



Ordinary Council Meeting

24 May 2023

Commencing at 1.00 pm

AGENDA

Notice of Meeting.

To: The President and Councillors.

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

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

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

An Agenda Briefing will be held at the same venue as above on 17 May 2023, commencing at 1.00pm to discuss the contents of this agenda.

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

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

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



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ATTACHMENTS can be found in the Attachments Paper on the Council website alongside this agenda.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member is to run through the Preliminaries on the previous page of the Agenda, and to declare the Ordinary Meeting of Council open.

Acknowledgement of Country: *"I acknowledge the Ballardong Noongar people, the traditional custodians of the land where we meet today and the Yued and Whadjuk people, who are traditional custodians of respective lands within the wider Shire of Toodyay. I pay my respect to their Elders, past, present and emerging."*

2 RECORDS OF ATTENDANCE**2.1 APOLOGIES****2.2 APPROVED LEAVE OF ABSENCE**

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE**2.3.1 Cr Ruthven's Application for leave of absence**

Cr Ruthven requested to be granted Approved Leave of Absence from 30 June 2023 to 14 July 2023 inclusive.

OFFICER'S RECOMMENDATION

That the Application for Leave of Absence by Cr Ruthven from 30 June 2023 to 14 July 2023 inclusive be granted.

2.3.2 Cr Madacsi's Application for leave of absence

Cr Madacsi requested to be granted Approved Leave of Absence from 12 June 2023 to 25 June 2023 inclusive to attend the ALGA National General Assembly in Canberra and the National Feral Pig Conference in Cairns.

OFFICER'S RECOMMENDATION

That the Application for Leave of Absence by Cr Madacsi from 12 June 2023 to 25 June 2023 inclusive be granted.

3 DISCLOSURE OF INTERESTS**4 PUBLIC QUESTIONS****4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

4.2 PUBLIC QUESTION TIME**5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 26 April 2023****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 26 April 2023 be confirmed.

5.2 Agenda Briefing held on 17 May 2023**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 17 May 2023 be received.

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

A petition is to be addressed to the Shire President and is to be presented by a Councillor.

6.2 DEPUTATIONS

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

6.3 PRESENTATIONS

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

6.4 SUBMISSIONS

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

7 BUSINESS FROM PREVIOUS MEETING**7.1 Confirmation of Minutes - 29 March 2023**

Date of Report:	28 April 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG8
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	26 April 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Unconfirmed Minutes of Special Council Meeting held on 29 March 2023, as amended. ⇒

PURPOSE OF THE REPORT

To consider confirmation of Minutes from the Special Meeting held on 29 March 2023 that have been amended (**Attachment 1**).

BACKGROUND

At the April 2023 Ordinary Council Meeting (OCM) Council resolved as follows:

That the Unconfirmed Minutes of the Special Council Meeting held on 29 March 2023 be brought back to Council for confirmation at the May 2023 Ordinary Council Meeting.

COMMENTS AND DETAILS

Firstly, this report has been included as *business left over from the previous meeting*, despite the matter not having been “adjourned” through debate. As the matter was deferred to the May 2023 OCM, requiring the provision of an Officer’s Report, it is being included in this section to consider before consideration of the reports in Section 9 of the Agenda.

At the April 2023 Ordinary Council Meeting the following Officer’s Recommendation was included in the agenda:

That the Unconfirmed Minutes of the Special Council Meeting held on 29 March 2023 be confirmed subject to formatting changes being made in addition to amendments as follows:

- (a) *Cr Hart to be included as a seconder in Council Resolution No. SCM063/03/23 in accordance with the notice of revocation completed at that meeting that will also be included as a tabled attachment to the minutes of the meeting;*
- (b) *The numbering of the resolutions be amended to include a resolution number for the amendment motion that was carried to include a tenth point (i.e.*

SCM064/03/23); and the current resolution no. SCM064/03/23 being renumbered to SCM065/03/23.

Cr McKeown objected to the motion and provided reasons for his objection which are contained in the table below accompanied by Officer comments following a detailed review of the livestream recording and transcript of the meeting.

No.	Cr McKeown's objection points	Comment following detailed review of the livestream recording of the meeting
(i)	RE: amendment (a) in so far as Cr Hart did not second resolution 063/03/23 at the meeting;	<p><i>At 15.04.43pm, the Shire President advised Cr McKeown, who had objected to the motion, that the motion had been moved by Cr Madacsi (mover) and seconded by Cr Pearce (1st seconder) and also by the 2nd seconder Cr Hart.</i></p> <p><i>Regulation 10 of the Local Government (Administration) Regulations 1996 states:</i></p> <p>10. Revoking or changing decisions (Act s. 5.25(1)(e))</p> <p><i>(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —</i></p> <p><i>(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or</i></p> <p><i>(b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee,</i></p> <p><i>inclusive of the mover.</i></p> <p><i>The published version of the unconfirmed minutes contained written confirmation of mover and seconders of the motion.</i></p>
(ii)	RE: amendment (a) the notice of revocation was not completed at the meeting;	<p><i>The Shire President, as Presiding Member had indicated the following:</i></p> <p><i>The Presiding Member moved the Officer's Recommendation as follows:</i></p> <p><i>That Council revokes the Council Resolution No. 209/10/21 of 26 October 2021.</i></p> <p><i>This resolved that Council:</i></p> <p><i>1. Defers the adoption of the Local Planning Scheme No 5 until a review of the local planning strategy is completed in 2022; and</i></p>

No.	Cr McKeown's objection points	Comment following detailed review of the livestream recording of the meeting
		<p>2. Requests the CEO to bring a plan and timeline to Council regarding a review of the Shire of Toodyay Local Planning Strategy and Local Planning Scheme No 5 by December 2021.</p> <p><i>The Presiding Member stated that in accordance with Part 15 of the Shire of Toodyay Standing Orders 2008 and Regulation 10(1) of the Local Government (Administration) Regulations 1996 the recommendation was supported in writing by a third of the Councillors for the revocation to be considered at the meeting.</i></p> <p><i>The three (3) Councillors who supported in writing, the motion to revoke resolution 209/10/21 were:</i></p> <ol style="list-style-type: none"> <i>1. Cr Madacsi (mover);</i> <i>2. Cr Pearce (1st seconder); and</i> <i>3. Cr Hart (2nd seconder).</i>
(iii)	<p>RE: SCM063/03/23 the minutes record that this resolution moved by Cr Madacsi and seconded by Cr Pearce but no Councillor actually moved the resolution at the meeting and no Councillor actually seconded the resolution at the meeting.</p>	<p><i>See above.</i></p> <p><i>At 15.02pm the Presiding Member informed the people present at the meeting of the motion to revoke being changed and she advised that she had moved the motion and there were two other Councillors who seconded it. The Presiding Member asked for objections at 15.03pm.</i></p> <p><i>The Presiding Member pointed out as the mover that the requirement to revoke the motion of 2021 was necessary as it was worded in part that Council would receive the amended Strategic Community Plan (SCP) prior to adoption of LPS5. That has not occurred, so the motion needed to be revoked. The Manager Development and Regulation clarified that it was not the SCP but instead it was the local planning strategy.</i></p> <p><i>At 15.04.35pm the Presiding Member advised Cr McKeown that "we already have two seconders".</i></p>
(iv)	<p>RE: SCM064/03/23 now to be renumbered the minutes record that the motion was moved by Cr Pearce and seconded by Cr Hart but no Councillor seconded the motion at the meeting.</p>	<p><i>Recommendation No. 064/03/23 needs to be renumbered 065/03/23 because at 15.41pm, Cr McKeown moved an amendment and Cr Hart seconded the amendment, as written below:</i></p> <p><i>Cr McKeown moved an amendment to the motion as follows:</i></p>

