



Ordinary Council Meeting

27 September 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 20 September 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's Plan for the Future (Council Plan 2023-2033) is the Community's Strategic Plan outlining the direction that the Shire is undertaking to meet the needs and aspirations of its community.

Our Vision

A caring and visionary rural community, working together to preserve and enrich Toodyay's environment, character and lifestyle.

Our Purpose

The Shire of Toodyay exists to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Our Values

We conduct ourselves in line with values the local community cares deeply about:

- **Integrity** - we behave honestly to the highest ethical standard;
- **Accountability** – we are transparent in our actions and accountable to the community;
- **Inclusiveness** – we are responsive to the community and we encourage involvement by all people; and
- **Commitment** – we translate our plans into actions and demonstrate the persistence that will provide results.

Community Aspirations

There are five core performance areas in this plan: People, Planet, Place, Prosperity, and Performance. These areas are interrelated, and each must be satisfied to deliver excellent quality of life in the Shire of Toodyay.

For each area, there is an overarching aspirational statement and desired outcomes, summarised in the Council Plan which is available on the Shire's website at: <https://www.toodyay.wa.gov.au/documents/432/council-plan-plan-for-the-future-2023-2033>

Disclaimer

Any discussion regarding a planning matter or other application that any statement or intimation of approval made by any member or officer of the Shire of Toodyay during the course of any meeting is not intended to be and is not to be taken a notice of approval from Council. No action should be taken on any item discussed at a Council Meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (*Copyright Act 1998*, as amended) and the express permission of the copyright owner(s) should be sought prior to reproduction.

Availability of Meeting Agenda and its Attachments

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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 Pearce - Application for Leave of Absence**

Cr Pearce requested to be granted Approved Leave of Absence from 18 September to 22 September inclusive.

OFFICER'S RECOMMENDATION

That the Application for Leave of Absence by Cr Pearce from 18 September 2023 to 22 September 2023 inclusive be granted.

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

At the Ordinary Meeting of Council held on 23 August 2023, the following questions were taken on notice:

4.1.1 Questions asked without notice - B Foley

The following questions on notice were received from Mr Foley.

Summary of Question One

Costing on Bindi Bindi Road \$59,000 under budget. What has happened to that amount of money? Was it returned? Was it part of a grant?

Response

This is a fully funded RRG Federal Blackspot project. There was no surplus to return as the final acquitted amount was invoiced and paid at practical completion.

Summary of Question Two

Can the funding be used on the motorcycle barrier?

Response

The Motorcycle barrier was not part of the approved funding submission and hence not part of the project scope.

Summary of Question Seven

How many dogs were reported loose to the Rangers between 1st August 2023 to 23rd August 2023.

Response

Ten dogs were reported wandering.

4.1.2 Questions asked without notice - Cr Ruthven

The following question on notice was received from Cr Ruthven.

Question

If stock is being threatened or attacked by a dog, the owner can shoot it, but do wildlife carers have the same permission to do that?

Response

s.34 (1) Protection of Livestock states: "A person who owns, or who is for the time being lawfully in charge of, any animal or bird may lawfully shoot or otherwise destroy a dog which he finds attacking that animal or bird if there is no other way of stopping the attack and provided that notice is given to a police officer as soon as is practicable thereafter.

We would recommend any wildlife carer considering this issue seek legal clarification.

4.2 PUBLIC QUESTION TIME**5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 23 August 2023****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 23 August 2023 be confirmed.

5.2 Elector's General Meeting of Council held on 16 August 2023**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Elector's Meeting held on 16 August 2023 be confirmed.

5.3 Special Meeting of Council held on 28 August 2023**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 28 August 2023 be confirmed.

5.4 Agenda Briefing held on 20 September 2023**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 20 September 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 (IF ADJOURNED)

Nil.

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 Proposed permanent closure of portion of North Street, West Toodyay**

Date of Report:	23 August 2023
File Reference:	00NOR/PLA1
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Item 9.3.3 26 April 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. North Street road closure plan ⇒ 2. Item 9.3.3 OCM 26 April 2023 ⇒ 3. Schedule of Submissions ⇒

PURPOSE OF THE REPORT

To consider the permanent closure of a portion of North Street road reserve. The request is made by the Shire of Toodyay and is in accordance with Council resolution

BACKGROUND

At the Ordinary Council Meeting held on 26 April 2023, Council determined to advertise its intention to permanently close the section of North Street in West Toodyay east of Collett Way to Picnic Hill Road as per the enclosed map, in accordance with section 58 of the *Land Administration Act 1997* (the Act). For more details, please refer to **Attachment 1 – Road closure plan** and **Attachment 2 - Item 9.3.3 OCM 26 April 2023**

COMMENTS AND DETAILS

This proposal has undergone the required community consultation pursuant to the provisions of the Act. Whilst it is recognised such proposals are not going to satisfy all members of the community – the response has been overwhelmingly supportive.

It is recommended that the Council proceeds with the permanent closure of this portion of the road.

IMPLICATIONS TO CONSIDER**Consultative:**

Section 58(3) of the *Land Administration Act 1997* provides that local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.

The Shire has received seven submissions relating to this proposal. Six of the submissions did not object the proposal and there was one objection. The nature of this objection was related to a perceived lack of access to a secondary egress point in the event of an emergency. For more information, please refer to **Attachment 3 – Schedule of Submissions**.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 5. High quality town planning complements our rural ambience and heritage.

