

Agenda Briefing

15 February 2023

Notes

Unconfirmed Notes

These notes were approved for distribution on 17 February 2023.



Suzie Haslehurst

CHIEF EXECUTIVE OFFICER

When the Chief Executive Officer approves these Notes for distribution they are in essence "informal notes" that will be received at the next Ordinary Council Meeting, subject to any amendments being made by Council.

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

Attachments that formed part of the Agenda, in addition to those tabled at the Agenda Briefing are included in the attachments to the Ordinary Council Meeting with the exception of confidential items or attachments that are confidential which will be included in Confidential Minutes of the Ordinary Council Meeting.

Received Notes

These notes were received at an Ordinary Council Meeting held on 22 February 2023.

Signed: 

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

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr R Madacsi, Shire President, declared the meeting open at 1.08pm.

2 RECORDS OF ATTENDANCEMembers

Cr R Madacsi	Shire President
Cr B Ruthven	Deputy Shire President
Cr C Duri	Councillor
Cr P Hart	Councillor (<i>via zoom</i>)
Cr S McCormick	Councillor
Cr M McKeown	Councillor
Cr S Pearce	Councillor
Cr D Wrench	Councillor (<i>via zoom from 1.18pm</i>)

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
Mrs M Rebane	Executive Assistant
Mrs N Mwale	Finance Coordinator

Visitors

Nil

2.1 APOLOGIES

Cr S McCormick Councillor

2.2 APPROVED LEAVE OF ABSENCE

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

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

Cr Pearce declared a Proximity Interest in relation to Agenda Item No. 9.1.2 Draft Local Planning Policy - Extractive Industries as a currently operating extractive industry shares her residential land boundary.

The CEO advised that advice would be sought in regard to the above.

Response after meeting:

Advice from James McGovern from WALGA was as follows:

If the Council decision is about the general development of a policy around extractive industry then the fact that Cr Pearce, or any Councillor that has

property that adjoins the boundary of a current extractive industry does not equate to the definition of a Proximity Interest in s.5.60B of the Local Government Act 1995 which states:

5.60B. Proximity interest

- (1) *For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —*
 - (a) *a proposed change to a planning scheme affecting land that adjoins the person's land; or*
 - (b) *a proposed change to the zoning or use of land that adjoins the person's land; or*
 - (c) *a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.*
- (2) *In this section, land (the proposal land) adjoins a person's land if —*
 - (a) *the proposal land, not being a thoroughfare, has a common boundary with the person's land; or*
 - (b) *the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or*
 - (c) *the proposal land is that part of a thoroughfare that has a common boundary with the person's land.*
- (3) *In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.*

However, if the policy is going to affect the Shire's planning instruments (i.e. the Shire's local planning scheme or planning strategy), or make a change to zoning on certain land, or for proposed developments, then consideration of the policy does invoke a Proximity Interest for any councillor who has a property that is adjoining an existing extractive industry.

If Councillors query whether they may have to declare an interest for any extractive industries that have not become active as yet, they need not do that because disclosures of interest are not for speculative reasons. They are only for active or current reasons.

Cr Duri sought clarification in regard to an interest with respect to Agenda Item 9.1.6 – Lot 111/390 Toodyay West Road. The Presiding Member advised that according to the meaning of the disclosure of financial interests and gifts section of the *Local Government Act 1995*, that she needn't declare an interest on this occasion if it is a distant business dealing.

4 PUBLIC QUESTIONS

4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Clarification was sought.

Response after the meeting as follows:

Two questions were taken on notice at the Special Council Meeting held on 1 Feb 2023.

The questions and responses will be included in the 22 February 2023 Ordinary Council Meeting Minutes.

Correspondence will be sent on Friday 17 February 2023 via email to the person who asked the questions.

The Agenda Settlement Process has been revised to ensure questions taken on notice are included in the Agenda in future.

4.2 PUBLIC QUESTION TIME

Nil.

5 CONFIRMATION OF MINUTES

As per Council Meeting Agenda

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 Lot 54 Julimar Road, West Toodyay - Ancillary Accommodation

Item 9.1.1 - Questions and Points raised		
Councillor	Discussion	Response
Cr Duri	As I can see only one rainwater tank on the drawings, I would like to clarify if this tank is sufficient to service a further dwelling and additional persons, please.	<u>Planning and Compliance Officer response:</u> <i>This property is connected to scheme water therefore a second water tank is not required.</i> <i>An Alternate motion submitted by the Manager Development and Regulation was withdrawn.</i>

Item 9.1.1 - Questions and Points raised		
Councillor	Discussion	Response
Cr Madacsi (OAM63182)	May we have a photo of the existing house for colour and design.	<u>Planning and Compliance Officer response:</u> <i>Yes. The house is cream brick with a green Colourbond roof.</i>

