levels of training/skill or oversight of the management of the Bush Fire Service. Rated: High

In response to this risk, Council moved to adopt the *Volunteer Bush Fire Brigade – Bush Fire Operating Procedures* as Council's Interim Policy on 24 June 2014 (with most recent amendments adopted 15 February 2022) which sets out the standards for the operation of the Shire of Toodyay's Bush Fire Service.

Workforce related:

Appointment of Bush Fire Control Officers (FCOs) and the designation of Chief and Deputy Chief Bush Fire Control Officer roles

Shire Staff FCOs

The Shire also requires a number of staff members to be appointed FCOs to perform the function of their employment. As these appointments relate to the management of Shire Staff, Delegation to the CEO exists under the Shire's delegation register (Item ES8) in relation to Section 38 "Local Government may appoint bush fire control officers" of the *Bush Fires Act 1954*.

Historically this includes the individuals holding the following positions:

1. Community Emergency Services Manager (CESM)
2. Emergency Management Officer (EMO) and/or A/Community Emergency Services Manager (A/CESM)
3. Reserves Management Officer (RMO)
4. Ranger 1 and Ranger 2

Additionally, the Shire of Toodyay has a Memorandum of Understanding (MOU) with the Department of Fire and Emergency Services (DFES) that the person employed in the CESM role will be appointed an FCO for the Shire of Toodyay. This extends to any staff member who is appointed to act in the role when the incumbent is on a period of leave.

The committee elected to recommend appointment of Robert Koch (CESM) as Deputy Chief Bush Fire Control Officer 2. The designation of this rank does not constitute any extra work in comparison to the Bush Fire Control Officer requirement for the role (explained above).

Shire of Toodyay Bush Fire Preparedness and Resilience Strategies

The recommendations contained within the attached report will require cross-departmental actions (i.e. planning, finance, assets, emergency services) to implement. Some recommendations represent major projects which will require a significant amount of project management effort by the organisation.

Deferment of Bush Fire Operational Procedures

As the review of the Shire of Toodyay Bush Fire Operating Procedures represent a tangible amount of work, deferment of this action will have less impact on other duties of the officers.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1/COUNCIL RESOLUTION NO. OCM172/08/22

MOVED Cr C Duri

That Council receives the Bush Fire Advisory Committee Meeting Minutes from the meeting held on 3 August 2022.

MOTION CARRIED 8/0

BUSH FIRE ADVISORY COMMITTEE RECOMMENDATION 1/COUNCIL RESOLUTION NO. OCM173/08/22

MOVED Cr M McKeown

That Council appoints Bush Fire Control Officers as follows:

Appointment of (to Position)

1. Craig Stewart (Chief Bush Fire Control Officer)
2. Nicholas Griggs (Deputy Chief Bush Fire Control Officer 1)
3. Robert Koch - CESM (Deputy Chief Bush Fire Control Officer 2)
4. Charles Wroth (Bush Fire Control Officer)
5. Garry Forsyth (Bush Fire Control Officer)
6. Kim Maddrell (Bush Fire Control Officer)
7. Ian MacGregor (Bush Fire Control Officer)
8. Robert Scobie (Bush Fire Control Officer)
9. The following Shire Officers as Bush Fire Control Officers:
 - (a) Ebony Francis - Emergency Management Officer
 - (b) Greg Warburton - Reserves Management Officer
 - (c) Leon Couper - Ranger
 - (d) Wade MacMillan - Ranger

MOTION CARRIED 8/0

BUSH FIRE ADVISORY COMMITTEE RECOMMENDATION 2
RECOMMENDATION/COUNCIL RESOLUTION NO. OCM174/08/22

MOVED Cr B Ruthven

That Council receives and endorses the Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report.