O5.1: Provide responsible planning and development

Policy related:

Community Consultation and Engagement

This application was advertised in accordance with this policy. The policy provides that in the instance of permanent road closures, the consultation procedure is as outlined in existing legislation. In this instance s.58 of the *Land Administration Act 1997* and r. 9 of the *Land Administration Regulations 1998*.

Risk Management Policy

This proposal was assessed against the adopted risk management policy. Further details of risk related matters will be discussed later in this report.

Financial:

As this road is unmade, there is currently no operational cost to the Shire in terms of maintenance for resealing. The Shire currently does have to manage vegetation for bushfire protection which is a cost. By closing the road reserve, the unallocated crown land can then be purchased by private landowners who will also take on the bushfire maintenance responsibility.

Legal and Statutory:

Where a road dedicated for public use is proposed to be closed, it may be closed at the request of Local Government under section 58 of the *Land Administration Act 1997*. The Local Government must allow 35 days after the publication in a newspaper for objections and must consider any objection before requesting closure.

Regulation 9 of the *Land Administration Regulations 1998* specifies the procedural requirements of the Local Government prior to submitting a request to the Minister for Lands.

1. The Local Government must advertise the proposed road closure to adjoining landowners and servicing authorities in accordance with Section 58 of the *Land*

Administration Act 1997 (LAA) and Regulation 9 of the Land Administration Regulations 1998.

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

Once the above steps have taken place, the local government may then make a final resolution to close the road. If the local government resolves to close the road, it may write to the Minister and request the Minister to close the road under section 58 of the LAA by sending Department of Lands a letter and completing the Department of Lands' checklist to close a road.

Risk related:

The only area of risk that has relevance is reputational. However, the likelihood of this proposal generating reputational risk is unlikely. Therefore, this produces a risk score of two (2) which is at the low level in accordance with the policy.

Workforce related:

This is a Shire of Toodyay application. Accordingly, it presents no significant increase to workload from an administrative perspective.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Notes and considers the submissions received in relation to the application for permanent road closure for a portion of the North Street road reserve.
2. Pursuant to Section 58(1) of the *Land Administration Act 1997*, requests the Chief Executive Officer to seek the approval of the Minister for Lands for permanent closure of the portion of North Street as depicted in Attachment 1 within two weeks of the date of this resolution.

9.1.2 Proposed permanent closure of portion of Fitzgerald Terrace, West Toodyay

Date of Report:	23 August 2023
File Reference:	00FIT/PLA1
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Item 10.1 24 May 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. Map - Fitzgerald Terrace road closure ⇒ 2. Item 10.1 OCM 24 May 2023 ⇒ 3. Schedule of Submissions ⇒

PURPOSE OF THE REPORT

To consider the permanent closure of a portion of Fitzgerald Terrace road reserve. The request is made by the Shire of Toodyay and is in accordance with Council Resolution OCM111/05/23.

BACKGROUND

At its Ordinary Council Meeting on 24 May 2023, the Council determined to advertise its intention to permanently close a section of Fitzgerald Terrace in West Toodyay west of Collett Way to North Street as per the enclosed map, in accordance with section 58 of the *Land Administration Act 1997*. For more details, please refer to **Attachment 1 – Map** and **Attachment 2 - Item 10.1 OCM 24 May 2023**.

COMMENTS AND DETAILS

This action, though still clearly a divisive one in the community – is considered necessary as it will see the end of a twenty-year long issue that has occupied the Council and administration. Council in taking this action to close a portion of Fitzgerald Terrace, will set a final position and hopefully it will be an opportunity to move forward.

It is recommended that Council proceed with the permanent closure of this portion of the road.

IMPLICATIONS TO CONSIDER

Consultative:

Section 58(3) of the *Land Administration Act 1997* provides that local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.

The Shire received a total of seven submissions. Three objections were received and three with no objection. One, Western Power did not provide an opinion.

The objections raised were to do with removal of dual access, and also a reiteration of dissatisfaction with the overall handling of the North Street/Fitzgerald Street matter.

For more details, please refer to **Attachment 3 – Schedule of Submissions**.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 5. High quality town planning complements our rural ambience and heritage.

O5.1: Provide responsible planning and development

Policy related:

Community Consultation and Engagement

This application was advertised in accordance with this policy. The policy provides that in the instance of permanent road closures, the consultation procedure is as outlined in existing legislation. In this instance s.58 of the *Land Administration Act 1997* and r. 9 of the *Land Administration Regulations 1998*.

Risk Management Policy

This proposal was assessed against the adopted risk management policy. Further details of risk related matters will be discussed later in this report.

Financial:

As this road is unmade, there is currently no operational cost to the Shire in terms of maintenance for resealing. The Shire currently does have to manage vegetation for bushfire protection which is a cost. By closing the road reserve, the unallocated crown land can then be purchased by private landowners who will also take on the bushfire maintenance responsibility.

Legal and Statutory:

Where a road dedicated for public use is proposed to be closed, it may be closed at the request of Local Government under section 58 of the *Land Administration Act 1997*. The Local Government must allow 35 days after the publication in a newspaper for objections and must consider any objection before requesting closure.

Regulation 9 of the *Land Administration Regulations 1998* specifies the procedural requirements of the Local Government prior to submitting a request to the Minister for Lands.

1. The Local Government must advertise the proposed road closure to adjoining landowners and servicing authorities in accordance with Section 58 of the *Land*

Administration Act 1997 (LAA) and Regulation 9 of the Land Administration Regulations 1998.