No.	Cr McKeown's objection points	Comment following detailed review of the livestream recording of the meeting
		<p><i>That a Point 10 be added to the motion to read as follows:</i></p> <p><i>10. Requests the CEO modify the schedule of submissions; and to change the columns referring to Council Comments and Recommendations to read "Officer Comments and Recommendations."</i></p> <p><i>Cr Hart seconded the amendment.</i></p> <p><i>The amendment was voted on and it requires a Council resolution because it was voted on. This is why it will become Res No. 064/03/23.</i></p> <p><i>In the May 2023 Council Meeting it will be important to also amend, with the giving of a resolution number, the fact that Cr Hart seconded that amendment.</i></p>
(v)	<p>The minutes do not record that the President did not ask for a seconder to the resolution</p>	<p><i>The Local Government (Administration) Regulations 1996 (r11. Minutes, content of (Act s. 5.25(1)(f)) do not require that the content of the minutes is to record the Presiding Member asking the question of whether there is a seconder to the motion moved. The minute taker should record if a motion has been seconded and by whom it has been seconded, but the question in itself is not minuted.</i></p> <p><i>At 15.40pm the Presiding Member advised Cr McKeown that Cr Hart had seconded the substantive motion prior to Cr McKeown querying the amendment – yet Cr McKeown is correct.</i></p> <p><i>Cr Hart had not seconded the motion that Cr Pearce had moved. However, at 15.41pm, the Presiding Member gave Cr Hart, as the seconder, the right of reply. At 15.46pm Cr Hart advised he was given the right of reply as seconder, because he seconded the motion that Cr Pearce had moved.</i></p> <p><i>The revised minutes are a true reflection given that Cr Hart believed he was the seconder of the substantive motion that Cr Pearce had moved.</i></p>
(vi)	<p>The minutes do not record that the President did not ask whether there were any objections to the resolution.</p>	<p><i>The Local Government (Administration) Regulations 1996 (r11. Minutes, content of (Act s. 5.25(1)(f)) do not require that the content of the minutes is to record the question the Presiding Member asks in terms of whether there are objections to the resolution.</i></p>

No.	Cr McKeown’s objection points	Comment following detailed review of the livestream recording of the meeting
		<p><i>At 15.32pm the Presiding Member asked for a mover and Cr Pearce moved it.</i></p> <p><i>At 15.33pm the Presiding Member asked for questions or clarifications.</i></p> <p><i>At 15.41pm the Presiding Member asked for people to speak for and against the motion – which means that they were in debate of the motion so the wording “Debate commenced and Debate continued” needs to be put into the minutes.</i></p> <p><i>Further, when Cr McKeown queried whether there were any objections to the motion that Cr Pearce had moved, the Presiding Member stated that Cr McKeown had in fact objected to it; and the Presiding Member did not say why but the minutes reflect that Cr McKeown objected to it, which is why Cr McKeown made the inclusion of the amendment to it.</i></p>
(vii)	<p>The minutes do not record that Cr Pearce, who moved the resolution, was not asked to speak to the resolution.</p>	<p><i>The Local Government (Administration) Regulations 1996 (r11. Minutes, content of (Act s. 5.25(1)(f)) do not require that the content of the minutes is to record debate, or when a Councillor is asked to speak to a resolution. However, procedurally the minutes have contained the phrases below to delineate when debate on a matter commences, and if it gets interrupted by clarification, the phrases below are used:</i></p> <ul style="list-style-type: none"> <i>• Debate commenced.</i> <i>• Debate continued.</i> <i>• Debate recommenced.</i> <p><i>The revised minutes contain the above phrases, to delineate when debate commenced and when the motion was put, as procedurally it is important to include these phrases in the chronological order of the meeting that was held.</i></p>

The unconfirmed minutes, as amended, are presented to Council for confirmation.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Nil

Policy related:

Nil

Financial:

Nil

Legal and Statutory:

Standing Orders Local Law 2008 – Clauses 12.4(4) and 13.4.

The keeping and confirmation of minutes are dealt with in Sections 5.22 and 5.25 of the *Local Government Act 1995*.

The content of minutes is dealt with in Regulation 11 of the *Local Government (Administration) Regulations 1996*.

Risk related:

As a matter of procedure, the minutes are needed to be confirmed before they can be bound together and kept in the strong room of the Shire Administration Office.

The risk level is Low (2) in terms of any risks of non-compliance if Council chooses to defer once again the confirmation of these minutes. This report mitigates the risk.

Workforce related:

This report took several hours for an Officer to prepare. This included the time it took to listen to the live-stream recording and make notes of the occurrences of conversation at the Special Council Meeting held on 29 March 2023, write the report, and further discussion of the report at the Agenda Settlement. When the minutes are confirmed, the Officer will upload the confirmed version of the minutes to the Shire website and the Council Hub.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That the Unconfirmed Minutes of the Special Council Meeting held on 29 March 2023 be confirmed, as amended (**Attachment 1**).

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Shire President may make an announcement, in accordance with the *Shire of Toodyay Standing Orders Local Law 2008* (Section 4.3).

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

Date of Report:	8 May 2023
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:	Item 9.1.2 – 22 March 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Draft Local Planning Policy - Extractive Industries and Waste Disposal. ↗

PURPOSE OF THE REPORT

To review submissions received from formal advertising of the new draft *Local Planning Policy – Extractive Industries and Waste Disposal*.

BACKGROUND

Council resolved to implement a review of all Shire policies in February 2022.

At the Ordinary Council Meeting on 22 March 2023, the Council resolved to adopt the draft Local Planning Policy Extractive Industries and Waste Disposal for the purpose of advertising.

Pursuant to Clause (4)(3)(a) of Division 2 of Part 2 in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the draft policy is now being brought back to Council for further consideration of submissions. After which Council must resolve to:

1. proceed with the policy without modification; or
2. proceed with the policy with modification; or
3. not to proceed with the policy.

COMMENTS AND DETAILS

Managing the development and compliance of extractive industries within the Shire of Toodyay has proven to be a difficult task. Whilst the Shire has an adopted *Local Planning Policy for Extractive Industries – Road Maintenance Contributions*, it, as the title indicates, is very narrow in its scope. It is clear that the Shire would benefit from developing a new, all-

encompassing Local Planning Policy which will provide a formal position on a range of factors relating to extractive industries – not just road maintenance.

The main factors that have contributed to the difficulties in regulating this form of development are as follows:

- Lack of policy position;
- Inconsistency of management reports;
- Inconsistency in the method data has been supplied;
- Lack of a clear process and expectations between the Shire and operators;
- Lack of clear methodology to determine calculations for road maintenance contributions;
- Change of staff;
- Reduction in staff numbers;
- Change in land tenure;
- Change in licensee;
- Old, outdated and substandard plans make it difficult to create a clear picture of previous approvals.

The development of this policy has been designed to incorporate the existing *Local Planning Policy – Extractive Industries (Road Maintenance Contributions)* whilst also providing a policy position on all aspects of the life of an extractive industry. This includes:

- Application requirements;
- Exemptions;
- Approval requirements;
- Consultation;
- Classification of extractive industries;
- General development requirements;
- Compliance, auditing and monitoring;
- Cost recovery;
- Road maintenance; and
- Rehabilitation.

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 determine otherwise, advertise the proposed policy. Advertising of Local Planning Policies must be for a period of not less than twenty-one (21) days.

Prior to being presented to the Council at this meeting for consideration, the draft Local Planning Policy has undergone an extensive collaborative exercise. A Shire of Toodyay Extractive Industry Policy Working Group was assembled to work on the development of this policy in a holistic manner. The group comprised a combination of members – each with a specific expertise/interest which is considered to be valuable to the drafting of this policy.