MOTION CARRIED 8/0

BUSH FIRE ADVISORY COMMITTEE RECOMMENDATION 3
RECOMMENDATION/COUNCIL RESOLUTION NO. OCM175/08/22

MOVED Cr M McKeown

That Council prioritises the following recommendations of the Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report and considers appropriate allocations in its 2022/2023 budget, or subsequent budgets as applicable:

1. *Report Recommendation 2* - The Shire recommits to tangible and appropriate contributions to Egress and Access Reserve fund annually.
2. *Report Recommendation 3* - The Shire should enter into applicable planning, policies, strategies and procedures the following Lots in support of future subdivision proposals and enquiries:
 1/D074943, 151/P018487, 3412/P415291, 9001/P405299,
 9500/P059240, 9011/P062847, 606/P062188, 9010/P062847,
 9508/P077718, 604/P062188, 1469/P247186, 1431/P247190,
 600/P042855, 605/P062188
3. *Report Recommendation 4* - The Shire should adopt a default position of provisioning egress as a road.
4. *Report Recommendation 6* - Construct Alignment 1.1, a road linking Malkup Brook Road and Harders Chitty Road.
5. *Report Recommendation 18* – The Shire should construct Alignment 10.1 linking North Street and Collett Way as a road, with the alternative option of constructing Alignment 10.2 linking Fitzgerald Terrace as a road.
6. *Report Recommendation 19* – The Shire should upgrade the existing Alignment 12.1 (Emergency Access Way) to a road linking Nottingham Road (East) to Nottingham Road (West).
7. *Report Recommendation 23* - The Shire should record the egress opportunity facilitated by the proposed Toodyay bypass into its business case promoting the bypass's construction and consult with stakeholders so they are aware of this need.
8. *Report Recommendation 36* - The Shire should invest in upgrading signage for its fire emergency water facilities. This should include directional street signage, distance notation and signage of the facilities themselves.
9. *Report Recommendation 37* – Undertake a project to identify and record Shire of Toodyay easement responsibilities either within the 2022/2023 Financial year or as a Project Brief for inclusion in the 2023/2024 Financial year.

10. *Report Recommendation 38* - The Shire should consider adopting a position of opposing development proposals which attempt to establish easements across multiple properties. Furthermore, when applying subdivision perimeter vehicular access solutions, higher-level controls such as the use of perimeter road or Shire managed tenure should be favoured.
11. *Report Recommendation 39* - The Shire should review mitigation requirements on its directly owned land tenure and structure an appropriate mitigation program and annual budget to meet this need.
12. *Report Recommendation 42* - The Shire reallocate its current Local Recovery Co-ordinator appointments to Welfare Liaison Officers and reassign the responsibilities of Local Recovery Co-ordinators to two or more senior management staff and embed Local Recovery Co-ordinator responsibilities into position descriptions of these roles.
13. *Report Recommendation 43* - The Shire embeds Emergency Management tasks within all employee position descriptions.
14. *Report Recommendation 44* - The Shire should require all staff to undertake a level of WALGA Emergency Management training, in line with their expected involvement.

MOTION CARRIED 8/0

OFFICER'S RECOMMENDATION 2/COUNCIL RESOLUTION NO. OCM176/08/22

MOVED Cr B Ruthven

That Council approves the extension of time for a review of the Bush Fire Operational Procedures to the May 2023 meeting of the Bush Fire Advisory Committee.

MOTION CARRIED 8/0

9.5.2 LEMC Committee Items and Recommendations

Date of Report:	10 August 2022
Applicant or Proponent:	Shire of Toodyay Local Emergency Management Committee
File Reference:	FIR27
Author:	E Francis – Emergency Management Officer
Responsible Officer:	J Augustin – Manager Infrastructure and Assets
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Shire of Toodyay Bush Fire Preparedness and Resilience Report; and ➡ 2. Report Maps. ➡

PURPOSE OF THE REPORT

To receive the minutes of the Local Emergency Management Committee (LEMC) and consider recommendations made at their meeting held on 10 August 2022 in respect to:

1. LEMC Committee Items and Recommendations

To review the LEMC meeting time, frequency and membership structure, to improve LEMC participation and development in the Emergency Management space

2. Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

To receive and endorse the Shire of *Toodyay Bush Fire Preparedness and Resilience Strategies Report* and provide short term priority recommendations.

3. Local Recovery Coordinators and Welfare Liaison Officer

To consider alterations in the appointment of Local Recovery Coordinators and Welfare Liaison Officers and make recommendation to Council.

BACKGROUNDLEMC Committee Items and Recommendations

LEMC Chair raised concern with the CEO regarding LEMC quorum and attendance, which lead to an internal discussion and advice from DFES District Emergency Management Advisor (DEMA) being sought.

Historically, LEMC meetings have been held quarterly, however amendments to the SPMC Procedures allow Local Governments to alter the frequency of LEMC meetings.

LEMC meetings are currently held at 5.00pm in the evening.