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

Once the above steps have taken place, the local government may then make a final resolution to close the road. If the local government resolves to close the road, it may write to the Minister and request the Minister to close the road under section 58 of the LAA by sending Department of Lands a letter and completing the Department of Lands' checklist to close a road.

Risk related:

The only area of risk that has relevance is reputational. However, the likelihood of this proposal generating reputational risk is considered unlikely. Therefore, this produces a risk score of two (2) which is at the low level in accordance with the policy.

Workforce related:

This matter is being managed within existing resources.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Notes and considers the submissions received in relation to the application for permanent road closure for a portion of the Fitzgerald Terrace road reserve.
2. Pursuant to Section 58(1) of the *Land Administration Act 1997*, requests the Chief Executive Officer to seek the approval of the Minister for Lands for permanent closure of the portion of Fitzgerald Terrace as depicted in Attachment 1 within two weeks of the date of this resolution.

9.1.3 Lot 3 Stirling Terrace - Removal of three (3) lemon-scented gum trees.

Date of Report:	12 September 2023
File Reference:	P2023-60/A2120/3STIT
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. P2023-60 - Map ⇒ 2. P2023-60 - Application details and photographs ⇒ 3. P2023-60 - Schedule of Submissions ⇒

SUMMARY

Applicant:	C. Jean
Owner:	C. Jean
Proposal:	Removal of three mature (3) lemon-scented gum trees
Location:	Lot 3 Stirling Terrace, Toodyay

PURPOSE OF THE REPORT

To determine an application to remove three mature (3) lemon-scented gum trees from Lot 3 Stirling Terrace in Toodyay. This matter must be considered by Council as no delegated authority exists for development occurring in the Catholic Church Precinct.

BACKGROUND

Lot 3 Stirling Terrace in Toodyay is zoned Mixed Business under the Shire of Toodyay's *Local Planning Scheme No. 4*. Please refer to **Attachment 1 – Map**.

The property is part of the Catholic Church Precinct which is recognised on the State Heritage Register (Place No. 4125) and is recognised as a landmark on the main street. The precinct is a Category 2 on the Shire's Municipal Inventory which denotes a place of considerable cultural heritage significance. The place should be provided with an appropriate level of recognition and protection. It is recommended that maximum encouragement is provided to the owner to conserve the significance of the place.

The proposal

The applicant seeks to remove three (3) mature lemon-scented gum trees - *Corymbia citriodora*, currently situated in front of the dwelling. The applicant provides the following justification for their removal as protection from the unpredictability of the 'self-shedding' tendency of this species which currently poses a risk to human safety and to the safety of this historic building.

The applicant also advises that she has been unable to gain insurance due to these species.

It is the applicant's intent to plant more appropriate trees and flower beds to replace the trees if the approval is granted.

For more details, please refer to **Attachment 2 – Application details and photographs**.

COMMENTS AND DETAILS

Balancing tree removal considerations with the preservation of heritage buildings and safety requires a nuanced approach.

Tree Preservation Considerations:

1. **Ecological Importance:** Trees play a crucial role in local ecosystems, providing habitat, air purification, and carbon sequestration.
2. **Aesthetic Value:** Trees can enhance the visual appeal of an area, complementing the surroundings and contributing to the landscape's character.
3. **Cultural Significance:** Some trees may have cultural or historical importance in their own right, intertwined with local stories or events.
4. **Mental Well-being:** Natural environments, including mature trees, are known to promote mental well-being and offer spaces of relaxation and reflection.
5. **Economic Impact:** Mature trees can increase property values and attract tourism, especially in scenic or historically significant areas.

Heritage Building and Safety Considerations:

1. **Physical Safety:** The risk of falling branches or trees, especially during extreme weather, can pose a direct safety threat to people and property.
2. **Building Integrity:** Roots from large trees might compromise the foundation of heritage buildings, leading to structural issues.
3. **Fire Hazard:** In fire-prone areas, certain tree species might increase the risk of fires, endangering structures, and lives.
4. **Heritage Preservation:** Heritage buildings are irreplaceable links to the past. Their preservation ensures that history remains tangible and accessible for future generations.
5. **Maintenance and Restoration:** Close proximity of trees can complicate the process of maintaining and restoring heritage buildings.

In conclusion, while both trees and heritage buildings offer significant value, it is essential to ensure the safety and preservation of our built heritage without unnecessarily compromising the natural environment. A balanced and informed approach, involving multiple stakeholders, is crucial.

In this instance, it is noted that the response from the community is split quite evenly with good reasons for and against the removal of the trees.

It is also considered that whilst the removal of the trees will have an obvious impact on the streetscape, their loss can be remedied through well-considered replanting of new vegetation. A heritage structure is harder to replace.

It is also agreed that this proposal does not meet the definition of development under the *Planning and Development Act 2005* and therefore Council cannot approve or deny as such a decision is considered outside the scope of the authority of the Council. Instead, a resolution should be to either support or not support.

It is recommended that the Council supports this proposal for the following reasons:

- (a) The trees are not listed as significant trees;
- (b) Lemon-scented gums are to be avoided in accordance with the Local Planning Policy *Central Toodyay Heritage Area*;
- (c) The self-shedding tendency of this species which currently poses a risk to human safety and to the safety of this historic building.

IMPLICATIONS TO CONSIDER

Consultative:

This application has undergone consultation in accordance with the Shire's Local Planning Policy – *Advertising of Planning Proposals*. In addition, the Shire is required to conduct mandatory notification of the proposal to the Heritage Council of Western Australia – in accordance with section 73 of the *Heritage Act 2018*.