9.1.2 Draft Local Planning Policy - Extractive Industries

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Development and Regulation Manager unless otherwise provided
Cr Pearce	From the workshop, Manager of Development indicated the extractive industries draft needs adjustment/additions i.e. more work, but it was needed to be adopted in the form presented. It was felt the policy would be reviewed before June to add the amendments. I would like clarification of amending the officers recommendation to include this review and subsequent adoption by Council.	<i>The formal adoption meeting (after advertising) will be the best time to add a clause about bringing back for future review. Is that acceptable?</i>
Cr Madacsi	<p>Objectives</p> <ul style="list-style-type: none"> o May I suggest a descending order of importance, starting with community objectives o Add a dot point 2 - To protect against the loss of key water assets in the Shire. o Are existing dot point 3 and 9, then dot point 5 and 8, essentially the same. Could objectives be condensed, e.g.? ❖ To protect the environmental and landscape amenity, values and qualities of Toodyay. ❖ To protect key water assets in the Shire against degradation. 	<i>Advice from the CEO: given the number of queries received regarding the draft extractive industries policy, it is clear further discussion is required before presenting a draft for advertising approval. Therefore, I will withdraw Item 9.1.2 from this agenda and we will present to the March 2023 OCM.</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Development and Regulation Manager unless otherwise provided
	<ul style="list-style-type: none"> ❖ To protect the economic viability of the Shire’s agricultural and horticultural industries and tourism. ❖ To prevent activities detrimental to the amenity and/or environment of the area during or after extraction. ❖ To provide stakeholders with clear guidelines and requirements for the processing of applications for extractive industries. ❖ To ensure proposed haulage routes and road hierarchy support an extractive industry without degrading Shire road assets. ❖ To allow for the consideration of extractive industries in appropriate locations and to ensure such industries are operated in a correct and appropriate manner. 	
<i>Cr Madacsi</i>	Definitions I don’t understand ‘committed area’, it is not clear to me.	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	<p>Council’s position on extractive industries</p> <ul style="list-style-type: none"> o (b) as written makes no sense o (d) Sensitive land uses should not be permitted to encroach on extractive industry operations – should this not be reversed to extractive industry operations should not be permitted to encroach on sensitive land uses? o (e) doesn’t make sense ... new development should not be permitted that would prevent the exploitation of viable deposits of basic raw material, unless removal of that material would result in unacceptable impacts on an existing or future community 	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	Approval requirements	<i>Refer to the above response.</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Development and Regulation Manager unless otherwise provided
	<ul style="list-style-type: none"> o Needs to be condensed - Council Development Approval is required for new applications. Where a new extractive industry is proposed, or an existing industry is to be increased in size over what was originally approved to Council Development Approval is required for proposed new applications, or an existing industry is to be increased in size over what was originally approved. o Remove the word full from full Council 	
<i>Cr Madacsi</i>	<p>4.2 Council considerations – Matters to be considered by council – change</p> <p><i>(e) Proximity and buffers to water courses; to water resources</i></p>	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	<p>6 General Development Requirements – (d) No excavation is to occur within 50 metres of a water course or body; - the body part of this needs further consideration as an excavation near a water recharge body could cause unwanted consequences.</p>	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	<p>Element Amenity p.14 – 2. refer to the provisions of the Environmental Protection (Noise) Regulations 1997</p>	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	<p>10.3 Category of non-compliance – needs to be more concise, highlighted sentence is confusing, is it needed?</p>	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	<p>10.5 Table 4 – Critical category, commencement of site works before plans received – what is the consequence?</p>	<i>Refer to the above response.</i>
<i>Cr Madacsi</i>	<p>14 Road Contribution – the road maintenance contribution needs to be</p>	<i>Refer to the above response.</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Development and Regulation Manager unless otherwise provided
	<p> tied to a standard of calculation e.g.: WALGA </p>	

9.1.3 Draft Local Planning Policy – Compliance

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response
Cr Pearce	<p> Clarification – from the workshop, was there discussion the title was to be changed – Compliance - Local Planning. Would this pleased be checked? </p>	<p> <u>Planning and Compliance Officer response:</u> <i>Regulatory Compliance.</i> </p>
Cr Madacsi (OAM63182)	<p> Scope - Does not limit the discretion of the Shire, - should this read Council? </p>	<p> <u>Planning and Compliance Officer response:</u> <i>The first level of authority is the Shire. If there is no delegated authority the matter would be presented to Council.</i> </p>
Cr Madacsi (OAM63182)	<p> 3 Circumstances where the Shire may take no further compliance action - (d) Where an activity constitutes domestic enjoyment, notwithstanding the activity may be defined under the Local Planning Scheme 4. What does this refer to and why is it included? </p>	<p> <u>Planning and Compliance Officer response:</u> <i>Paragraph removed as it is confusing.</i> </p>
Cr Madacsi (OAM63182)	<p> (d) Retrospective application seeking approval – can we shed the word retrospective to minimise confusion? E.g.: Approval after development has occurred. In the first paragraph remove the wording for retrospective approval and retrospective. The sentences still read correctly </p>	<p> <u>Planning and Compliance Officer response:</u> <i>Yes – The word retrospective can be removed.</i> </p>

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response
Cr Ruthven	When we workshopped in teams with this one, we had called it regulatory compliance.	<u>CEO response:</u> <i>Yes, that is correct and it was a question that was raised and it has been confirmed that we will change it to Regulatory Compliance before advertising</i>

Cr Wrench entered the meeting via zoom at 1.18pm.