Local Governments are legislatively required to undertake an Emergency Management exercise which exercises their Local Emergency Management Arrangements (LEMA) annually.

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

The Shire of Toodyay commissioned a report in 2015 that predominantly reviewed and made recommendations related to subdivision egress and a collection of other Bush Fire related matters.

In 2020, Council requested a review of the 2015 Report.

Officers have now undertaken a comprehensive review of the 2015 report and developed the *Bush Fire Preparedness and Resilience Strategies Report* ('the Report') which is provided at **Attachment 1 & 2**.

The report has been presented to Council via a Concept Forum, for which a request was made to send back to Council Committee level (specifically the Bush Fire Advisory Committee) for a final round of comment prior to consideration at the August Ordinary Meeting of Council.

While it should be noted that the main subject of the report, relates to a level of evacuation planning, and may be of interest to LEMC, **Section 9.4** relates to, and makes recommendation with respect, to the appropriate appointment of Local Recovery Coordinators and Welfare Liaison Officers, positions referenced by the Emergency Management Act 2005 and/or the Shire of Toodyay Local Emergency Management Arrangements (LEMA).

It is Section 9.4 of the report which is being brought to LEMC to provide guidance to Council.

Local Recovery Coordinators and Welfare Liaison Officer

The position of a Local Recovery Coordinator (LRC) is to ensure the development and maintenance of effective recovery management arrangements for the local government in conjunction with the local recovery committee. Local Government is required to have a local recovery coordinator as per Section 41(4) of the *Emergency Management Act 2005*.

The Shire of Toodyay may appoint more than one person to the position of LRC, thereby ensuring that coverage is assured in the event the primary appointee is unavailable when an emergency occurs.

Additionally, appointment of one or more individuals to the position of a Local Government Welfare Liaison Officer (WLO) is another key requirement of the Shire of Toodyay Local Emergency Management Arrangements (LEMA). This appointment/s ensures initial and ongoing support to the Department of Communities, is provided in the effective opening and operation of an evacuation centre during an emergency.

Traditionally, the position of Local Recovery Coordinator was held by a Senior Management Staff member, however with changing of staff over recent years, the position/s until recently were held by two Shire officers. The recent resignation of one of those staff members prompted consideration of a new appointment.

Re-examination of the LRC and WLO roles and associated responsibilities produced discussion about the managerial experience and financial authority that would better serve the position of an LRC and the local knowledge and experience that would be ideal for a WLO.

COMMENTS AND DETAILS**LEMC Committee Items and Recommendations**

The biggest factor affecting attendance and subsequently affecting ability to achieve quorum, is the meeting time.

The current out-of-business hour time slot falls outside the contracted hours of many Shire and external agency members. This essentially makes attendance unenforceable for effected organisations and is seen a major contributing factor current attendance levels. A change to the LEMC meeting time to business hours would enforce attendance, improve quorum and increase consistency and engagement within the committee.

It is also recommended that meeting time alignment with the Goomalling LEMC is retained to benefit those external agencies which sit across multiple LEMCs who are required to travel. It is therefore proposed that a Toodyay LEMC meeting of 10:30am, with Goomalling LEMC to consider a shift from their current 3:00pm time slot to a starting time between 1:00pm and 2:00pm).

It is acknowledged that a meeting time change would not necessarily suit volunteers. Attendance by volunteer representatives would still be permitted, however in a non-voting/quorum tier of membership. All current volunteer representatives have/retain representation via staff from their organisation.

Amendment to the membership structure is also recommended to improve quorum. It is recommended that the LEMC focus on core members, rather than all possible or potential members. Expansion of the membership may be considered at any time.

The consideration of meeting frequency considers other commitments held by LEMC Members, evolving quantity of content and the legislatively required annual Emergency Management exercise. Reducing meeting frequency to three meetings and scheduling the required annual Emergency Management exercise in lieu of a fourth LEMC meeting, will likely alleviate some pressure and simultaneously allow for more meaningful and engaging meeting outcomes. It is also recommended that meeting over the bush fire high threat period, which now extends into autumn, is avoided in order to better ensure attendance by representatives with operational requirements over this period. Therefore, a proposal for March, June, and November LEMC meetings is contained in this report, with a nominal target of September for the annual exercise.