The proposal was also advertised in the August edition of The Toodyay Herald.

The Shire received seven submissions regarding the proposal. Four were opposed to the proposal and three had no objection or supported. It should be noted that the Heritage Council of WA does not support the proposal. Another submission has questioned the validity of this application under the definition of development in accordance with the *Planning and Development Act 2005*. Shire Officers are in agreement with this and that no decision can be made under the Act. This will be addressed in more detail in the Legal & Statutory section of this report. For further details about the submissions please refer to **Attachment 3 – Schedule of Submissions**.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 5. High quality town planning complements our rural ambience and heritage.

O5.1. Provide responsible planning and development.

O5.3. Preserve and showcase local history and heritage.

Outcome 9. Responsible and effective leadership and governance.

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

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

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

Policy related:

[*Local Planning Policy – Advertising of Planning Proposals*](#)

[*Local Planning Policy – Landscaping Plans*](#)

Local Planning Policy – Central Toodyay Heritage Area

- Trees that shed branches, such as Sugar Gums and Lemon Scented Gums, are to be avoided.

Risk Management

This policy is intended to commit to organisation-wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes.

Financial:

Fees have been paid in accordance with the *Planning and Development Regulations 2009*.

Given it has been determined that the proposal does not meet the definition of development, the fees should be refunded for the application as no development approval decision is being asked for. The Shire should retain the fees taken for the cost of advertising as this has been integral to the process of consideration.

Legal and Statutory:

Planning and Development Act 2005 – Section 4(1) – Terms used

“development” means the development or use of any land, including —

- c) in the case of a place to which a protection order made under the *Heritage Act 2018* Part 4 Division 1 applies, any act or thing that —
 - i. is likely to change the character of that place or the external appearance of any building; or
 - ii. would constitute an irreversible alteration of the fabric of any building;

It should be noted that whilst the precinct is listed on the State Heritage Register, no protection order has been made for this site. Therefore, it raises the question about the validity of classifying this as development.

Officers do not consider that it meets the definition and therefore this application cannot be determined under the *Planning and Development Act 2005*.

Risk related:

Lemon-scented gum trees near heritage buildings in the Shire of Toodyay pose several risks:

1. **Fire Risk:** The tree's oils can be flammable, increasing bushfire threats.
2. **Root System:** Roots may damage building foundations or underground structures.
3. **Branch Drop:** These trees can drop branches unexpectedly, risking damage or injury.
4. **Maintenance Challenges:** Trees close to buildings complicate restoration and upkeep.
5. **Aesthetic Concerns:** Trees should complement, not overshadow, heritage sites.
6. **Pest Attraction:** Trees might attract pests that can infest buildings.
7. **Water Consumption:** The tree's water use might impact surrounding landscaping.

In accordance with the Shire's Risk Policy's Risk Matrix table the following is noted:

Health risk

Given the tendency for this tree species to self-shed there is a catastrophic (5) risk of fatality or permanent disability. A tree branch falling and killing someone is however unlikely (2) in that it could occur at some time. This is a High risk score of (10).

Environmental risk

The removal of a mature tree is likely to have some minor (2) environmental impact. Notably the loss of habitat, nesting and roosting opportunities and food sources for wildlife. In this case, the likelihood is almost certain (5). This is a High risk score of (10).

Reputational risk

The removal of these trees on such a prominent streetscape will attract significant public attention. Any position the Council takes on this issue is likely to therefore have moderate (3) impact on the Shire's reputation. The likelihood of this being a negative impact is possible (3). This is a Moderate risk score of (9).

Workforce related:

This proposal involves normal workforce resourcing. In the event the trees are removed, Officers may have increased numbers of complaints to handle.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Notes the submissions in relation to the proposal to remove three (3) mature lemon-scented gum trees at Lot 3 Stirling Terrace in Toodyay.
2. Agrees with the advice about the validity of the proposal and that it does not meet the definition of development under the *Planning and Development Act 2005*.
3. Supports the removal of the three (3) mature lemon-scented gum trees at Lot 3 Stirling Terrace in Toodyay for the following reasons:
 - (a) The trees are not listed as significant trees;
 - (b) Lemon-scented gums are to be avoided in accordance with the Local Planning Policy *Central Toodyay Heritage Area*;
 - (c) The self-shedding tendency of this species which currently possess a risk to the human safety and to the safety of this historic building.
4. Supports this proposal with the following conditions:
 - (a) The applicant plants and maintains native and fire-resistant plant species in accordance with the Local Planning Policy – *Landscaping Plans*.
 - (b) Prior to the removal of the trees, the applicant takes photographic records of the exterior setting showing the trees in relation to the building and streetscape in accordance with the Heritage Council of Western Australia's [Guide to Preparing and Archival Record \(2019\)](#). Copies of these are to be given to the Shire of Toodyay.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 Community Policy Review: Application for Public Events, Community Complaints, and Child Safe Awareness Policies

Date of Report:	7 August 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
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. CURRENT Application for Public Events; and ⇒ 2. REVISED Application for Public Events ⇒ 3. CURRENT Community Complaints Policy; and ⇒ 4. REVISED Community Complaints Policy. ⇒ 5. NEW Child Safe Awareness Policy. ⇒

PURPOSE OF THE REPORT

To consider the adoption of the:

- (a) REVISED Application for Public Events Policy; and
- (b) REVISED Community Complaints Policy; and the
- (c) NEW Child Safe Awareness Policy.