9.1.4 WAPC REF: 163122 Lots 9011 AND 9507 Drummond Street Nunile - Proposed 100 Lot Subdivision.

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
Cr Pearce	All the areas designated as the drainage sites and the roads will come under the care and management of the Shire of Toodyay and will incur future maintenance costs. Other than phrase “high standard”, How can the shire be future proofed from these costs. What is the policy/regulations for setting up a maintenance fund as part of the subdivision to which developer contributes?	<i>This will be determined through the subdivision clearance process. The Shire will not sign off on conditions unless it is satisfied. Additionally in this instance as it is a 100-lot subdivision, the clearance must come ack to Council for final approval as per our current approval.</i> <i>This is covered under <u>State Planning Policy 3.6 – Infrastructure Contributions</u>.</i> <i>Please refer to Part 6 – Policy Measures.</i>
Cr Pearce	The preparation and implementation of several plans will ensure that these areas are developed to the highest quality with the entire necessary infrastructure being provided for by the developer. <i>Will the Officer please clarify: The preparation and implementation of several plans: What are these plans and when will they be developed? E.g. before subdivision approval?</i>	<i>This is covered in the proposed conditions: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.</i> <i>This will be a cost to the developer.</i> <i>They will need to be cleared by Council.</i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
Cr Pearce	<p><i>This subdivision was submitted several years ago. The original subdivision included open space for the whole area. Accepting this is part of the original holding, no extra open space is allocated for these new lots.</i></p> <p><i>From Officers report, Shire of Toodyay Local Planning Scheme No. 4 provides the mechanism for protecting and enhancing the environment of the district and its historical associations, controlling land and building development, setting aside land for future use as reserves.</i></p> <p><i>Due to 100 new sites being made, and extensive other building sites already in play, is there a need for extra open space amongst these lots? How should the Shire address in this application the need for extra open public space amongst these lots?</i></p>	<p><i>The sites were identified in the original structure plan which has been endorsed.</i></p> <p><i>The proposed subdivision complies with the specific requirements of the endorsed structure plan which strategically identifies the location for public open space throughout the structure plan area.</i></p>
Cr Pearce	<p>From Officers Recommendation:</p> <p>As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC</p>	<p><i><u>This is a standard condition per the WAPC's Model Subdivision Conditions schedule.</u></i></p> <p><i>Normally the subdivision works will be completed by the developer. In the instance that the Shire of Toodyay agrees to providing manpower, equipment and materials, this would only be done if the Infrastructure and Assets team were certain they had resourcing available to perform this function and it would be at the cost of the developer. There is generally a 4 year approval given so works can be staged to meet contractor availability and supply issues.</i></p>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
	Would the Officer clarify, how this would impact on the Works programme, the capacity of Asset Manager to coordinate, availability of skilled workforce or the availability of contractors to conduct these projects, in a timely manner for subdivision to progress?	
<i>Cr Pearce From the Officers recommendation</i>	Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to serve the lots shown on the approved plan of subdivision. Would the Officer clarify what constitutes Suitable Arrangements?	<i>As per our Vehicle Crossover Policy</i>
<i>Cr Duri</i>	WAPC Ref: 163122 Lots 9011 and 9507 Drummond Street West The subdivision plans do not specifically address any upgrade of Drummond Street (West) west of the Lots 9011 & 9507 – for this we refer to the unsealed portion. Can the Officer please advise what the “Satisfactory arrangements” are for the cost of upgrading and/or construction of roads encompasses?	<i>These would be per the approved planning framework at the time of clearance. In this instance, the applicant would need to demonstrate compliance with the subdivisional development guidelines. And this would be achieved through the clearance process and prior consultation with the Shire of Toodyay Development and Regulation and Infrastructure and Assets teams.</i>
<i>Cr Duri</i>	What is an “Access Road C”? is this substantial to ensure low-cost maintenance in the future?	<i>Waiting on advice Response after Meeting This type of road would have 19m road reservation to cater for both the residential and school traffic. This reservation would typically allow a 7.5m carriageway, a 4m verge and a 4.5 m verge (including a 3.0 m dual use path) on either side, respectively.</i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
Cr Duri	Can the Officer please advise what the “Satisfactory arrangements” are for the cost of upgrading and/or construction of the Boyagerring Brook crossing and does this fall under the Infrastructure and Assets Works Department to maintain?	<p><i>These would be per the approved planning framework at the time of clearance.</i></p> <p><i>In this instance, the applicant would need to demonstrate compliance with the subdivisional development guidelines. And this would be achieved through the clearance process and prior consultation with the Shire of Toodyay Development and Regulation and Infrastructure and Assets teams.</i></p> <p><i>Yes, once the subdivision process is completed and we have issued clearance and the new certificate of titles are issued etc, the Shire takes over the responsibility of maintaining the road network (including the crossing).</i></p>
Cr Duri	Would it be prudent to have a Revised Traffic Assessment completed with figures from the current date?	<i>No. The reason being the TIA was generated for the creation of the structure plan which has incorporated development at the site proposed in this subdivision application.</i>
Cr Madacsi (OAM63182)	Implications to Consider - The linking of Drummond Street (West) to Burt Parkway by a properly constructed road should be ensured... Is this a question or a statement?	<i>should be ensured... Statement</i>
Cr Madacsi (OAM63182)	Can council require the upgrade of Drummond Street (West) west of the Lots 9011 & 9507 ?	<i>Yes.</i>
Cr Madacsi (OAM63182)	Is the use of the Foggarthorpe Estate Design Guidelines mandatory or are the guidelines attached to the Structure Plan?	<i>The Local Planning Policy Foggarthorpe Estate Design Guidelines is adopted and in force and it covers this area.</i>
Cr Madacsi (OAM63182) <i>(regarding the officer</i>	The land being filled, stabilised, drained and/or graded as required – is this undertaken during lot development or at	<i>The intent of this is to do this at the time of subdivision. This will avoid the ad hoc retaining done currently.</i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
<i>recommendat ion)</i>	sale as significant erosion will occur on the slopes?	
<i>Cr Madacsi (OAM63182) (regarding the officer recommendat ion)</i>	Street lighting needs to be solar and LED to reduce shire costs and start the transition to sustainable options.	<i>This should be in a Local Planning Policy for Sustainable Development.</i>
<i>Cr Madacsi (OAM63182) (regarding the officer recommendat ion)</i>	A foreshore management plan?	<i>For Boyagerring Brook area.</i>
<i>Cr Madacsi (OAM63182) (regarding the officer recommendat ion)</i>	Does the waste treatment plant have the capacity for another 100 households?	<i>This is up to Water Corporation to determine. They are a stakeholder and would have supplied their own submission.</i>
<i>Cr Madacsi (OAM63182) (regarding the officer recommendat ion)</i>	Does deep sewerage access the site and if not, does the Shire bare the cost to extend to the site?	<i>No this is a developer cost.</i>
<i>Cr Madacsi (OAM63182) (regarding the officer recommendat ion)</i>	Given Toodyay prides itself on a rural lifestyle, why are we accepting an urban design without green spaces or corridors (community common areas) within the subdivision. This should be essential to maintain the amenity.	<i>In this instance there is a valid structure plan guiding development sitting over the property. There is a requirement under the R-Codes (5.3.2 – C2.2) to provide a minimum of 1 tree in a 2m x 2m area to be deemed-to-comply. <i>The minimum tree planting area is to be provided for each tree and shown on the site plan that is submitted with the application. <i>The tree planting area is to be free of impervious surfaces and roof cover.</i></i></i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
		<i>So with 100 lots developed there shall be a minimum of 100 trees.</i>