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

Historically, the Shire of Toodyay has appointed two staff members as Local Recovery Coordinator (LRC) and Deputy Local Recovery Coordinator (DLRC). These positions included the Welfare Liaison Officer (WLO) functions. The roles were, some years ago, held by a Senior Manager (the then Works and Services position), and the senior (yet not managerial) Finance Officer position. Through staff changes, delegation of LRC and DLRC has progressively focused on the WLO function, with less senior staff appointed. The Shire's own LEMA indicates there should be a separation of the WLO and LRC/DLRC roles. The table below is an excerpt from Section 1.9 of the LEMA which defines the roles.

Local Recovery Coordinator	To ensure the development and maintenance of effective recovery management arrangements for the local government. In conjunction with the local recovery committee to implement a post incident recovery action plan and manage the recovery phase of the incident.
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Local Government Welfare Liaison Officer	<p>During an evacuation assist Dept. Communities by providing advice information and resources</p> <ul style="list-style-type: none"> (a) open and establish a welfare centre at the nominated facility until the arrival of DC; (b) establish the registration process of evacuees until the arrival of DC; (c) provide advice, information and resources in support of the facility; and (d) assist with maintenance requirements for the facility.
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Qualities for the LRC/DLRC include:

- Managerial authority to direct staff; and
- Purchasing authority.

The LRC/DLRC roles are therefore best suited to head of department (Senior Management Group) personnel.

Qualities for the WLO role include:

- Living locally; and
- Good organisational skills; and
- Good people skills.

Thus, WLOs could potentially be any local staff member, not allocated an LRC/DLRC position.

In addition to the LRC and WLO appointments, Section 9.4 of the Report also advocates for the broader resourcing that recovery activities would require of the Shire, specifically:

- Embedding of Emergency Management tasks within all employee position descriptions.
- Emergency Management training for all staff (and elected members) in line with their function/responsibility.

Recommendations 42, 43 & 44 of the Report (as per Officer Recommendation 2 below) aim to address the above. The Officer is seeking LEMC recommendation of these Recommendations to Council.

Local Recovery Coordinators and Welfare Liaison Officer

With a single LRC appointee currently, the recommendation of this report aims to reduce risk to the Shire by building a team of trained 'Recovery' staff members with a suitable mix of skills, experience, knowledge and financial authority, so the Shire of Toodyay can be as prepared as possible in the event of an emergency.

Proposed position reconsiderations are as follows:

- Local Recovery Coordinator – Jan Augustin – Manager of Infrastructure and Assets
- Deputy Local Recovery Coordinator – Hugo de Vos – Manager of Development and Regulation
- Deputy Local Recovery Coordinator – Tabitha Bateman – Manager of Corporate and Community
- Welfare Liaison Officer – Kimberley Hardie
- Deputy Welfare Liaison Officer – Tobie Prater

- Deputy Welfare Liaison Officer – Wesley Sutton
- Deputy Welfare Liaison Officer – Narelle Rodger

Returning to the concept and appointment of Senior Management in the role/s of LRC provides the continuity of managerial skills, experience and financial authority from day to day business to a recovery scenario.

Currently with a single appointee, the role of Recovery Coordinator and Welfare Liaison Officer in the initial phases of an emergency incident creates a clash of responsibilities which need to be separated. A single appointee cannot be expected to commence recovery and simultaneously establish a welfare centre until the arrival of Department of Communities.

This report if ultimately taken to and subsequently passed by Council, would largely satisfy Officer's Recommendation 2 (1), item 4.3 of this agenda, relating to Recommendation 42 of the Shire of Toodyay Bush fire Preparedness and Resilience Strategies Report:

'The Shire reallocates its current Local Recovery Coordinator appointments to Welfare Liaison Officers and reassign the responsibilities of Local Recovery Coordinators to two or more senior management staff and embed Local Recovery Coordinator responsibilities into position descriptions of these roles'.

IMPLICATIONS TO CONSIDER

Consultative:

LEMC Committee Items and Recommendations

A meeting was held (August 3rd, 2022) with the following personal to discuss methods of improving LEMC attendance and participation.

- Councillor Pearce
- CEO - Suzie Haslehurst
- DEMA - Yvette Grigg
- CESM - Rob Koch
- EMO - Ebony Francis

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

The contents of the 2015 Report and an incomplete draft of this Report have been circulated to members of the Bush Fire Advisory Committee and where appropriate, feedback has been incorporated into this report.