BACKGROUND

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

The CURRENT *Application for Public Events* Policy was reviewed and adopted by Council in June 2012 (refer to **Attachment 1**).

The CURRENT *Community Complaints* Policy was reviewed and adopted by Council in April 2021 (refer to **Attachment 3**).

In regard to the NEW *Child Safe Awareness* Policy:

In 2018 the State Government accepted or accepted in principle, all 310 recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) applicable to Western Australia.

The Royal Commission acknowledged the role that local governments play in creating and maintaining child safety in their communities and made a number of recommendations aimed at using this role to promote the safety and wellbeing of children and young people.

A Child Safe Awareness Policy template was developed in response to Royal Commission Recommendation 6.12 and commits local governments in WA to build and maintain child safety awareness and knowledge by providing information for the organisations and individuals that operate in their communities and promoting child safe messages.

COMMENTS AND DETAILS

The current policies were reviewed by Officers who made minor typographical updates in the Community Complaints Policy. Revisions made to the *Application for Public Events* Policy were also minor. All references to legislation and Australian Standards were made current.

The REVISED policies are provided at **Attachment 2** and **Attachment 4** and both are recommended for adoption.

The NEW *Child Safe Awareness* Policy is provided at **Attachment 5** for the purpose of complying with a recommendation from the Department of Local Government, Sport and Cultural Industries; thereby fulfilling the Shire's obligations under the Royal Commission Recommendation 6.12. It is recommended to be adopted.

IMPLICATIONS TO CONSIDER

Consultative:

These policies were provided to Councillors through Microsoft Teams on Tuesday 5 Sept 2023, and discussed at a workshop held on 13 September 2023 attended by six elected members.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9 Responsible and effective leadership and governance.

09.1 Provide strong, clear and accountable leadership.

Policy related:

[Shire of Toodyay Code of Conduct](#)

[Shire of Toodyay Customer Service Charter](#)

Financial:

Nil.

Legal and Statutory:

s.9.56 of the *Local Government Act 1995* (the Act).

s.3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district.

Local Government Act 1995 and its subsidiary legislation.

Risk related:

The review of these policies is the role of Council and it 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 adopt these policies, then it risks reputational damage which is considered a medium risk. This report mitigates the risk.

Workforce related:

The policy has been reviewed in-house within existing resources.

VOTING REQUIREMENTS

Simple Majority

OFFICERS RECOMMENDATION 1

That Council:

1. Adopts the REVISED *Application for Events* policy (Attachment 2); and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

OFFICER'S RECOMMENDATION 2

That Council:

1. Adopts the REVISED *Community Complaints* policy (Attachment 4); and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

OFFICER'S RECOMMENDATION 3

That Council:

1. Adopts the NEW *Child Safe Awareness* policy (Attachment 5); and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

9.2.2 Monthly Financial Statements - July 2023

Date of Report:	7 August 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	<ol style="list-style-type: none"> 1. Monthly Financial Statements as at 31 July 2023; and ⇒ 2. Supplementary Information for the period ended 31 July 2023 ⇒

PURPOSE OF THE REPORT

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

COMMENTS AND DETAILS

From 1 July 2023 all local governments are required to present to Council the Statement of Financial Activity to comply with Australian Accounting Standards (AAS) and the amended *Local Government (Financial Management) Regulations 1996*.

The Statement of Financial Activity, contained within the monthly financial statements, summarises the Shire's operating and capital activities and provides an indication of the Shire's financial performance as the year progresses. In accordance with *FM Regulation 34(1)* this statement is to include comparisons with the annual budget and the year-to-date budget. Officers have also provided additional supplementary information.

Key Financial areas

The following information provides balances for key financial areas for the Shire of Toodyay's financial position for month ending 31 July 2023.

Outstanding Rates

The total outstanding rates balance at the end of July 2023 was \$847,285.78 compared to June 2023 closing balance of \$913,473.72. The rates for 2023/2024 will be raised in September 2023 following the adoption of 2023/2024 budget on 28 August.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of July 2023 was \$355,658.90 broken down as follows:

Category	30/06/2023	31/07/2023
> 90 days and over	\$ 41,718.36	\$ 8,162.11
> 60 days and over	\$ 10,289.30	\$ 1,403.94
> 30 days and over	\$ 18,666.82	\$ 53,685.95
Current	\$ 57,434.84	\$ 292,406.90
TOTAL	\$128,109.32	\$355,658.90

The table above shows an increase in the outstanding sundry debtors balance. During the month of July, Officers submitted the final claim to Main Roads WA for Telegraph Bindi Bindi Road for \$286,368.50.

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:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

O9.2 Govern Shire finances, assets and operations responsibly.

Policy related:

Authorised Signatories

Purchasing

Corporate Credit Cards

Financial Governance

Delegation

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

Financial:

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

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

As at 31 July 2023, the total funds held in the Shire's operating accounts was \$2,144,328.98 and the total of all interest bearing term deposits invested for the period ended 31 July 2023 was \$3,459,871.52

Of the \$3,459,871.52 invested in interest bearing deposits, \$2,423,867.07 relates to reserve funds.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives, for the month ending 31 July 2023, the following:

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

9.2.3 Record Keeping Policy

Date of Report:	17 August 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Executive Assistant J Lucas – Records Officer
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. CURRENT Record Keeping Policy; and ⇨ 2. REVISED Record Keeping Policy. ⇨

PURPOSE OF THE REPORT

To consider the adoption of the REVISED *Record Keeping* policy.

BACKGROUND

The current *Record Keeping* policy was reviewed and adopted by Council in April 2021 (refer to **Attachment 1**).