<i>Cr Madacsi (OAM63182) (regarding the officer recommendation)</i>	Is there any provision to make solar power and a water tank a condition?	<i>This should be in a Local Planning Policy for Sustainable Development.</i>
<i>Cr Madacsi (OAM63182) (regarding the officer recommendation)</i>	Is there any opportunity to control dark roof and wall colours?	<i>This should be in a Local Planning Policy for Sustainable Development.</i>
<i>Cr Duri</i>	<p>I apologise I have not had the opportunity to read all of the material that you forwarded regarding the Subdivision Guidelines.</p> <p>On reading Councillor Madacsi comments on the sewerage system and wastewater I have looked at the Local Planning Strategy – 2.6.2 Sewerage and 2.6.2.1- Sewerage and 2.6.2.2 Wastewater conveyance upgrades and new infrastructure.</p> <p>My question is: Would the Developer be responsible to negotiate this with DWER?</p> <p>2.6.2.2 Wastewater Conveyance Upgrades and New Infrastructure:</p> <p><i>Approximately 200 properties in the townsite are currently connected to the Toodyay sewerage scheme. 25 Indicative timing only. Timing depends on rate of growth and development. 26 Indicative</i></p>	<i>This would be determined by the Water Corporation. They are a referral agency and are responsible for ensuring the wastewater system is adequate.</i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
	<p><i>timing only. Timing depends on rate of growth and development. 27 Indicative timing only. Timing depends on rate of growth and development. Toodyay Local Planning Strategy 2017 71 Page An additional wastewater pumping station will be needed to serve the zoned urban growth area to the east of the townsite, on the eastern side of the river. This WWPS is annotated as "Toodyay WWPS 'B'" on Map 9 for long term sewer planning. At the time the wastewater planning was last revised, the need for this WWPS was indicated to be required >202528 at the earliest. The need to deliver this WWPS through the Water Corporation's capital program will be driven by development demand and the project will remain outside our 5 year capital program until there is firm developer interest in developing this land.</i></p>	
Cr Hart	<p>Thank you for your comprehensive report into the proposed 100 lot subdivision in Nunile.</p> <p>One question: what is LSP, please?</p>	<p><i>Local Structure Plan</i></p>
Cr McKeown	<p>How did the conditions come into being?</p>	<p><i>This was a subdivision that had a previous approval and the approval time had lapsed. Given that there was no significant change in the subdivision, it seemed prudent to carry across the conditions that the WAPC had provided in the original approval. There have been some minor tweaks that we have put in as a result of internal communication - with the</i></p>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
		<i>Community Emergency Services Manager, as an example.</i>
<i>Cr Madacsi</i>	Will they be presented as amendments that Council will put?	<i>No. They are included in the current Agenda.</i>
<i>Cr Pearce</i>	I raised a number of issues. There was a previous subdivision. That approval was in 2016. Is that correct?	<i>Yes</i>
<i>Cr Pearce</i>	My concern is that in this subdivision we are approving 100 lots but nowhere is there an area of open space or trees. In these days can we vary that and ask for some open space in that area?	<p><i>Initially the application does state that it complies with the public open space requirements. The other point to make is that as a part of the R codes, all residential development will be covered under the R codes for all these properties.</i></p> <p><i>There is now a requirement for all of the applications to have provision for a tree in a 2mx2m space. A minimum of one tree planted.</i></p> <p><u><i>The President Officer sought clarification as follows:</i></u></p> <p><i>You mean per property?</i></p> <p><u><i>Manager Development and Regulation response:</i></u></p> <p><i>Per property. Every time there is a house being developed, they have to show provision for and plant a tree.</i></p> <p><i>Were there to be 100 properties developed then there at least 100 extra trees would be planted.</i></p> <p><i>However, I have also taken on board your general concerns about a lack of public open space, and I think the tendency of developers is to do the bare minimum requirement. I put that to the Planning Department this afternoon. I did initially ask to see whether we could request a further month extension for consideration for it. The Officer advised that it is very unlikely that the applicants would allow</i></p>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
		<i>that but she did say that as part of her assessment of the proposal, she has to look at the Public Open space and see whether there is any more that needs to be done. Also, as a Council, notwithstanding the recommendation that I have put forward, Council can also put an amendment to the recommendation, saying that this is a very significant issue for the Shire and that more attention should be given in consideration of the overall subdivision by the WAPC to make sure that this is addressed.</i>
<i>Cr Pearce</i>	Accepting that the tree has to be planted. Does Council have any input in the type of tree planted?	<i>Taken on notice.</i> Response after meeting Yes – we could do a condition of approval.
<i>Cr Madacsi</i>	When you put it to the State Government, can you mention that it is a reluctance to have trees that are noted to be flammable within the subdivision due to obviously the district's Bushfire situation but also for the purpose of looking at shade and creating something that continues the amenity of the community?	<i>That would not be something that we would do at a subdivision level. It would be at the development assessment level and as part of our policy review, we are looking at trees and greenery so I believe that is a more appropriate time to include that.</i> <i>It does not need to be added as an amendment at a subdivision level.</i>
<i>Cr Madacsi</i>	Can we add an intent into the Subdivision application? We should be conveying the intent.	<i>We can include it. I would like the opportunity to look at the guidance provided at a State Government level then advise Councillors accordingly via email.</i>
<i>Cr McKeown</i>	Provision no 5 is about cost of roads in the subdivision and the 2 nd para is about local government preparing the roads or building the roads – was that paragraph in the original WAPC document?	<i>The Western Australian Planning Commission (WAPC) has a set of model subdivision conditions. The reason why they do that is to make conditions consistent.</i> <i>Generally, we will apply the conditions verbatim, obviously amending whether it is the Shire of Toodyay district, or something</i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
		<i>similar. That particular condition is always included.</i>
<i>Cr Pearce</i>	My concern is particularly with the road, there will be a high standard; but what can we as a Shire do to future proof those roads? Is there a fund where contributions can be made from the initial subdivision into the maintenance of these roads as the future goes on. Is that possible?	<i>There is a State planning policy for infrastructure contributions though they are more community infrastructure rather than road infrastructure. I have provided a link to the policy. I do not think that it is for roads.</i>
<i>Cr Madacsi</i>	Can the Manager Infrastructure and Assets comment, subject to receiving this item at the next Ordinary Council Meeting, as to what his opinion is regarding the existing design of the road on those slopes and what he perceives to be any issues that could arise and the quality of the roads that need to be implemented so we might be in a position to further add that?	<i>Yes. We have received preliminary advice from the Department. The Engineering Technical Officer sought clarification on a condition stating about the engineering plans - he wanted to know what the approval process for this was. I clarified this is dealt with through the clearance of a subdivision. When we say "to the satisfaction of" the applicant will apply to the Shire of Toodyay to have the conditions that relate to the Shire of Toodyay cleared and this is the process of liaison between the Shire and the applicant, making sure we are happy with what is there before sign-off and clearance.</i>
<i>Cr Madacsi</i>	We have had problems in the past to do with the terrain and the sub-soil drainage structure. We need to be fairly confident that the design of the subdivision has taken that on board. Is that possible?	<i>Short of sending it through to the Department, which I have already asked them to look at and provide comment, the only other option would be to engage an independent engineer to have a look at the proposal.</i>
<i>Cr Madacsi</i>	Can we send that through with our own engineer's opinion of the terrain which he is familiar with and the engineering works that he is familiar with for their consideration?	<i>Yes. When we are providing advice to the WAPC, we provide recommended conditions (what we would like to happen) but we can go above and beyond that and provide general advice to include specific concerns.</i>