Consultation with Shire Senior Management occurred in May/June 2022.

The completed draft report was taken to Council Forum in July 2022.

The Bush Fire Advisory Committee considered the report and made recommendations to council at it 03 August 2022 meeting.

This report introduces the report to LEMC with an opportunity to provide advice to Council.

Local Recovery Coordinators and Welfare Liaison Officer

June Senior Management Group (SMG) Meeting – Local Recovery Coordinator and Welfare Liaison Officer Positions briefed by CESM and EMO and discussed with SMG.

A meeting was held (3 August 2022) with the following personnel to discuss methods of improving LEMC attendance and participation.

- Councillor Pearce (Chair LEMC)
- CEO - Suzie Haslehurst

- DEMA - Yvette Grigg
- CESM - Rob Koch
- EMO - Ebony Francis

August SMG Meeting - Local Recovery Coordinator and Welfare Liaison Officer Positions briefed by CESM and EMO and discussed with SMG.

Strategic:

LEMC Committee Items and Recommendations

Emergency Management is a function of Local Government via *Emergency Management Act 2005*. Effective emergency management and recovery operations are important to lessening the impact of disasters on our community. Effective emergency management is a critical factor to a strong, resilient community. This is supported by the Shire's Strategic Community Plan Toodyay 2028 (page 23) '*Our Local Emergency Management Committee ensure that the Shire is well prepared in the event of an emergency.*'

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

Emergency Management is a function of Local Government via *Emergency Management Act 2005*. Effective emergency management and recovery operations are important to lessening the impact of disasters on our community. Effective emergency management is a critical factor to a strong, resilient community. This is supported by the Shire's Strategic Community Plan Toodyay 2028 (page 23) '*Our Local Emergency Management Committee ensure that the Shire is well prepared in the event of an emergency.*'

Local Recovery Coordinators and Welfare Liaison Officer

A key point of the Shire's Strategic Community Plan – Toodyay 2028 (SCP) is Governance – the way the Shire leads and operates. The strategic outcome is that Council will engage with the community and provide good governance on behalf of the Community.

An objective within the SCP is to Preserve and protect our natural assets for future generations by way of (S 1.4) Reduce the impact of extreme weather conditions through emergency management planning. The amendment of the Local Recovery Coordinator and Welfare Liaison Officer positions strengthens the Shire's ability to commence recovery effectively in the event of an emergency.

Policy related:

Nil

Financial:

Section 36(b) of the *Emergency Management Act 2005* describes one of the functions of local government 'to manage recovery following an emergency affecting the community in its district'. For this to occur as efficiently as possible specialised training is available and recommended. There will be future training costs incurred in the 2022/2023 Annual Budget which will be associated with the appointment of personnel with emergency planning and preparation, response and recovery responsibilities. These costs are not expected to exceed \$5,000.

Legal and Statutory:

LEMC Committee Items and Recommendations

The *Emergency Management Act 2005*, and relevant State Emergency Management Committee (SEMC) policy and guidelines, set responsibility for Local Government in

Emergency Management. The recommendations in this report are designed to support these requirements.

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

Section 9.4 of the Report aims to address requirements of the *Emergency Management Act 2005*, particularly in relation to the appointment of LRC, and assist in meeting overall Local Government recovery obligations of the Act.

Local Recovery Coordinators and Welfare Liaison Officer

Under the *Emergency Management Act 2005*, the local government is a public authority who has functions to perform as per Section 36 of the aforementioned Act.

Section 41 (4) of “Emergency management arrangements in local government district” states as follows:

- (4) *Local emergency management arrangements are to include a recovery plan and the nomination of a local recovery coordinator.*

Section 42 (2) of “Reviewing and renewing local emergency management arrangements” states as follows:

- (2) *Local emergency management arrangements may be amended or replaced whenever the local government considers it appropriate.*

Risk related:

LEMC Committee Items and Recommendations

Risk 1: There is a risk that failure to effectively carry out the LEMC roles and responsibilities emergency management responsibilities could result in injury or death within the community. Rated High (10)

Risk 2: There is a risk that failure to effectively manage bush fire safety and emergency management responsibilities could result in a negative public perception of the Shire. Rated: High (12)

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

Risk 1: There is a risk that failure to effectively conduct emergency management responsibilities, could result in injury or death within the community. Rated: High (10)

Risk 2: There is a risk that failure to effectively manage conduct emergency management responsibilities could result in a negative public perception of the Shire. Rated: High (12)

Local Recovery Coordinators and Welfare Liaison Officer

Risk 1: There is a risk that having only one LRC appointee leaves the Shire at risk of not being able to effectively manage recovery in the event of an emergency, if the sole appointee is not available. Rated: High (15)

Risk 2: There is a risk that having only one LRC appointee leaves the Shire at risk of not being able to effectively manage initial stages of recovery and establishment of a Welfare Centre in the event of an emergency. Rated: High (15)

The appointment of multiple individuals as per the Officer’s recommendations below largely mitigates these risks.