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

COMMENTS AND DETAILS

Officers have reviewed the *Record Keeping* policy and, other than minor typographical updates, are not recommending any significant changes.

Some detail from the current to the new policy that were amended is below:

- The local government accounting directions 1994 apply to the previous version of the *Local Government Act 1960*. As they are not applicable to the current *Local Government Act 1995*, the reference has been removed;
- In the legislation section the words “including but not limited to” were included because this link: <https://www.wa.gov.au/organisation/state-records-office-of-western-australia/recordkeeping-plans-and-templates> lists all the pieces of legislation applicable to local government in the template for new record keeping plans for local government organisations.

- The Business Continuity/Disaster Recovery Plan has been renamed Business Continuity Plan. This document is currently under review by Officers.

The REVISED policy is provided at **Attachment 2** and is recommended for adoption.

IMPLICATIONS TO CONSIDER

Consultative:

The policy was provided to Councillors through Microsoft Teams on Tuesday 5 Sept 2023 and discussed at a workshop held on 13 September 2023 attended by six elected members.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9 Responsible and effective leadership and governance.

09.1 Provide strong, clear and accountable leadership

Policy related:

- [Corporate Documents](#) Policy (ADM1);
- [Execution of Documents](#) Policy (ADM22).

Financial:

Nil.

Legal and Statutory:

s.9.56 of the *Local Government Act 1995* (the Act).

s.3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district.

Local Government Act 1995 and its subsidiary legislation.

Risk related:

The review of this policy is the role of Council and 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 policy it risks reputational damage which is considered a medium risk. This report mitigates the risk.

Workforce related:

The policy has been reviewed in-house within existing resources.

VOTING REQUIREMENTS

Simple Majority

OFFICERS RECOMMENDATION 1

That Council:

1. Adopts the REVISED Record Keeping policy, as amended; and

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

9.2.4 List of Payments - August 2023

Date of Report:	14 September 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	Y Tyson – Accounts Payable/Payroll Officer
Responsible Officer:	T Bateman – Executive 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 August 2023 ↗

PURPOSE OF THE REPORT

To present cheques and electronic payments raised during August 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 August 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:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

09.1: Govern Shire finances, assets, and operations responsibly.

Policy related:

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

Financial:

Payments made in August 2023 total \$1,605,250.06.

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 August 2023 as attached to this report, summarised as follows:

Direct Debits	28,337.18
EFTs	1,198,309.18
DD Loans	
Payroll	372,168.05
Municipal Cheques	6,435.65
TOTAL	1,605,250.06

9.3 EXECUTIVE SERVICES**9.3.1 Correspondence - Department of Local Government, Sport & Cultural Industries**

Date of Report:	5 September 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	<ol style="list-style-type: none"> 1. Correspondence with the Department regarding a draft Improvement Plan; and ➡ 2. Correspondence with the Department regarding submission of the Annual Budget. ➡

PURPOSE OF THE REPORT

To present details of correspondence with the Department of Local Government, Sport and Cultural Industries (DLGSC) from 11 August 2023 to 14 September 2023.

BACKGROUND

Council resolved in 2018 the following:

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

COMMENTS AND DETAILS

Governance correspondence with the DLGSC since 11 August 2023 (**Attachment 1 and Attachment 2**) includes the following:

- Correspondence regarding the Draft Improvement Plan; and
- Correspondence regarding the Annual Budget 2023/2024.

Council is informed of any action undertaken regarding the above, through Council workshops and subsequent reports to Council.

IMPLICATIONS TO CONSIDER**Consultative:**

Department of Local Government, Sport and Cultural Industries.

Strategic:***Plan for the Future – the Council Plan 2023-2033***

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

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

Policy related:

Nil.

Financial:

Nil.

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

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

Risk related:

Council may invoke a high reputational and compliance risk if the recommendation below is not resolved.

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council notes the correspondence with the Department of Local Government, Sport and Cultural Industries from 11 August 2023 to 14 September 2023, as attached to this report.

9.3.2 Adoption of Governance Framework

Date of Report:	18 August 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN12
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	24/08/2021 - Adopted
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. CURRENT Governance Framework; and ⇒ 2. REVISED Governance Framework. ⇒

PURPOSE OF THE REPORT

To consider adoption of the revised Governance Framework that documents the processes, systems, roles and relationships that underpin governance at the Shire of Toodyay.

BACKGROUND

The Governance Framework was adopted by Council in August 2021.

The Framework had initially been developed using several different contributing documents, including frameworks adopted by other local governments, departmental guidelines, and legislation.

The Framework also contains a self-assessment and evaluation worksheet for individual Elected Members and a Council Performance Assessment Questionnaire. Both of these documents are proposed to be completed on an annual basis to assist Council to identify areas for action and improvement and priorities for on-going development.

The Framework is intended to be a living document that is updated as the process for continuous improvement evolves. It is proposed that minor amendments are authorised to ensure that the most up to date information is included in the Framework.

COMMENTS AND DETAILS

The Shire's new Plan for the Future (Council Plan 2023-2033) necessitated amendments to the Governance Framework (**Attachment 2**) and it was also reformatted. Adoption is recommended.

IMPLICATIONS TO CONSIDER**Consultative:**

Nil.

Strategic:***Plan for the Future – the Council Plan 2023-2033******Outcome 9. Responsible and effective leadership and governance.******O9.1 Provide strong, clear and accountable leadership*****Policy related:**

The Framework refers to a number of Shire policies and plans. Where appropriate, a link has been provided to the location of the relevant document on the Shire's website.