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Development and Regulation, unless otherwise specified
Cr McKeown	We would need to have that phrasing and the advice by next week. How will that occur?	<i>Prior to the meeting next week, I can draft a letter with the conditions plus any other comments from today and any other advice that we might receive over the next few days will be included. The letter can be tabled at the Ordinary Council meeting.</i>
Cr Pearce	Once the subdivision goes across and the blocks are made does the Shire collect rates on each individual block at that time?	<i>Yes.</i>
Cr Ruthven	Before, once the subdivision finished, and blocks are titled prior to them being actually sold does the developer pay the rates?	<i>Yes.</i>
Cr Madacsi	The intention is to clear the blocks and level them so that they are available. At what point is this done? Because we want to avoid a bare stripped hill with level of rain and run off.	<i>This is a significant consideration for us as planners. It has been very difficult to manage the ad-hoc retaining process with the existing River Hills subdivision. At the time, for the existing subdivision, the decision was made not to include that. Obviously, the developers do not want to do it because the developers are concerned about the cost. We see it as absolutely imperative that they have the sites levelled and retained and that they also have the stormwater drainage implemented.</i>
Cr Madacsi	When referring to the levelling of the site are you referring to the building envelope and not the entire block?	<i>Yes, I am talking about retaining a developmental area on each lot and having that retained accordingly.</i>