Workforce related:**LEMC Committee Items and Recommendations**

Attendance of LEMC members that are Shire of Toodyay Staff would be expected, with the amendment of the meeting time to business hours. Suitable allowances in scheduling by management would be required.

Toodyay Bush Fire Preparedness and Resilience Strategies Report – Emergency Management Related Recommendations

The Officer's recommendation of this report, advocates for the delegation of roles, by the CEO on Shire Staff.

Local Recovery Coordinators and Welfare Liaison Officer

LEMCs role is not to design or direct work to Shire staff specifically, however at the request of the CEO, this report was created to come through the LEMC process as a related committee item, implementation of the Local Emergency Management Arrangements (LEMA), and to inform Council.

VOTING REQUIREMENTS

Simple Majority

**LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION
1/COUNCIL RESOLUTION NO. OCM177/08/22**

MOVED Cr S Pearce

That LEMC meeting times be changed to the second Wednesday of relevant months at 10.30am.

MOTION CARRIED 8/0

**LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION
2/COUNCIL RESOLUTION NO. OCM178/08/22**

MOVED Cr C Duri

That LEMC meeting frequency be reduced to three times per year, with meetings to be scheduled early March, June and November.

MOTION CARRIED 8/0

Cr Ruthven moved the Local Emergency Management Committee Recommendation as follows:

That alteration of LEMC Membership Structure with the composition of this committee is proposed to be as follows:

- (a) Police Officer in Charge – Toodyay.**
- (b) Four elected members (two primary and two deputy)**
- (c) Community Emergency Services Manager (CESM);**
- (d) Chief Executive Officer – Shire of Toodyay, or in accordance with section 5.10(5) of the Local Government Act 1995, the CEO's Representative;**

- (e) Emergency Management Officer;
- (f) Department of Communities representative;
- (g) District Emergency Management Advisor (DEMA);
- (h) Local Recovery Coordinator and/or deputy;
- (i) Welfare Liaison Officer and/or deputy;
- (j) DFES District Officer Avon and/or District Officer Natural Hazards;
- (k) Main Roads Representative;
- (l) St John Ambulance Community Paramedic;
- (m) Ranger Representative;
- (n) Principal, Toodyay District High School;
- (o) Non-Voting/Quorum Invitees:
 - i. Chief Bush Fire Control Officer or deputy
 - ii. Toodyay Volunteer Fire & Rescue representative;
 - iii. Toodyay St John Ambulance representative
 - iv. Morangup St John Ambulance representative
 - v. Toodyay SES Representative

Clarification was sought.

Cr Hart moved an amendment to the motion as follows:

That the words “That alteration of LEMC Membership Structure with the composition of this committee is proposed to be as follows:” be replaced by the words “That Council approves the alteration of LEMC Membership Structure with the composition of this committee as follows:”

Cr Ruthven accepted the amendment.

Further clarification was sought.

Cr McKeown moved an amendment to the motion as follows:

That at Point (b) it should state the following:

- (b) Two primary elected members and two deputy elected members to act as proxy delegates.**

Cr Ruthven accepted the amendment.

The substantive motion was put.