The make-up of the group is as follows:

Name	Title / Other Detail
Hugo de Vos	Manager Development and Regulation, Shire of Toodyay
Tobie Prater	Planning and Compliance Officer, Shire of Toodyay
Cr Madacsi	Elected Member, Shire of Toodyay
Cr Wrench	Elected Member, Shire of Toodyay
Bob Neville	Toodyay Roadwise
Cliff Simpson	Regional Road Safety Advisor WALGA
Bob Huston	Department of Biodiversity Conservation and Attractions
Michael Ferguson	Vernice Pty Ltd (Extractive Industry – Medium operator)
Nathan Blackwell	Midland Brick (Extractive Industry – Major operator)
Caragh Sinclair (Graduate Planning and Environment)	
Robert Pearce	Landowner in proximity to a lot of Extractive Industry activity.
Frank Panizza	Toodyay Agricultural Alliance

This is the first time the Shire of Toodyay has used such a collaborative, holistic and inclusive approach to policy development. The aim of this approach is to design a policy that is well considered from all angles, and to foster buy-in from the community and stakeholders.

Additionally, this draft Local Planning Policy was workshopped with the elected members over a period of time on the MS Teams workspace, and also at a number of Council workshops, the last being held on 7 March 2023.

The Shire advertised the draft policy calling for submissions in The Toodyay Herald and on the Shire's website and Facebook pages. Two submissions were received regarding this Local Planning Policy.

One submission sought confirmation on times and has agreed with the times in the advertised policy. The other requested that written confirmation of acceptance of rehabilitation outcomes be provided by landowners prior to the Shire finally signing off on a pit and releasing the bonds.

This modification is considered appropriate and has been added to the Officer recommendation.

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:Local Planning Policy – Advertising of Planning Proposals.

Local Planning Policies are required to be advertised for a period of 21 days. This will involve an advertisement in the Toodyay Herald, placement of a notice on the Shire's website and Facebook page with links to the draft policy, and physical copies of the policy being available for inspection at the Shire's Administration Office and the Visitor's Centre.

Local Planning Policy Extractive Industries – Road Maintenance Contribution

The current policy has been incorporated into the draft policy and as such, this policy shall be revoked upon final adoption of the Extractive Industry Policy.

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 \$250 for one advertisement and this has been allocated for in the Shire's adopted budget.

Legal and Statutory:

Planning and Development Act 2005 – Part 5

Planning and Development (Local Planning Schemes) Regulations 2015 - Division 2 of Schedule 2

Local Planning Policies

Division 2 of Schedule 2 ('the deemed provisions') provides the statutory basis for local planning policies and outlines the procedure for making, amending, and revoking local planning policies.

Local planning policies are guidelines used to assist the local government in making decisions under the local planning scheme. Although local planning policies are not part of the local planning scheme, they must be consistent with, and cannot vary, the intent of the scheme provisions, including the R-Codes, unless otherwise permitted by the R-Codes and/or approved by the WAPC.

A local planning policy is not part of the local planning scheme and does not bind the local government in respect of any application for development approval, however, the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

Risk related:

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 rated medium (9).

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

OFFICER'S RECOMMENDATION 1

That Council:

1. 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 draft *Local Planning Policy – Extractive Industries and Waste Disposal* as per **Attachment 1**, subject to the following modifications being included:
 - a) Under Section 15.2 **Rehabilitation Bond** the following sentence is to be added to the end:

“Final sign-off and release of bonds will require written agreement from the landowner that rehabilitation is satisfactory.”
2. Authorises the CEO to make any minor spelling, grammatical or formatting changes prior to publication.

9.1.2 Draft Local Planning Policy - Development in Extracts Industrial Area

Date of Report:	8 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	13 May 2010
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. CURRENT - LPP. 17 - Development in Extracts Industrial Area; and ⇒ 2. DRAFT - LPP - Development in Extracts Industrial Area ⇒

PURPOSE OF THE REPORT

To review the Draft *Local Planning Policy – Development in Extracts Industrial Area* with a view to adopt for formal advertising.

BACKGROUND

Council resolved to undertake a comprehensive review of Shire policies in February 2022. This draft Local Planning Policy (LPP) has been developed as part of that review. The existing *LPP.17 – Development in Extracts Industrial Area* was last reviewed by the Council on 13 May 2010 (**Attachment 1**).

COMMENTS AND DETAILS

Officers have researched a range of local policies from a number of local government authorities to determine good policy examples. This revised policy has been developed using the best elements of these. This LPP will now be known as *Local Planning Policy – Development in Extracts Industrial Area* (**Attachment 2**).

Key Changes

- Update to new Local Planning Policy document style and format.
- Update to reflect Schedule 2 of the *Planning and Development (Local Planning Schemes Regulations 2015)*.
- Additional condition related to Landscaping - use of feral of pest plants not permitted.
- Minor spelling, grammatical and formatting amendments.
- Update of definitions.

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 made available to Councillors via the Teams environment before being discussed at the Council Workshop in May 2023, attended by five elected members.

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

Objective 1: Provide accountable and transparent leadership for the community

Objective 2: Consistently improve our governance practices

Policy related:***Local Planning Policy No. 21 – Landscaping Plans***

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 \$250 for the advertisement and has been provided for in the Shire's adopted budget.

Legal and Statutory:***Planning and Development Act 2005******Part 5 – Local Planning Schemes******Planning and Development (Local Planning Schemes) Regulations 2015*****Local Planning Policies**

Division 2 of Schedule 2 ('the deemed provisions') provides the statutory basis for local planning policies and outlines the procedure for making, amending, and revoking local planning policies.

Local planning policies are guidelines used to assist the local government in making decisions under the local planning scheme. Although local planning policies are not part of the local planning scheme, they must be consistent with, and cannot vary, the intent of the scheme provisions, including the R-Codes, unless otherwise permitted by the R-Codes and/or approved by the WAPC.

A local planning policy is not part of the local planning scheme and does not bind the local government in respect of any application for development approval, however, the local

government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

Risk related:

Reputational

It is a role of Council to review policies. Regular reviews of policies result in contemporary documents reflecting the current needs of the community and consistency with the State Planning Framework.

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

OFFICER'S RECOMMENDATION 1

1. Adopts the draft *Local Planning Policy – Development in Extracts Industrial Area* as per Attachment 2 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*.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to the policy prior to publication.
3. Requests that the draft *Local Planning Policy – Development in Extracts Industrial Area* is brought to the August 2023 Ordinary Council Meeting for final adoption.

9.1.3 Draft Local Planning Policy - Road Naming

Date of Report:	9 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	13 May 2010
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. CURRENT Local Planning Policy 22 - Road Naming; and ⇒ 2. DRAFT LPP - Road Naming ⇒

PURPOSE OF THE REPORT

To review the Draft *Local Planning Policy – Road Naming* with a view to adopt for formal advertising.

BACKGROUND

Council resolved to undertake a comprehensive review of Shire policies in February 2022. This draft Local Planning Policy (LPP) has been developed as part of that review. The existing *LPP.22 – Road Naming* was last reviewed by the Council on 13 May 2010. (**Attachment 1**).

COMMENTS AND DETAILS

Officers have researched a range of local policies from a number of local government authorities to determine good policy examples. This revised policy has been developed using the best elements of these. This LPP will now be known as *Local Planning Policy – Landscaping Plans* (**Attachment 2**).

Key Changes

- Update to new Local Planning Policy document style and format.
- Update to reflect Schedule 2 of the *Planning and Development (Local Planning Schemes Regulations 2015)*.
- Minor spelling, grammatical and formatting amendments.
- Update of definitions.

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 made available to Councillors via the Teams environment before being discussed at the Council Workshop in May 2022, attended by five elected members.

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

Objective 1: Provide accountable and transparent leadership for the community

Objective 2: Consistently improve our governance practices

Policy related:***Local Planning Policy No. 22 – Road Naming***

This policy was last reviewed in 2010. 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 \$250 for the advertisement and has been provided for in the Shire's adopted budget.

Legal and Statutory:***Planning and Development Act 2005*****Part 5 – Local Planning Schemes*****Planning and Development (Local Planning Schemes) Regulations 2015*****Local Planning Policies**

Division 2 of Schedule 2 ('the deemed provisions') provides the statutory basis for local planning policies and outlines the procedure for making, amending, and revoking local planning policies.