9.1.5 P2022-2 Lots 54-56 Railway Road, West Toodyay - Change to existing Non-conforming use.

Item 9.1.5 Questions and Points raised		
Councillor	Discussion	Response
Cr Duri	Lot 54-56 Railway Road – change to non-conforming use. In the attachments, I do not see any map or development application. The item 9.1.5 has been misplaced. May we have the documents under separate cover please?	<i>This has now been rectified.</i>
Cr Ruthven	In the Officer's Report it says for more information please refer to the attachment.	<i>I had not included them, but they are there now.</i>
Cr Madacsi	Have they been uploaded to the website and the hub?	<i>Yes, they have.</i>

9.1.6 Lot 122/390 Toodyay West Road, West Toodyay - Outbuilding

Item 9.1.6 - Questions and Points raised		
Councillor	Discussion	Response from the Manager Development and Regulation unless otherwise stated
Cr Pearce	<p>Applicant: B Jenkins and S Smart</p> <p>Use: Storage</p> <p>From Attachment: The building drawings proposed Outbuilding is for Vapour Plumbing and Gas</p> <p>Previously before Council: No</p> <p>Clarification: The property is zoned Special Residential R2.5. Would the officer please explain if the structure is associated with an approved land use i.e. for commercial purposes?</p>	<p><u>Planning and Compliance Officer response:</u></p> <p><i>The application before us is for an outbuilding and therefore no commercial element or use is being considered at this time.</i></p> <p><i>Standard conditions of approval for outbuildings state that it is for domestic purposes only and not for human habitation.</i></p> <p><i>If Mr Jenkins is found to be operating a business on the site, then it is a compliance matter. The Shire can alleviate this issue by granting development approval to operate a home business.</i></p>

Item 9.1.6 - Questions and Points raised		
Councillor	Discussion	Response from the Manager Development and Regulation unless otherwise stated
Cr Duri	I do not see an application in the attachments for this outbuilding; also there is limited plans to support the application. Can you please advise if there is to be an application and additional plans for this item and if so, can they please be included in the Attachments?	<u>Planning and Compliance Officer response:</u> <i>Only plans & attachments are attached to a Council report. There is no additional plans to provide in this instance.</i>
Cr Pearce	The attachments just showed a rudimentary diagram of where the house was and where the shed was going to be placed. There was no indication on those plans of where the swale is and how does council determine how it will be managed if this outbuilding is placed where they have indicated on the plan?	<u>The Presiding Member responded as follows:</u> <i>The swale was to the front of property. There is a drainage line that follows through to the creek but the actual swale is in a marshy section to the front. At the back there is quite a narrow channel that flows down a quite steepish gradient to that.</i> <u>Manager Development and Regulation response:</u> <i>We paced it out with the applicant at the time and it was not interfering with the swale.</i>
Cr Ruthven	This Officers report is largely a repeat of what we had in October including where it says the change of location ensures the visual amenity is considered with screening of the outbuilding. That would be from the road but not adjoining neighbours. What screening is there from the adjoining neighbours?	<i>There is a limited number of trees in the area that provide screening.</i>
Cr Ruthven	Are they on the Applicant's property or on the neighbouring property?	<i>On the applicant's property. The end of the block tends to be more vegetated. Also on the neighbouring property there is some screening trees.</i>
Cr Ruthven	If this is approved will any of the screening trees have to be removed for construction?	<i>Not the screening trees but there are some trees on the elevation closest to the house that will need to be removed.</i>

Item 9.1.6 - Questions and Points raised		
Councillor	Discussion	Response from the Manager Development and Regulation unless otherwise stated
<i>Cr Ruthven</i>	The outbuilding requires 400mm of fill with limestone retaining. Does that apply this time?	<i>Manager Development and Regulation deferred to the Planning and Compliance Officer who advised that they are still retaining the same.</i>

9.1.7 Lot 394 Markey Road, West Toodyay - Proposed Additions to Single Dwelling (Over height)

Item 9.1.7 - Questions and Points raised		
Councillor	Discussion	Response
Cr Pearce	<p>I seek clarification. Last year Council workshopped a Policy on planning approvals. It was discussed that applications should not be accepted if the advertising period would be over the January holiday period, as generally residents are not in position to see advertisement or respond.</p> <p>From the Policy</p> <p>11. Holiday periods</p> <p>a) Public notification relating to planning policies, scheme amendments and planning proposals (where initiated by the Shire) will not commence between 1 December and 15 January;</p> <p>b) Public notification will not commence for any applications received between 1 December and 15 January;</p> <p>This application was received 14 Dec. Council needs to make a decision by March 14, perhaps putting Council under pressure.</p> <p>Would the Officer please explain the acceptance of this application, contrary to the policy?</p>	<p><u><i>Planning and Compliance Officer response:</i></u></p> <p><i>The officer contacted the adjoining landowner which the application was advertised via telephone and email. The adjoining landowner provided a written submission to state they had no issues with the application taking place.</i></p>
Cr Madacsi	<p>The code allows for 8m for 2 storey and it is proposed to be 1.5m higher and that is to do with drop away at the rear of property. So from ground level it is more or less compliant?</p>	<p><i>Yes. It should also be noted that the DRAFT Local Planning Scheme No 5 includes provision for a 9m overall height.</i></p>

9.1.8 Draft Local Planning Policies: Signage Outside the Central Toodyay Heritage Area; Directional Signage and Signage within thoroughfares; and non-habitable structures