AMENDED LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION 3/COUNCIL RESOLUTION NO. OCM179/08/22

MOVED Cr B Ruthven

That Council approves the alteration of LEMC Membership Structure with the composition of this committee as follows:

- (a) Police Officer in Charge – Toodyay;
- (b) Two primary elected members and two deputy elected members to act as proxy delegates;

- (c) Community Emergency Services Manager (CESM);
- (d) Chief Executive Officer – Shire of Toodyay, or in accordance with section 5.10(5) of the Local Government Act 1995, the CEO's Representative;
- (e) Emergency Management Officer;
- (f) Department of Communities representative;
- (g) District Emergency Management Advisor (DEMA);
- (h) Local Recovery Coordinator and/or deputy;
- (i) Welfare Liaison Officer and/or deputy;
- (j) DFES District Officer Avon and/or District Officer Natural Hazards;
- (k) Main Roads Representative;
- (l) St John Ambulance Community Paramedic;
- (m) Ranger Representative;
- (n) Principal, Toodyay District High School;
- (o) Non-Voting/Quorum Invitees:
 - i. Chief Bush Fire Control Officer or deputy
 - ii. Toodyay Volunteer Fire & Rescue representative;
 - iii. Toodyay St John Ambulance representative
 - iv. Morangup St John Ambulance representative
 - v. Toodyay SES Representative

MOTION CARRIED 8/0

Clarification was sought.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM180/08/22

MOVED Cr B Ruthven

That Council receives and endorses the *Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report*.

MOTION CARRIED 8/0

Clarification was sought.

Cr Pearce moved the Officer's Recommendation as follows:

That Council prioritises the following recommendations of the *Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report* and considers appropriate allocations in its 2022/2023 budget, or subsequent budgets as applicable:

- 1. *Report Recommendation 42* - The Shire reallocate its current Local Recovery Coordinator appointments to Welfare Liaison Officers and reassign the responsibilities of Local Recovery Coordinators to two or more senior management staff and embed Local Recovery Coordinator responsibilities into position descriptions of these roles.**
- 2. *Report Recommendation 43* - The Shire embeds Emergency Management tasks within all employee position descriptions.**
- 3. *Report Recommendation 44* - The Shire should require all staff to undertake a level of WALGA Emergency Management training, in line with their expected involvement**

Cr McKeown moved an amendment to the first paragraph of the motion to read as follows:

That Council prioritises the following recommendations of the *Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report* and considers appropriate allocations in future budgets as applicable:

Cr Pearce accepted the amendment.

Further clarification was sought.

The substantive motion was put.

LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION 5/COUNCIL RESOLUTION NO. OCM181/08/22

MOVED Cr S Pearce

That Council prioritises the following recommendations of the *Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report* and considers appropriate allocations in future budgets as applicable:

- 1. *Report Recommendation 42* - The Shire reallocate its current Local Recovery Coordinator appointments to Welfare Liaison Officers and reassign the responsibilities of Local Recovery Coordinators to two or more senior management staff and embed Local Recovery Coordinator responsibilities into position descriptions of these roles.**
- 2. *Report Recommendation 43* - The Shire embeds Emergency Management tasks within all employee position descriptions.**
- 3. *Report Recommendation 44* - The Shire should require all staff to undertake a level of WALGA Emergency Management training, in line with their expected involvement**

.MOTION CARRIED 8/0

**LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION
6/COUNCIL RESOLUTION NO. OCM182/08/22****MOVED** Cr D Wrench

That Council notes the appointments of personnel required for the purpose of emergency planning and preparation, response and recovery as follows:

1. Local Recovery Coordinator – Manager Infrastructure and Assets;
2. Deputy Local Recovery Coordinator – Manager Development and Regulation;
3. Deputy Local Recovery Coordinator – Manager Corporate & Community Services;
4. Welfare Liaison Officer – Kimberley Hardie;
5. Deputy Welfare Liaison Officer – Tobie Prater;
6. Deputy Welfare Liaison Officer – Wesley Sutton; and
7. Deputy Welfare Liaison Officer – Narelle Rodger.

MOTION CARRIED 8/0

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

Cr Wrench moved the Officer's Recommendation.

Cr McKeown objected to the motion as it did not appear that the motion was to move behind closed doors to consider the confidential report.

Clarification was sought.

Cr McKeown moved a motion for Council to go behind closed doors.

The motion to go behind closed doors was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM183/08/22

MOVED Cr M McKeown

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

14.1 Correspondence from Clublinks

This matter is considered to be confidential under Section 5.23(2) - (c) and (e) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting and a matter that if disclosed, would reveal –

- (i) a trade secret; or
- (ii) information that has a commercial value; or
- (iii) information about the business, professional, commercial or financial affairs of a person.