Local planning policies are guidelines used to assist the local government in making decisions under the local planning scheme. Although local planning policies are not part of the local planning scheme, they must be consistent with, and cannot vary, the intent of the scheme provisions, including the R-Codes, unless otherwise permitted by the R-Codes and/or approved by the WAPC.

A local planning policy is not part of the local planning scheme and does not bind the local government in respect of any application for development approval, however, the local

government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

Risk related:

Reputational

It is a role of Council to review policies. Regular reviews of policies result in contemporary documents reflecting the current needs of the community and consistency with the State Planning Framework.

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

OFFICER'S RECOMMENDATION 1

1. Adopts the draft *Local Planning Policy – Road Naming* as per Attachment 2 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*.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to the policy prior to publication.
3. Requests that the draft *Local Planning Policy – Road Naming* is brought to the August 2023 Ordinary Council Meeting for final adoption.

9.1.4 Draft Local Planning Policy - Car Parking

Date of Report:	9 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	13 May 2010
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. CURRENT - Local Planning Policy 11 - Car Parking and ↔ 2. DRAFT LPP - Car Parking ↔

PURPOSE OF THE REPORT

To review the Draft *Local Planning Policy – Car Parking* with a view to adopt for formal advertising.

BACKGROUND

Council resolved to undertake a comprehensive review of Shire policies in February 2022. This draft Local Planning Policy (LPP) has been developed as part of that review. The existing *LPP.11 – Car Parking* was last reviewed by the Council on 13 May 2010 (**Attachment 1**).

COMMENTS AND DETAILS

Officers have researched a range of local policies from a number of local government authorities to determine good policy examples. This revised policy has been developed using the best elements of these. This LPP will now be known as *Local Planning Policy – Landscaping Plans* (**Attachment 2**).

Key Changes

- Update to new Local Planning Policy document style and format.
- Update to reflect Schedule 2 of the *Planning and Development (Local Planning Schemes Regulations 2015)*.
- Minor spelling, grammatical and formatting amendments.
- Update of definitions.

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 made available to Councillors via the Teams environment before being discussed at the Council Workshop in May 2023, attended by five elected members.

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

Objective 1: Provide accountable and transparent leadership for the community

Objective 2: Consistently improve our governance practices

Policy related:***Local Planning Policy No. 11 – Car Parking***

This policy was last reviewed in 2010. 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 \$250 for the advertisement and has been provided for in the Shire's adopted budget.

Legal and Statutory:***Planning and Development Act 2005******Part 5 – Local Planning Schemes******Planning and Development (Local Planning Schemes) Regulations 2015*****Local Planning Policies**

Division 2 of Schedule 2 ('the deemed provisions') provides the statutory basis for local planning policies and outlines the procedure for making, amending, and revoking local planning policies.

Local planning policies are guidelines used to assist the local government in making decisions under the local planning scheme. Although local planning policies are not part of the local planning scheme, they must be consistent with, and cannot vary, the intent of the scheme provisions, including the R-Codes, unless otherwise permitted by the R-Codes and/or approved by the WAPC.

A local planning policy is not part of the local planning scheme and does not bind the local government in respect of any application for development approval, however, the local

government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

Risk related:

Reputational

It is a role of Council to review policies. Regular reviews of policies result in contemporary documents reflecting the current needs of the community and consistency with the State Planning Framework.

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

OFFICER'S RECOMMENDATION 1

1. Adopts the draft *Local Planning Policy – Car Parking* as per Attachment 2 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*.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to the policy prior to publication.
3. Requests that the draft *Local Planning Policy – Car Parking* is brought to the August 2023 Ordinary Council Meeting for final adoption.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 Reconciliation Action Plan 2023-2026

Date of Report:	3 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	ABG1
Author:	M Eberle – Museum Curator and Cultural Heritage Officer
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	27 April 2021 – OCM Res 84/04/21
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Reconciliation Action Plan 2023-2026 ↗

PURPOSE OF THE REPORT

To approve the Shire of Toodyay's Reconciliation Action Plan 2023-2026 (**Attachment 1**).

BACKGROUND

Reconciliation Actions Plans provide a framework that enables organisations to sustainably and strategically take meaningful action towards reconciliation. The Shire's first Reconciliation Action Plan (RAP) was adopted in 2021. Over the last two years it has informed decisions made in the areas of community engagement promoting well-being and connection with Noongar culture and history. The plan named four key areas – Relationships, Respect, Opportunities and Governance. Fourteen actions to achieve positive outcomes in these areas were identified, along with timelines.

This second plan is proposed to cover a three-year period concluding in 2026.

COMMENTS AND DETAILS

The Shire of Toodyay has worked closely with Noongar Kaartidijin Aboriginal Corporation (NKAC) to develop its second RAP, which has been informed by consultation and active input from Traditional Owners and Aboriginal community members. Key priorities, service requirements and community activities have been identified and included in the plan that support and enhance ongoing reconciliation in the Shire of Toodyay.

Since adoption of the first RAP in 2021 significant progress has been made in the following areas:

1. Mutually beneficial relationships with Aboriginal stakeholders and organisation have been maintained (Actions 1 & 3).
2. National Reconciliation Week continues to be recognised. In 2022, members of the Aboriginal community, Shire of Toodyay Councillors and Shire Officers gathered in the

Shire of Toodyay Chambers to join in with the National Reconciliation Breakfast on Monday 27 May. Plans are in place for this event to held at the start of Reconciliation Week 2023 (Action 2).

3. An Acknowledgement of Country to recognise the traditional custodians of the land continues to be customary at the beginning of important meetings and events (Action 5).
4. Truth telling of Aboriginal history has been undertaken at the Newcastle Gaol and Connor's Mill museums via the *Gnulla Karnany Waangkiny (Our Truth Telling)* project (Actions 6 and 9).
5. The Aboriginal flag continues to be flown at the Shire Administration offices and Visitor Centre (Action 6).
6. The Visitor Centre continues to display the original artwork by Sarah Miles, that was used on the title page of the RAP. A representation of this artwork is currently being incorporated into a large mural ("Welcome to Noongar Boodja") being commissioned for the Visitor Centre (Action 7).
7. The Shire and the Visitor Centre continue to be open and available to promote Aboriginal events and activities within the region (Action 8).
8. A sign about the Toodyay Valley from an Aboriginal cultural perspective was erected beside the Bilya track near the Newcastle Bridge. Shire support (financial and in-kind) has been provided to NKAC in its development of the 'Noongar Trail' – a walk trail/self-drive tour of a number of important Noongar places around town and surrounds. (Action 10).
9. Shire Officers and NKAC continue to work closely throughout the year and commit resources to various projects, including the celebration event for the completion of the *Gnulla Karnany Waangkiny* project (Action 13).

A commitment to ongoing reconciliation in our community has been made with the development of a second RAP 2023-2026. This RAP will enable Shire of Toodyay to strengthen its commitment to supporting reconciliation in the Shire through practical actions and good governance.

During the development of the RAP, three new actions were identified and have been included. These are titled:

- Australia Day celebrations,
- Collaborative Land Management Practices on nature reserves (for future planning) and
- Shire logo/brand

When developing this RAP, the Reconciliation Working Group was mindful that the actions needed to be in line with the Shire's capacity to deliver in terms of financial and human resources. The above actions will be considered over the life of the Plan and appropriate resourcing will be considered in line with annual budget preparations.

IMPLICATIONS TO CONSIDER

Consultative:

There has been ongoing consultation with the Noongar Kaartidijin Aboriginal Corporation and Shire of Toodyay Officers.

Reconciliation Australia provides guidance for the development of RAPs.