Nil.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 Local Laws Review Process

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from the CEO unless otherwise stated
Cr Pearce	<p>Clarification: Council will workshop May 2023 to consider submissions and discuss proposed changes, and then consider a brief to engage a consultant.</p> <p>How will Councils workshop determinations be shared with consultant and form part of the review?</p>	<p><i>The brief for the Consultant will include a process to incorporate previous Council input as well as consultation with Council once revised local laws are drafted.</i></p>
Cr Pearce	<p>From Officers report Financial</p> <p>A cost of \$4,800 was listed for the gazette of Health Law.</p> <p>Does this cost apply to all Shire laws that will be reviewed, or just to new local laws.</p> <p>If a local law is amended, does it require to be repealed, for amended Law to be adopted?</p>	<p><u>From the DLGSC guidelines:</u></p> <p>Local governments should be aware that when amending or repealing a local law, it needs to be done in accordance with section 3.12 of the Act, which is the same procedure for ‘making’ a local law. This is because amendment or repeal local laws are new local laws themselves and must follow the full statutory process to be made within power.</p> <p><i>Therefore, there is a cost for any new, amended or repealed local law to be published in the Local Government Gazette.</i></p> <p><i>A local law only needs to be repealed if it is not in use. An ‘amendment’ local law is used where a local law is to be amended.</i></p>
Cr Pearce	<p>If we review a number of these laws is that going to be a huge Impost on our shire budgeting?</p>	<p><i>Yes. The cost to advertise in the government gazette is based on the length and complexity of the document provided. If a local law is a simple one it is likely to be less costly, but if it is a long document then it is going to cost more. We cannot estimate what it will be. We would have to seek quotes from the</i></p>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from the CEO unless otherwise stated
		<i>Government Gazette for advertising at the time but a budget allocation would be required. As part of the process for amending the local laws, we would potentially prioritise and do them over a number of financial years.</i>
<i>Cr Madacsi</i>	My understanding that with the Health Local Law which had a cost associated with it of \$4,800 associated with advertising there is a number of them that could be quite considerable but there is a regulatory requirement to do them within a certain timeframe.	<i>The time requirement is to review the local laws not to <u>amend</u> the local laws. As long as the local laws have been reviewed and actions have been determine, the review is deemed to have taken place.</i>
<i>Cr Pearce</i>	The review requires advertisement in the gazette and that is the cost?	<i>The review is to be advertised in the gazette but then, if any local laws are to be change or repealed, the Shire will need to follow s.3.12 of the Local Government Act 1995 to make a new Repeal Local Law or several amended Local Laws, all of which would then need to be advertised in the government gazette.</i>

9.2.2 List of Payments - December 2022

Item 9.2.2 - Questions and Points raised		
Councillor	Discussion	Response
<i>Cr Pearce</i>	148 31-01-2023 AVON WASTE - STONDON PTY LTD Fortnightly Rubbish collection charges from 24/10/21 to 21/11/21 16,713.08 Clarify Date – fortnight or month?	<u><i>Accounts Payable / HR Officer response:</i></u> <i>Pick up of recycling waste is every fortnight. Pick up of general waste is every week. Billing is for a period of time indicated on tax invoices.</i>

9.2.3 Monthly Financial Statements - December 2022

Item 9.2.3 - Questions and Points raised		
Councillor	Discussion	Response from Manager Corporate and Community Services, unless otherwise specified.
Cr Madacsi	Was the Coondle West Rd seal variation included in the budget, or were funds reallocated from another job?	<u>Works Operations Officer response:</u> <i>The variation was within the budget allocated for this project.</i>
Cr Madacsi	Pay type 70 – 73: Why is the Shire paying these expenses for Fire Mitigation Services? Are there incremental payments subject to funding?	<u>Works Operations Officer response:</u> <i>This is part of the Mitigation Activity Fund 2022/2023 – we pay and claims are made against the grant.</i>
Cr Ruthven	Page 195 Birds of the Perth Hills – what is it?	<i>It is a book that we sell at the Visitor Centre.</i>
Cr McKeown	Page 212 under Land and Buildings, the works depot painting adopted budget is \$7,798. Is that to be paid out of municipal funds or is it from a special grant?	<i>Municipal funds.</i>
Cr McKeown	Under Infrastructure roads, Julimar Road rehabilitation budget is \$537,000. Is that a grant payment funded or is that to be paid out of municipal funds?	<i>That was grant funded.</i>
Cr McKeown	Same with the next one – the black spot – have we got the grants?	<i>We got some in 2021/22 and we have carried it forward. We have got the grant funds. We always claim 40% for the Regional Road Group and Black Spot funding projects in advance which will sit in the liability section of the balance sheet until the project progresses.</i>
Cr McKeown	Chitty Road upgrade have we got the grants?	<i>This is funded through Roads to Recovery which is 100% funded. In the event that the project is deferred we could choose to allocate it to another road project that is municipal funded in this year and swap it out</i>