That in accordance with Standing Orders Clause 5.2 (5) while the resolution under sub-clause 5.2 (2) remains in force, the operation of Standing Orders Clause 7.9 is to be suspended until the Council, by resolution, decides otherwise

MOTION CARRIED 8/0

14.1 Correspondence from Clublinks

In accordance with Standing Orders 5.2 (3) the Presiding Member directed everyone to leave except the Members; the CEO and any employee specified by the Presiding Member.

All members of the public departed the Council Chambers at 3.02pm. The livestream went behind closed doors for a confidential session.

The CESM, EMO, and Planning and Compliance Officer departed Council Chambers at 3.02pm.

VOTING REQUIREMENTS

Absolute Majority

AMENDED OFFICER'S RECOMMENDATION 1/COUNCIL RESOLUTION NO. OCM184/08/22**MOVED** Cr D Wrench**SECONDED** Cr B Ruthven

That Council:

1. Agrees to a one-off payment of \$54,955 to Clublinks to assist with water charges for the 2021/2022 financial year, given that an accurate baseline budget was unable to be determined due to:
 - a) 2021/22 being the first full year of operation of the TRC;
 - b) the establishment of the landscaping required higher than normal irrigation;
 - c) the Shire was paying the water and electricity bills for some time;
 - d) the failure of the bore at the TRC significantly affected water consumption and skewed readings for the period; and
 - e) the Shire retained control of the irrigation schedule with no input from Clublinks.
2. Requests the CEO to bring a budget amendment back to Council as part of the mid-year budget review.

Voted For: Crs C Duri, P Hart and D WrenchVoted Against: Crs R Madacsi, B Ruthven, S McCormick, M McKeown and S Pearce**MOTION LOST 3/5**

Councillors acknowledged that although Clublinks has the primary responsibility for the management as per the contract, there were underlying circumstances contributing to the additional costs.

ALTERNATE MOTION/COUNCIL RESOLUTION NO. OCM185/08/22**MOVED** Cr S Pearce**SECONDED** Cr B Ruthven

That Council agrees to a one-off payment to Clublinks of \$27,477.50 to assist with water charges for the 2021/2022 financial year, given that an accurate baseline budget was unable to be determined due to:

- a) 2021/22 being the first full year of operation of the TRC;
 - b) the establishment of the landscaping required higher than normal irrigation;
 - c) the Shire was paying the water and electricity bills for some time;
 - d) the failure of the bore at the TRC significantly affected water consumption and skewed readings for the period; and
 - e) the Shire retained control of the irrigation schedule with no input from Clublinks.
2. Requests the CEO to bring a budget amendment back to Council as part of the mid-year budget review.

Voted For: Crs R Madacsi, B Ruthven, C Duri, P Hart, S Pearce and D WrenchVoted Against: Crs S McCormick and M McKeown**MOTION CARRIED 6/2 BY ABSOLUTE MAJORITY**

OFFICER'S RECOMMENDATION 2/COUNCIL RESOLUTION NO. OCM186/08/22**MOVED** Cr B Ruthven

That Council requests the CEO to:

1. Review the management contract for the Toodyay Recreation Centre and negotiate contract variations with Clublinks to:
 - (a) hand over control of the irrigation system at the Toodyay Recreation Centre subject to an annual key performance indicator regarding the upkeep of the landscaping and playing field; and
 - (b) identify and clarify clauses that are inconsistent or ambiguous.
2. Notes that the CEO will report back to a Council workshop no later than 30 November 2022 with details of potential contract variations.
3. Investigate the installation of separate utility meters for the aquatic and pavilion/dry sports facilities to assist in apportioning costs.
4. Provide a report to Council by 28 February 2023 regarding the installation of separate utility meters at the Toodyay Recreation Centre.

MOTION CARRIED BY ABSOLUTE MAJORITY 8/0**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM187/08/22****MOVED** Cr S Pearce

That Council move from behind closed doors and that Standing Order 7.9 resume at 4.12pm.

MOTION CARRIED BY ABSOLUTE MAJORITY 8/0

The Council Chambers were re-opened at 4.12pm and the live stream recommenced.

In accordance with Standing Order 5.2(7), the Presiding Member read aloud the results of the above resolutions for the benefit of members of the public.

15 NEXT MEETINGS

Ordinary Council Meeting	28 September 2022
Agenda Briefing	21 September 2022
Audit & Risk Committee Meeting	7 September 2022
Museum Advisory Committee Meeting	7 September 2022

16 CLOSURE OF MEETING

The Shire President declared the meeting closed at 4.20pm.