Financial:

Nil.

Legal and Statutory:

Where appropriate, excerpts from the *Local Government Act 1995* and subsidiary legislation have been included in the Framework for reference.

Risk related:

Poor governance can result in non-compliance, reputational and potentially financial risks to the organisation. The Governance Framework provides guidance to mitigate these risks and it provides the community with an insight into the complexities of local government and the role of an elected member.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council

1. Adopts the Governance Framework as attached at **Attachment 2** to this report; and
2. Authorises the Chief Executive Officer to make minor amendments to the Governance Framework from time to time to ensure it remains current.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Invitation to become a RoadWise Council

Date of Report:	5 September 2023
Applicant or Proponent:	WALGA
File Reference:	TEC4/ICR91857
Author:	N Rodger – Operations Officer
Responsible Officer:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Advocacy
Attachments:	<ol style="list-style-type: none"> 1. Invitation to Register as a RoadWise Council; and ⇒ 2. RoadWise Registration Form. ⇒

PURPOSE OF THE REPORT

Council is requested to support the invitation from WALGA to become a WALGA RoadWise Council.

BACKGROUND

In June 2023, WALGA called for expressions of interest from local governments who wished to become a RoadWise Council and have a Road Safety Advisor allocated. The Shire of Toodyay registered an expression of interest.

On 8 August 2023, a letter was received from WALGA inviting the Shire of Toodyay to become a RoadWise Council with the initiative developed to encourage, motivate and support local governments to incorporate best practice road safety principles and policy across services to reduce the number of people seriously injured or killed on the local road network.

COMMENTS AND DETAILS

The Shire of Toodyay is a member of the local RoadWise Committee which forms a partnership with local Police, Safer Toodyay, WALGA and the community to address a wide range of safety issues at a community level.

The aim of the program is to engage local government and communities in actions that support and contribute to the implementation of road safety strategies in WA.

In becoming a RoadWise Council, the Shire of Toodyay will:

- Be provided access to the RoadWise Council logo for use on Shire of Toodyay promotional communications or infrastructure.
- Gain priority access to WALGA road safety services and products.
- Demonstrate a commitment to improve road safety outcomes within our community using the resources available.
- Be eligible for formal recognition of road safety management and actions, including support in benchmarking and monitoring progress of road safety outcomes via the RoadWise Recognised initiative.

IMPLICATIONS TO CONSIDER

Consultative:

Officers have consulted with WALGA's Road Safety Advisor and senior management.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2022-2033

Outcome 1: A safe and healthy community

O1.1. Facilitate community safety.

Outcome 6: Safe, sustainable, and affordable transport options

O6.1 Keep a persistent focus on building a safe, efficient road network.

Outcome 9: Responsible and effective leadership and governance

O9.2 Govern Shire finances, assets, and operations responsibly.

Policy related:

Nil

Financial:

Nil as there is no membership or other fees required.

Legal and Statutory:

Local Government Act 1995

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

Risk related:

Nil

Workforce related:

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Supports the invitation from WALGA to become a RoadWise Council and;
2. Nominates the Shire President and Executive Manager Infrastructure and Asset Services as the primary contacts for road safety matters.

9.5 COMMITTEE REPORTS**9.5.1 Recommendations from September 2023 ARC Meeting**

Date of Report:	4 January 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2/FIN7
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
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 ARC Minutes from 6 Sept 2023; ⇒ 2. Previous Superannuation Policy; ⇒ 3. REVISED Superannuation Policy; ⇒ 4. CURRENT Payments to Employees above Contract and Award Policy; ⇒ 5. REVISED Payments to Employees in addition to Contract or Award ⇒

PURPOSE OF THE REPORT

To receive the Audit and Risk Committee minutes (**Attachment 1**) and consider recommendations made at the meeting held on 6 September 2023.

BACKGROUND

The Audit and Risk Committee met on 6 September 2023 and made recommendations to Council in respect to the following:

1. Superannuation Policy;
2. Payments to Employees in addition to Contract or Award Policy; and the
3. Annual Report 2021/2022.

COMMENTS AND DETAILSRecommendation 1: Superannuation Policy

The Superannuation Policy had been adopted by Council in 2005, reviewed in 2014 and revoked in 2019 (Refer to **Attachment 2**).

Currently, staff are contributing to have ongoing voluntary contributions deducted from their wages and made on their behalf by the Shire as per their employment contracts and enterprise bargaining agreements which refer to the Superannuation Council Policy being in place.

It is unclear why the policy was revoked in January 2019, and as additional superannuation contributions have continued to be applied for and provided due to the details of the contribution being contained in employee contracts and the enterprise bargaining agreement, the options are:

- To adopt the attached policy; or
- To decide not to adopt the policy, but to advise all employees that the additional superannuation contributions are no longer going to be processed.

The Audit and Risk Committee reviewed the REVISED Superannuation Policy (**Attachment 3**) and it is recommended for adoption.

Recommendation 2: Payments to Employees in addition to Contract or Award Policy

The current Payments to Employees Above Contract or Award Policy was reviewed and adopted by Council in November 2019 (refer to **Attachment 4**).