Strategic:***Toodyay Community Strategic Plan 2018***

Social Objectives:

- 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

Corporate Business Plan March 2019-2022

S1.2 Support development of community groups and sponsorships

- Develop, through engagement, a Reconciliation Action Plan

Policy related:

Nil

Financial:

Budget allocations are considered during the annual budget process as the RAP is implemented.

Legal and Statutory:

Nil

Risk related:

There is a small reputational risk if Council does not adopt an updated RAP and show ongoing commitment to building relationships and fostering respect with local Aboriginal community members.

Workforce related:

Shire Officer time will be required to work through the action items in the RAP.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Notes the achievements of the Shire of Toodyay Reconciliation Action Plan 2021-2023; and
2. Adopts the Shire of Toodyay Reconciliation Action Plan 2023-2026.

9.2.2 List of Payments - April 2023

Date of Report:	5 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	Mrs Y Tyson – Accounts Payable/Payroll Officer
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. List of Payments - April 2023 ⇨

PURPOSE OF THE REPORT

To present cheques and electronic payments raised during April 2023.

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 April 2023 are attached at **Attachment 1**.

Electronic Funds Transfers (EFT) are for payments transferred directly to creditor bank accounts.

Direct Debits are for direct debits against the bank account such as bank fees, leases, loans, and other charges.

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

IMPLICATIONS TO CONSIDER**Consultative:**

Nil

Strategic:

Shire of Toodyay Strategic Community Plan 2028

Governance: The way the Shire leads and operates

O1: Provide accountable and transparent leadership for the community.

O3: 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 and F.3 Purchasing.

Financial:

Payments made in April 2023 total \$1,742,734.64

Legal and Statutory:

Local Government Act 1995

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

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

Local Government (Financial Management) Regulations 1996

Regulation 13 states that if the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared for each month and presented to Council.

Risk related:

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

Workforce related:

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION 1

That Council notes as being paid, payments listed and presented for the month of April 2023 as attached to this report, summarised as follows:

Direct Debits	\$ 21,430.14
EFTs	\$ 1,492,407.72
DD Loans	\$ 0.00
Payroll	\$ 228,896.78
Municipal Cheques	\$ 0.00
TOTAL	\$1,742,734.64

9.2.3 Monthly Financial Statements - April 2023

Date of Report:	2 May 2023
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 Statements as at 30 April 2023 ⇒

PURPOSE OF THE REPORT

This report provides Council with financial information for the period ending 30 April 2023.

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 30 April 2023:

Note	Description	Page
1	Statement of Comprehensive Income by Nature or Type	1
2	Statement of Financial Activity	2
3	Variance Analysis	3-4
4	Rating Information	5
5	Debtors Report	6
6	Investments	7

Note	Description	Page
7	Capital Works	8-10
8	Mid-Year Budget Review amendments	11-12

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.

Key Financial areas

The following information provides balances for key financial areas for the Shire of Toodyay's financial position for month ending 30 April 2023.

Outstanding Rates

The notices for rates and charges levied for 2022/23 were raised on 7 September 2022 after the adoption of the budget.

The *Local Government Act 1995* provides for ratepayers to pay rates by four instalments. The due dates adopted for each instalment for 2022/23 were:

Instalment	Due Date
First Instalment	12 October 2022
Second Instalment	12 December 2022
Third Instalment	13 February 2023
Fourth Instalment	13 April 2023

The total outstanding rates and charges balance at the end of April 2023 was \$1,341,518.77 compared to March 2023 closing balance of \$1,759,210.57. A significant decrease in April was due to the fourth instalment paid on 13 April 2023.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of April 2023 was \$133,540.88 broken down as follows:

Category	31/03/2023	30/04/2023
> 90 days and over	\$27,520.16	\$31,882.66
> 60 days and over	\$-10,846.80	\$15,674.80
> 30 days and over	\$35,207.21	\$13,901.33
Current	\$72,123.49	\$72,082.09
TOTAL	\$124,004.06	\$133,540.88

The table above shows an increase in the outstanding sundry debtors balance from \$124,004.06 to \$133,540.88 due to outstanding debt from Department of Fire and Emergency Services and LGIS for workers compensation claims.

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

IMPLICATIONS TO CONSIDER**Consultative:**

Consultation with Datacom is ongoing in the preparation of the monthly financial statements. Dry Kirkness (auditor contracted by the Office of the Auditor-General)

Strategic:***Shire of Toodyay Strategic Community Plan 2028***

Governance: The way the Shire leads and operates.

Objective 3: Ensure rigorous organisational systems.

Policy related:

F2 Authorised Signatories
F3 Purchasing
F11 Corporate Credit Cards
F16 Financial Governance
CS1 Payments from the municipal or trust fund (referred to in Section 6.10 "Financial management regulations" of the *Local Government Act 1995*)

Financial:

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

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

The Shire's investment portfolio is diversified across two accredited financial institutions.

As at 30 April 2023, the total funds held in the Shire's operating accounts was \$584,682.09 and the total of all interest bearing term deposits invested for the period ended 30 April 2023 was \$4,092,761.44. Officers transferred \$2,500,000 from the Muni operating account to the Muni 11AM At Call account to take advantage of the interest rates. \$800,000 was recalled during the month to cover for some payments.

Of the \$4,092,761.44 invested in interest bearing deposits, \$1,781,984 relates to reserve funds.

Legal and Statutory:

Local Government Act 1995

Section 6.4 requires a local government to prepare financial reports.

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

Local Government (Financial Management) Regulations 1996

Regulation 34 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

OFFICER'S RECOMMENDATION 1

That Council receives the Monthly Financial Statements for the month ending 30 April 2023.

9.3 EXECUTIVE SERVICES

9.3.1 Local Laws Review Process

Date of Report:	12 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	LAW1
Author:	S Haslehurst – Chief Executive Officer M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	22 February 2023 - OCM018/02/23
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Schedule of Submissions; and ⇒ 2. Advert to conduct the review; and ⇒

PURPOSE OF THE REPORT

For Council to consider the submissions received regarding the review of the current Shire of Toodyay local laws and adopt an indicative timeline for the amendment and repeal process.

BACKGROUND

At the Ordinary Council Meeting held on 22 February 2023, Council resolved the following:

That Council requests the CEO to:

1. *Advertise Council’s intention to review the following Local Laws in accordance with the provisions of Section 3.16 of the Local Government Act 1995.*
 - *Activities on Thoroughfares and Trading in Thoroughfares and Public Places;*
 - *Cat Local Law;*
 - *Cemeteries (Toodyay and Jimperding);*
 - *Dogs Local Law;*
 - *Extractive Industries;*
 - *Health Local Law;*
 - *Local Government Fencing;*
 - *Local Government Property;*
 - *Parking and Parking Facilities;*
 - *Pest Plants; and*
 - *Standing Orders.*
2. *Invite public submissions regarding the Shire of Toodyay’s current local laws, closing on 20 April 2023.*

3. Provide a report to the May 2023 Ordinary Council Meeting for Council to:
 - (a) consider submissions and determine which local laws are to remain unchanged or be repealed or amended; and
 - (b) adopt a process and indicative timeline for any amendments.

COMMENTS AND DETAILS

Submissions Received

The Schedule of Submissions (**Attachment 1**) contains comments regarding the following Local Laws:

- (a) Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law;
- (b) Cat Local Law;
- (c) Parking and Parking Facilities Local Law
- (d) Health Local Law

Standing Orders Local Law

This local law provides rules and guidelines for the conduct of Council and Committee meetings. Currently, all local governments make their own meeting procedures through standing orders, typically a local law. As part of the current Local Government Reforms being implemented, it is proposed that regulations will prescribe a model set of meeting procedures which would replace the Shire's Standing Orders Local Law. However, officers have been advised that legislation regarding meeting procedures is unlikely to be finalised in the short term and that the Shire should include the Standing Orders Local Law in its current review.