Item 9.2.3 - Questions and Points raised		
Councillor	Discussion	Response from Manager Corporate and Community Services, unless otherwise specified.
		<i>for next year, or we could hold it over and use those funds for next year from Roads to Recovery.</i>
<i>Cr Pearce</i>	Page 213 looking at Julimar Road rehabilitation Black Spot for Chitty Road upgrade. It has been deferred due to waiting on clearing permits. What is the process for how long permits take?	<p><u><i>The Presiding Member response:</i></u></p> <p><i>The time for clearing permits can vary quite considerably depending on what the requirements are when they assess the application as to whether they feel a flora survey is required. If a flora survey is required, they put it out to (defer it) Spring and this can delay the works quite some time. It depends on what the Department decides is a requirement for that particular road and for that particular job, and whether any objections have been made.</i></p>
<i>Cr McKeown</i>	Will these projects be completed? Is it something I should defer to ask at budget review?	<p><u><i>Presiding Member response:</i></u></p> <p><i>If it is through the Regional Road Program funding and we cannot execute a job in that period of time it goes back into a holding account for a year or two. If we cannot within a reasonable period utilise that funding, then it is returned to Regional Road North if it comes through Regional Road funding.</i></p> <p><u><i>Manager Corporate and Community Services response:</i></u></p> <p><i>We are reviewing projects through our mid-year budget review preparation and will bring a list of summary items to a Council workshop.</i></p> <p><u><i>CEO response:</i></u></p> <p><i>I do encourage Councillors to bring these sorts of queries to that workshop so that we can work through them at that time.</i></p>

9.2.4 List of Payments - January 2023

Item 9.2.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Corporate and Community Services unless otherwise specified.
Cr Pearce	<p>153 31-01-2023 AVON YARD & MAINTENANCE SERVICES Weekly Maintenance of Pelham Reserve Lookout area from 31/12/22 to 30/6/23 3,750.00</p> <p>What guarantee has the Shire that contractor will deliver this work as payment is in advance?</p>	<p><i>These are managed on a weekly basis. We do not have a guarantee, but this is something we are looking at improving through processes and we are monitoring closely.</i></p>
Cr Pearce	<p>155 31-01-2023 BELINGARNI FABRICATION HOME & PROPERTY SERVICE Firebreak compliance work 434 Julimar Road, West Toodyay, 80 Ridley Circle, West Toodyay 1,760.00</p> <p>156 31-01-2023 BELINGARNI FABRICATION HOME & PROPERTY SERVICE Firebreak compliance work 132 Macpherson Drive, Coondle, 63 Toodyay Road, Toodyay 880.00</p> <p>Clarification: Would the Officer please provide the responsibility for these payments i.e. private or Shire and if cost is recouped?.</p>	<p><i>The costs are recouped from the property owner.</i></p>
Cr Madacsi	<p>Why are there three, monthly Water Corp accounts for Shire Admin Lot 60 RES 2281?</p>	<p><u>Works Operations Officer response:</u> <i>There are two meters at the Admin Office. One services the building and most of the grounds (this is the account for \$612.55). The other meter services a small section of lawn near the carpark. (This is</i></p>

Item 9.2.4 - Questions and Points raised		
Councillor	Discussion	Response from Manager Corporate and Community Services unless otherwise specified.
		<i>the other two amounts, one being an overdue charge).</i>
<i>Cr Madacsi</i>	Pay type 15 - 117: What is the gravel grade and price per cubic meter for gravel supplied by Vernice?	<u>Works Operations Officer response:</u> <i>26mm stone and is \$10 plus GST per tonne (for Shire Cartage) \$16.70 plus GST per Tonne (for Vernice to Cart).</i>
<i>Cr Madacsi</i>	Do the fuel account litres used, equate with estimated mileage and use of vehicles? (Not required for the meeting)?	<u>Works Operations Officer response:</u> <i>Would require further investigation – invoice is for fuel purchased not what is put in the vehicles.</i>

9.2.5 Monthly Financial Statements - January 2023

Item 9.2.5 - Questions and Points raised		
Councillor	Discussion	Response
<i>Cr McKeown</i>	Same questions for that month as per the December 2022 month.	<i>Refer to Dec 2022 Monthly financial statement questions and responses.</i>

9.3 EXECUTIVE SERVICES

9.3.1 Parking Space Lease Agreement (Avivo) - Toodyay Community Junction

Nil.

9.3.2 Toodyay Recreation Centre - Management Reporting

Nil.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Council Policies - Street Lighting; Temporary Road Closures; and Oversize Vehicles.

Nil.

9.4.2 Installation of separate utility meters at the Toodyay Recreation Centre

Item 9.4.2 - Questions and Points raised		
Councillor	Discussion	Response from Manager Infrastructure and Assets unless otherwise specified.
<i>Cr Madacsi</i>	Does submeter 3 (tanks) record oval and grassed areas at the courts?	<i>Submeter 3 records the scheme water inflow into the tank only. Existing flow meters installed at the tank measure the flow out volumes for grassed area and garden beds.</i>
<i>Cr Pearce</i>	Will the Shire be responsible for the sub meters	<i>No. we had an issue with the bores and it was difficult to identify which area the excess water usage related to. When council considered to provide a subsidy there was also a request to look into submeters</i>

9.5 COMMITTEE REPORTS

Nil.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil.

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**13.1 MEMBERS**

Nil.

13.2 EMPLOYEES

Nil.

14 CONFIDENTIAL BUSINESS

Nil.

15 NEXT MEETINGS

Audit & Risk Committee Meeting	1 March 2023
Museum Advisory Committee Meeting	1 March 2023
Local Emergency Management Committee Meeting	8 March 2023
Agenda Briefing	15 March 2023
Ordinary Council Meeting	22 March 2023

16 CLOSURE OF MEETING

The Shire President declared the meeting closed at 2.07pm.