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

This policy was reviewed in May 2023. The amendments made to it were as follows:

- (a) The name of the policy changed because s.5.50 of the Act says this as the title. Whilst the sample model WALGA HR employee relations policy is called “gratuity” it was considered best practice to leave the title as close to legislation as possible.
- (b) Under objectives, the words two legislative provisions was removed and typographical amendments made to help the third dot point be more concise.
- (c) Definitions were added as they had not been contained in the previous policy.
- (d) The policy statement was included.
- (e) The Manner of Assessment section was amended in line with the sample model WALGA HR Employee Relations “gratuity” policy.
- (f) The title of the Value of Gift section was amended to read Value of Payment or Gift(s).
- (g) The definition of what continuous service means does not mean was included.
- (h) Two extra points were included in the table under Point 2 5 years +.
- (i) A new point 3 – Financial liability for taxation was included.
- (j) Legislation references were updated.

It is understandable that the community and Councillors may perceive this policy as providing an employee benefit, or compensation to an employee in addition to their salary.

However, an employee may only receive the gratuity at their exit from the Shire, and certainly not while the employee is in service for the Shire.

In the private sector, and even in local government, it is customary to provide a gift to an exiting employee; unless of course the employee is exiting the organisation due to disciplinary action.

The REVISED policy (**Attachment 5**) is recommended for adoption.

Recommendation 3: Annual Report 2021/2022

The Annual Financial Statements for the year ended 30 June 2022 were completed and presented to the Shire of Toodyay's auditor for audit on 31 March 2023 in accordance with the approved extension. At the time of preparing this report however, the Shire is yet to receive the signed audit opinion from the Office of the Auditor-General. For this reason, Officers are unable to present the 2022 Annual Report incorporating the 2022 Financial Statements for Council's consideration and adoption.

IMPLICATIONS TO CONSIDER

Consultative:

The two policies within this report were provided to Audit and Risk Committee Members and also to Councillors through Microsoft Teams on 31 August 2023.

The Audit and Risk Committee reviewed both policies at their meeting held on 6 September 2023; and both policies have been discussed at a workshop with Councillors held on 13 September 2023 attended by seven elected members.

The Auditors from Dry Kirkness presented at an Audit and Risk Committee Meeting held on 6 September 2023.

At that meeting, the 2022 Annual Report was tabled.

The Audit and Risk Committee was also provided with drafts of the following:

- Correspondence from the Auditor General;
- Annual Audit Completion Report and Management letter detailing the index of findings identified during the audit;
- Unsigned Annual Financial Statements for the year ended 30 June 2022;
- Annual Report for 2021/2022; and the
- Independent Auditor's Opinion for the year ended 30 June 2022, noting the Disclaimer of Opinion received and the explanation provided for this.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9 Responsible and effective leadership and governance.

09.1 Provide strong, clear and accountable leadership.

Policy related:

The Audit and Risk Committee Charter, adopted by Council in 2020:

- (a) refers to regulation 16 of the *Local Government (Audit) Regulations 1996*; and
- (b) refers to the committee's responsibilities to review the annual financial statements and the annual report.

Financial:

There are no financial implications associated with adoption of either policy being presented to Council. There are financial costs associated with the implementation of the policy, and these are contained within the adopted budget.

There will be financial costs associated with advertising for the AGM of Electors meeting.

Legal and Statutory:**Local Government (Administration) Regulations 1996**

r.19A of the *Local Government (Administration) Regulations 1996*.

Local Government (Audit) Regulations 1996

r.16.(f) Functions of audit committee

Local Government (Financial Management) Regulations 1996

s.51. Annual financial report to be signed etc. by CEO and given to Department

Local Government Act 1995

s.1.7 of the Act.

s.3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district.

s.5.27. Electors' general meetings

s.5.29. Convening electors' meetings

s.5.50 of the *Local Government Act 1995* (the Act).

s.5.53. Annual reports (stipulating the content of an Annual Report)

s.5.54. Acceptance of annual reports (by the local government).

s.7.12A. Duties of local government with respect to audits

s.7.9. Audit to be conducted

s.9.56 of the *Local Government Act 1995* (the Act).

Risk related:

It is imperative that the Annual Reports are adopted by Council, so that the Shire of Toodyay meets its governance obligations. It would be a high reputational risk if Council delay the process.

It is important to have the Superannuation policy in place as it accurately reflects the current practice and what the Shire is prepared to be bound by. The review of this policy 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. The longer this policy remains unadopted, the risk is considered to be high (12) as urgent attention would be required to address the inconsistencies with the current practice. This report mitigates that risk.

The review of the Payments to Employees in addition to Contract or Award policy is the role of Council and 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 policy it risks reputational damage which is considered a medium risk. This report mitigates the risk.

Workforce related:

There will be work involved through printing and distribution of the Annual Reports. Both policies will be uploaded to the website and the policy list will be updated by a Shire Officer.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council receives the extract of the minutes of the Audit and Risk Committee, as attached to this report (**Attachment 1**).

AUDIT & RISK COMMITTEE / OFFICER'S RECOMMENDATION 2

1. Adopts the REVISED Superannuation Policy (**Attachment 3**), as amended; and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

AUDIT & RISK COMMITTEE / OFFICER'S RECOMMENDATION 3

1. Adopts the REVISED Payments to Employees in addition to Contract or Award Policy (**Attachment 5**), as amended; and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Ordinary Council Meeting	25 October 2023
Agenda Briefing	18 October 2023
Audit & Risk Committee Meeting	6 December 2023
Bushfire Advisory Committee Meeting	1 November 2023
Environment Advisory Committee Meeting	1 November 2023
Local Emergency Management Committee Meeting	8 November 2023
Museum Advisory Committee Meeting	6 December 2023

16 CLOSURE OF MEETING