Health Local Law

Some regulations the current Health Local Law references may no longer be in force in 5 or 10 years once the *Health (Miscellaneous Provisions) Act 1911* and subsidiary regulations are repealed and replaced by the *Public Health Act 2016*. However, this process has gone on for some time and its finalisation is expected to be lengthy.

Toodyay had no health or wellbeing local laws until 2017 and chose to make the Health Local Law under the *Local Government Act 1995* rather than the Health Act to avoid needing to repeal them.

Other Local Laws

No comments were provided regarding the following Local Laws:

- Cemeteries (Toodyay and Jimperding);
- Dogs Local Law;
- Extractive Industries;
- Local Government Fencing;
- Local Government Property; and
- Pest Plants.

Officers' Recommendation

Shire Officers have also reviewed the current local laws and have identified several areas that could be amended to improve clarity and efficiency. It is therefore recommended that a

comprehensive review to amend or repeal all the local laws is undertaken to ensure relevance and consistency with current legislation, regulations, and guidelines.

The following process and indicative timeline are proposed:

Indicative Timeframe	Action
July/August 2023	<ul style="list-style-type: none"> Allocation for consultant to review Local Laws approved in the 2023/24 Annual Budget.
Sept – Dec 2023	<ul style="list-style-type: none"> Engagement of a suitably qualified consultant Inception meeting Initial workshop with Executive Management Group Desktop review of all local laws
January 2024	<ul style="list-style-type: none"> Council workshop to consider submissions and receive comments from elected members
Feb – Apr 2024	<ul style="list-style-type: none"> Development and review of proposed amendments
April 2024	<ul style="list-style-type: none"> Notice of the purpose and effect of the local laws is given at the Ordinary Council Meeting
May – Jun 2024	<ul style="list-style-type: none"> Local public notice inviting submissions Copy of proposed local laws provided to Minister(s)
July 2024	<ul style="list-style-type: none"> Council considers submissions and may determine to proceed with the local laws by absolute majority Allocation for gazettal of local laws approved in 2024/25 Annual Budget
Aug – Oct 2024	<ul style="list-style-type: none"> Adopted local laws to be signed and sealed and: <ul style="list-style-type: none"> published in the Government Gazette sent to the Minister(s) Local public notice of adoption of Local Laws Documents sent to the Joint Standing Committee on Delegated Legislation
October 2024 onwards	<ul style="list-style-type: none"> Response to queries from Joint Standing Committee

Options

Officers propose the following options for Council's consideration.

1. Council could determine to conclude the review and amend or repeal only those local laws that were the subject of submissions received with all other local laws remaining unchanged. This would be the most economical option but ignores both the fact that most local laws have not been fully reviewed for nine years, and the changed environment during that time.

2. Council could choose not to amend either the Health Local Law or the Standing Orders Local Law pending legislative changes. However, in both cases the enactment of the relevant legislation is likely to be delayed and it is recommended that these laws be included in the amendment process.
3. Council could adopt the proposed timeline for a comprehensive process to amend/repeal the Shire's local laws subject to a budget allocation in the 2023/24 and 2024/25 annual budget processes.

Officers are proposing Option 3 as the preferred option.

IMPLICATIONS TO CONSIDER

Consultative:

DLGSC Operational Guidelines.

WALGA Local Laws Manual.

Consultation with the Local Government Advisory hotline.

The local laws review and submissions received were discussed at a Council workshop held on Wednesday 10 May 2023, attended by five elected members.

Strategic:

Community Strategic Plan (Toodyay 2028)

Governance: The way the Shire leads and operates

- 1: Provide accountable and transparent leadership for the community.
- 2: Consistently improve our governance practices.
- 3: Ensure rigorous organisational systems.

Policy related:

Legislative Compliance

Financial:

The cost of engaging a consultant in the 2023/24 Annual Budget to do a review of all local laws would be approximately \$35,000. Further costs will be incurred for the gazettal of the local laws and are proposed to be included in the 2024/25 Annual Budget.

Legal and Statutory:

Local Government Act 1995.

Section 3.16 of the Act requires that all of the local laws of local governments must be reviewed within an 8-year period after their commencement to determine if they should remain unchanged or be repealed or amended.

Section 3.16 of the Act provides for reviewing the currency and suitability of gazetted local laws — this section cannot be used for amending or repealing legislation.

When the outcome of the review finds that it is necessary to change an outdated aspect of the law or that the subsidiary legislation has become defunct or obsolete, the local government must then commence the process outlined in section 3.12 of the Act to implement any changes.

Risk related:

It is a legislative requirement to review local laws. Reputational and compliance risks are rated moderate should Council choose not to progress with the review.

Workforce related:

Shire Officers will undertake the administration of the decision of Council. Given the complexity of the process to make local laws, and the organisational capacity, it is proposed that a consultant is engaged to undertake the repeal and amendment process.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council adopts the process and indicative timeline outlined in this report for a comprehensive review and amendment or repeal of the Shire of Toodyay's Local Laws subject to budget allocations as part of the 2023/24 and 2024/25 annual budget processes.

9.3.2 Toodyay Club Lease - Request to Waive Shire Rates

Date of Report:	4 April 2023
Applicant or Proponent:	Toodyay Club
File Reference:	LEG058
Author:	S Schafers – Governance Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	22 March 2016
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Rates for Toodyay Club; ↔ 2. Letter from Toodyay Club - Feb 2016; ↔ 3. OCM Minutes - 22 March 2016; and ↔ 4. Submission from Toodyay Club - 28Mar2023. ↔

PURPOSE OF THE REPORT

To consider a request to waive the outstanding rates and future rates for the Toodyay Club Inc. (the Club) located at Lot 239 Stirling Terrace, Toodyay.

BACKGROUND

The Club has been a part of the Toodyay social community since 1908. Between 1908 and late 1976, the Club occupied a purpose-built clubroom, known as Stirling House. In June 1975, the Shire of Toodyay (the Shire) acquired Lot 239 Stirling Terrace, Toodyay under a Vesting Order from the Minister of Lands on condition that the land be used for "Recreation". Following Ministerial approval, the Shire provided the land to the Club, in addition to providing a loan for the construction of the Pavilion.

Between 1978 and the present day, the Club has been subject to various lease agreements with the Shire. Whilst the format may have changed over the years, the key terms and conditions have remained in place, namely:

- Annual rent;
- Water and electricity charges;
- Insurance; and
- Council rates.

In February 2016, the Club wrote to the Chief Executive Officer (CEO), referring to the lease agreement (the Lease) which commenced on 1 February 2013, and their request for the rates clause to be removed. The Club stated:

"in the 110 years the Club has been operating it has never paid rates. There was always a lease paid and the services we use (rubbish removal)".

A review of Shire records supports this claim, as there is no evidence that the Club was charged for rates in the preceding ten years (2004 to 2013).

The Club further alleged that at the time of signing the 2013 Lease, they were informed that they would not be charged rates, even though it remained a condition of the Lease. Contrary to this advice, the Club was charged rates for two years (2014/2015 and 2015/2016). Although the rates were waived for 2014/2015, the Club was informed that the CEO was “unable” to waive the rates for 2015/2016.

Shire records indicate the previous CEO may have waived the 2014/2015 rates (**Attachment 1**) contrary to section 6.47 of the *Local Government Act 1995* (the Act), which states:

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

** Absolute majority required.*

The Club subsequently requested Council consider waiving the current (2015/2016) and future rates, stating that as they were “a not for profit organisation” the rates would have a negative monetary impact on their day to day running costs (**Attachment 2**).

At the Ordinary Council Meeting on 22 March 2016 (**Attachment 3**), Council resolved to:

1. *Refuse the request by the Toodyay Club to waive payment of rates for the balance of the current lease term to 2023;*
2. *That the rates raised for the 2015/2016 and 2016/2017 for the Toodyay Club be discounted by 50%; and*
3. *Review the conditions of the lease prior to renewal in 2023 when a possible extension of the lease is due for consideration.*

Shire records confirm the Club paid Shire rates up until 2020/2021.

COMMENTS AND DETAILS

On 23 January 2023, the Club was provided with a ‘Notice to Extend Lease’ form for a further five (5) year period, in accordance with the provisions of their existing Lease.

On 8 March 2023, the Club met with Shire Officers to discuss the significant debt incurred by the former Club Management Board, which included, unbeknownst to them, two (2) years of outstanding Shire rates to the value of \$9,650.57. Consequently, the Club requested that:

1. Consideration be given to remission of the outstanding rate debt; and
2. A new Lease be drafted with the rates clause removed.

The Club has since provided the Shire with a formal submission for Council’s consideration (**Attachment 4**) in relation to this matter. In the interim, the Club has deferred signing the ‘Notice to Extend Lease’ form and instead will remain in possession of Lot 239 Stirling Terrace, Toodyay as a monthly tenant under the provision of a ‘Holding Over’ clause.

The Club is a not-for-profit organisation which is currently managed by a small group of volunteers. The Australian Charities and Not-for-profits Commission defines ‘not-for-profit’ as “*an organisation that does not operate for the profit, personal gain or other benefit of particular people.*”

Officers note the Club inherited a significant debt which is particularised in the submission dated 28 March 2023. The Club has been diligent in clearing this debt through community

support and the profits earned from trading three days a week. The Club only became aware of the outstanding Shire rates in February 2023. Notably, the Club is the only Shire owned property where rates are applied under the terms and conditions of a lease agreement.

However, s.6.26(2)(a)(i) of the Act states that any Crown Land that is being used or held for public purpose is not rateable land. Accordingly, the Club should be exempt from having to pay Shire rates.

IMPLICATIONS TO CONSIDER

Consultative:

In addition to consulting with representatives from the Club, information was sought from the Shire's Rates Officer in relation to the charges applied to Lot 239 Stirling Terrace, Toodyay.

Strategic:

Shire of Toodyay Strategic Community 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:

Nil

Financial:

The Shire notes that the Club's previous Management Board did not disclose the outstanding rates when they ceased operating in June 2022. Although the Club is not seeking remission of the rates based on grounds of 'hardship,' the current Committee has stated that the additional debt and future rates will impact on the finances and future sustainability of the Club.

Legal and Statutory:

Local Government Act 1995

Section 6.12 – Power to defer, grant discounts, waive or write off debts

Section 6.26 – Rateable land

Section 6.47 – Concessions

Local Government (Financial Management) Regulations 1996 (the Regulations)

Section 69A – When concession under Act s. 6.47 cannot be granted

Risk related:

A reputational risk may be present, should Council choose to continue charging the Club rates contrary to s. 6.26(2)(a)(i) of the Act.

Workforce related:

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Pursuant to s. 6.12(1)(c) of the *Local Government Act 1995*, determines to write off the outstanding rates debt of \$9,650.57 and any accrued interest associated with the debt for the Toodyay Club;
2. Terminates the existing Lease Agreement with the Toodyay Club Inc.; and
3. Authorises the Chief Executive Officer to negotiate a new lease agreement with the Toodyay Club Inc. which excludes the payment of Shire rates, pursuant to s.6.26(2)(a)(i) of the *Local Government Act 1995*.

9.3.3 Update - review of outstanding leases and agreements

Date of Report:	2 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN12
Author:	S Schafers – Governance Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	November 2022 Ordinary Council Meeting May 2022 Ordinary Council Meeting
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Status Report on Lease Agreements - May 2023

PURPOSE OF THE REPORT

To present a six (6) monthly status report of the Shire's contracts, leases, and agreements.

BACKGROUND

At an Ordinary Council Meeting held on 27 May 2022, it was resolved:

That Council:

- 1. Receives the status update of Shire's Contracts, Leases and Agreements provided at Confidential Attachments 1 to 5, attached to this report.*
- 2. Notes that a timeline for review of outstanding leases and agreements will be provided to Council once the responsible role can be filled.*

The spreadsheet for Contracts, Leases, and Agreements contained a priority list which indicated a timeline for review as follows:

Priority	Meaning
1	next 4 months
2	next 8 months
3	next 12 months
4	next 2 years
5	next 5 years
6	next 7 years
7	next 9 years

Council was subsequently provided with a 'Status Report on Lease Agreements and other legal documents' relating to twenty-five (25) properties at the Ordinary Council Meeting held on 23 November 2022, where it was resolved that Council:

1. *Notes the contents of the 'Status Report on Lease Agreements and other legal documents' as attached to this report (Attachment 1).*
2. *Requests the CEO to provide six monthly updates to Council on this matter at Ordinary Council Meetings commencing May 2023.*

Actions relating to the aforementioned twenty-five (25) properties are particularised in the updated 'Status Report on Lease Agreements and other legal documents' (**Attachment 1**)

COMMENTS AND DETAILS

All legal files recorded as a Priority 1 on the 'Contracts and Agreements (Legal) Register' (the Register) have been reviewed with the following outcomes:

- (a) 52 files have been reviewed and archived;
- (b) 25 files have ongoing arrangements with no further actions required;
- (c) 8 files have been kept active for future records (SAT Notices, Elections etc);
- (d) 3 files were incorrectly recorded as Priority 1 and have since been downgraded to Priority 7 on the Register;
- (e) 4 new legal files have been created;
- (f) 34 files have been reviewed and finalised;
- (g) 12 files have been reviewed with pending actions; and
- (h) 19 files have been reviewed and require further discussion and/or consultation.

Items (f) to (h) are particularised in the current 'Status Report on Lease Agreements and other legal documents' (**Attachment 1**).

IMPLICATIONS TO CONSIDER

Consultative:

Shire Officers will consult with community groups when appropriate.

Strategic:

Shire of Toodyay Community Strategic Plan – Toodyay 2028

Governance: The way the Shire leads and operates

- O1: Provide accountable and transparent leadership for the community
- O2: Consistently improve our governance practices
- O3: Ensure rigorous organisational systems

Policy related:

Financial Governance

Risk Management

Financial:

There are financial implications for the Shire when fees/charges and utility costs are not managed appropriately.

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

3.58 Disposing of property

Part 6 Financial Management Division 5 — Financing local government activities —
Subdivision 2

Risk related:

There are liability and reputational risks associated with not managing lease agreements, contracts, MOU's, licences and agreements (other) appropriately.

Workforce related:

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Notes the contents of the 'Status Report on Lease Agreements and other legal documents' as attached to this report (Attachment 1); and
2. Requests the CEO to continue to provide six monthly updates to Council on this matter.

9.3.4 Toodyay Recreation Centre - Management Reporting

Date of Report:	9 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	Not applicable
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	<ol style="list-style-type: none"> 1. Management Packs - January to March 2023 ⇒ 2. Marketing Reports - January to March 2023 ⇒

PURPOSE OF THE REPORT

To receive the Management Reporting Packs and Marketing Reports for the March 2023 quarter, submitted by Clublinks Management Pty Ltd in accordance with the management contract.

BACKGROUND

As Venue Manager for the TRC, Clublinks Management Pty Ltd is required to submit a monthly report to the Shire that details monthly activities, in accordance with the contract. Council receives these reports quarterly.

COMMENTS AND DETAILS

The Venue Manager of the Toodyay Recreation Centre, has provided the following:

1. Management Packs (**Attachment 1**) which includes a summary of activities for the months of February and March 2023.
2. Marketing Reports (**Attachment 2**) which provide further detail on visitation and usage in addition to key financial information.

Additionally, Clublinks provides financial information which is considered commercial in confidence and is therefore not included in this report. Information is provided to Councillors via the Council Hub.

IMPLICATIONS TO CONSIDER**Consultative:**

Clublinks and Shire Officers meet monthly.

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

- *Social Objectives – Our community wellbeing and connection:*
 - 1: *Maintain and develop services that meet the requirements of our diverse community.*
 - 2: *Facilitate community safety and wellbeing.*
 - 3: *Support the development of places and spaces for recreation, learning, art and culture.*
- *Economic Objectives – Business and jobs in the community*
 - 2: *Promote Toodyay as a tourism destination.*
 - 3: *Encourage economic diversification.*

Policy related:

Nil.

Financial:

The Shire invests significantly in the operational costs of the TRC, with the expectation that Clublinks will operate the TRC to best practice standards; meeting community needs.

Legal and Statutory:

The Venue Manager is required to provide monthly reports to the Shire in accordance with the Management Contract.

Risk related:

Receiving and reviewing the financial performance of the TRC assists the effective oversight of the management and mitigates risk.

Workforce related:

The Shire has an ongoing commitment to the contract for the management and operation of the TRC.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Receives the Management Reporting Packs for the March 2023 quarter (Attachment 1); and
2. Receives the Marketing Reports for the March 2023 quarter (Attachment 2).

9.4 INFRASTRUCTURE AND ASSETS

Nil.

9.5 COMMITTEE REPORTS**9.5.1 Environmental Advisory Committee Recommendations**

Date of Report:	5 May 2023
Applicant or Proponent:	Environmental Advisory Committee
File Reference:	COC14
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:	<ol style="list-style-type: none"> 1. Extract of EAC Minutes from meeting held on 3 May 2023; and ↔ 2. DRAFT Verge Maintenance Policy. ↔

PURPOSE OF THE REPORT

To receive the minutes of the Environmental Advisory Committee (EAC) meeting held on 3 May 2023 and consider recommendations made by the EAC.

BACKGROUND

At the EAC meeting held on 3 May 2023, the EAC made recommendations to Council as follows:

Recommendation 1 – Lot 3 (No. 34) Stirling Terrace, Toodyay - Proposed Tree Removal

That Council supports the proposal to remove two lemon-scented gums and to prune a third as indicated in the Attachment 1 at Lot 3 (No. 34) Stirling Terrace, Toodyay subject to the following condition:

- (a) *That the applicant plants and maintains new native species of a non-self-pruning variety, to the satisfaction of the Shire of Toodyay, within three months of the date of the approval.*

Recommendation 2 – DRAFT Verge Maintenance Policy

That Council adopts the DRAFT Verge Maintenance Policy, as amended (Attachment 1).

COMMENTS AND DETAILS

Recommendation 1 will be brought to Council in the June 2023 OCM Agenda, as part of a Development and Regulation report for Council's consideration.

Regarding Recommendation 2, the EAC asked questions related to operational procedures around the verge maintenance spraying program, and whether signage could be purchased through Shire resources and provided (at cost) to property owners who do not wish for their verge to be sprayed by the Shire.

The only change made to the Verge Maintenance Policy by the EAC was to include the name of a Council policy referred to, being the Community Consultation and Engagement Policy.

Council resolved to implement a review of all Shire policies at an Ordinary Council Meeting held in February 2022.

The Verge Maintenance Policy was adopted by Council on 27 Oct 2020 (CRN: 300/10/20) and is available on the Shire website here:

<https://www.toodyay.wa.gov.au/documents/280/verge-maintenance>

IMPLICATIONS TO CONSIDER

Consultative:

The changes made to the policy were minimal and the changes made were identified to the members of the Environmental Advisory Committee at their meeting held on 3 May 2023.

Further changes made to the policy were made during the Council workshop held on Wed 10 May 2023. At this workshop there were five Councillors present.

At the workshop a question was asked in respect to whether the Shire would infringe a landholder for not maintaining their verge. An incorrect response was provided at the Workshop, and the Reserves Management Officer has advised the following:

I am not aware that the Shire has ever infringed a landholder for not maintaining their verge. A land holder could potentially be fined for setting fire to or clearing their verge. The verge is not their land, it is crown land under Shire management, therefore the Shire cannot hold them responsible for maintaining it; and cannot fine them for not maintaining it.

Strategic:

Shire of Toodyay Community Strategic Plan – Toodyay 2028

Objective 1: Provide accountable and transparent leadership for the community

Objective 2: Consistently improve our governance practices

Policy related:

It is because of the Corporate Documents Policy that all policies were in need for a review, to put them into the format that the Corporate Documents Policy requires them to be.

Financial:

Nil.

Legal and Statutory:

Nil.

Risk related:

It is a role of Council to review policies. If Council chooses not to endorse the recommendation there may be an identifiable, albeit low risk of non-compliance. This report mitigates any risk.

Workforce related:

If Recommendation 2 is carried, a Shire Officer will be publishing the updated policy onto the website.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Receives the extract of the minutes of the Environmental Advisory Committee (EAC) (Attachment 1);
2. Notes the recommendations of the EAC; and
3. Adopts the DRAFT Verge Maintenance Policy, as amended (Attachment 2).

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**10.1 Notice of Motion - Cr Ruthven - Closure of a section of Fitzgerald Terrace**

Date of Report:	9 May 2023
Applicant or Proponent:	Cr E Ruthven
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:	Executive
Attachments:	1. Maps of Fitzgerald Tce West Toodyay. ↔

PURPOSE OF THE REPORT

To consider a notice of motion provided by Councillor Ruthven.

BACKGROUND

On 9 May 2023 Councillor Ruthven provided the Chief Executive Officer notification of a notice of motion for the May 2023 Ordinary Meeting of Council as follows:

I would like to propose a motion to permanently close a section of Fitzgerald Terrace. The section I would like to have closed is between the driveway of 75 Fitzgerald Terrace west to where Fitzgerald Terrace meets North Street.

The property at 410 Toodyay West Road has a rear access gate onto Fitzgerald Terrace in addition to their main gate on Toodyay West Road and I'm not sure if the Shire should maintain the rear access in this situation.

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

COMMENTS AND DETAILS

Nil.

IMPLICATIONS TO CONSIDER**Consultative:**

Local Government Act 1995

s. 3.50, (1) to (8) - Closing certain thoroughfares to vehicles

s. 3.51, (1) to (4) – Affected owners to be notified of certain proposals

s.3.52, (1) to (4) – Public access to be maintained and plans kept

Strategic:

Shire of Toodyay Community Plan – Toodyay 2028

Built Environment:

O1: Ensure safe and sustainable transport options.

O2: Ensure our built environment meets community needs.

Policy related:

Nil.

Financial:

There are no immediate financial implications as a result of the Fitzgerald Terrace closure between North Street and driveway of 75 Fitzgerald Terrace.

Legal and Statutory:

The Shire of Toodyay Standing Orders Local Law prescribes the manner in which motions of notice are to be given. The provision of notice by Cr Ruthven is in accordance with said requirements.

Clause 4.4(6) of the Shire of Toodyay Standing Orders Local Law states,

'A motion of which notice has been given is to lapse unless:

- (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or*
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.*

Risk related:

Emergency access requirements might be compromised if sections of Fitzgerald Terrace and North Street are closed at the same time. To provide emergency access to the east side of Fitzgerald Terrace, North Street would need to be re-opened to overcome this issue.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council

1. Determines to advertise its intention to permanently close the section of Fitzgerald Terrace, West Toodyay west of Collett Way to North Street as per Attachment 1 to this report in accordance with section 58 of the *Land Administration Act 1997*.
2. Requests the CEO to:

- (a) give public notice of Council's intention to close the above-mentioned section of Fitzgerald Terrace, inviting public submissions from affected stakeholders in the West Toodyay area for a period of not less than 35 days;
- (b) bring a report back to the July 2023 Ordinary Council Meeting for Council to consider the submissions received.

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

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

Meeting Type	Date
Audit & Risk Committee Meeting	7 June 2023
Museum Advisory Committee Meeting	7 June 2023
Local Emergency Management Committee Meeting	14 June 2023
Agenda Briefing	21 June 2023
Ordinary Council Meeting	28 June 2023

16 CLOSURE OF MEETING