



Ordinary Council Meeting

25 October 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 18 October 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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<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

Nil.

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 27 September 2023, the following questions were taken on notice:

4.1.1 Questions taken on notice from the Community

The following question on notice was received from J Prater.

Question One

Over 3 weeks ago the budget was passed. When will the rate notices to ratepayers be delivered?

Response from the Executive Manager Corporate and Community Services

The rate notices were sent by the mailing house on Thursday, 28 September 2023.

The following question on notice was received from L Graham.

Question Three

How can a document that has been released publicly by the FOI Commissioner be deemed to be confidential?

Response from the Office of the Information Commissioner

In general, just because a document is released under the FOI Act in response to a particular access application, this does not mean that the agency must release the document in the same form in response to another access application. The issue for consideration when dealing with each access application is whether the requested document contains sensitive information that is covered by one of the exemptions in the FOI Act.

Question Four

Was section 5.23 of the Local Government Act the reason why the release of the document released under the Freedom of Information Act was restricted?

Response from the Executive Services Assistant

Yes. Councillors were provided with an extracted copy of the CEO Contract from a meeting that was held behind closed doors at the time the contract was made in accordance with s.5.23 (2)(a) and (2)(c) of the Local Government Act 1995.

Response from the Office of the Information Commissioner

Under section 5.94 of the Local Government Act 1995 any member of the public can access certain information held by the Shire. Other documents – subject to their sensitivity – may be obtained through the Freedom of Information (FOI) process under the provisions of the Freedom of Information Act 1992.

Section 3(3) of the FOI Act 1992 provides that “Nothing in this Act is intended to prevent or discourage the publication of information, or the giving of access to documents (including

documents containing exempt matter), or the amendment of personal information, otherwise than under this Act if that can properly be done or is permitted or required by law to be done.”

Question Five

Section 5.123 talks about confidentiality of complaints to the standards panel. There is however another section of the Act. Section 5.97 of the Act which says the Local Government Act can have no impact on the FOI Act.

Question: How do the decisions you have just given me comply with it?

Question: Why can I not release a document released under the FOI Act?

Response from the Executive Services Assistant

Whilst section 5.97 of the Local Government Act 1995 states that Nothing in this Division affects the operation of the Freedom of Information Act 1992; the division that section refers to is “Access to Documents” and sections 5.94, 5.95, 5.96 and 5.96A in the Local Government Act 1995 deal with access to information by members of the public.

If a document falls outside of the provisions contained in sections 5.94 to 5.96A, then the document can be requested under the Freedom of Information Act 1992.

The decision made at the time to release the CEO Contract to Councillors via email and not to the public was done via a request from Councillors to be sent a copy. For expediency a copy was provided from the meeting where the decision was made.

As to your question about why you cannot release a redacted document released to you under the FOI Act 1992 please note the following response.

Response from the Office of the Information Commissioner

An agency cannot put restrictions on what an access applicant does with a document released via full access or edited access to the applicant under the FOI Act.

4.2 PUBLIC QUESTION TIME**5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 27 September 2023****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 27 September 2023 be confirmed.

5.2 Special Meeting of Council held on 2 October 2023**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 2 October 2023 be confirmed.

5.3 Special Meeting of Council held on 23 October 2023**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 23 October 2023 be confirmed.

5.4 Agenda Briefing held on 18 October 2023**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 18 October 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 Lot 1 Forest Road, Nunile - Extension of Extractive Industry (Development Approval and Extractive Industry Licence) - Vernice Pty Ltd.

Date of Report:	9 October 2023
File Reference:	P2022-59/A24561GOOT
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Item 9.2.1 27 January 2015
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. Map - Lot 1 Forest Road, Nunile 2. EI Application - Clover Downs - Lot 1 Forest Road Nunile 3. Schedule of Submissions

SUMMARY

Applicant: VERNICE PTY LTD
 Owner: FERGUSON, Stephen William
 Proposal: Extension of Extractive Industry
 Location: Lot 1 Forest Road, Nunile

PURPOSE OF THE REPORT

Council is requested to consider an application for Development Approval and an Extractive Industry Licence for the extension of a gravel quarry at Lot 1 Forest Road, Nunile, submitted by Vernice Pty Ltd. Under the Shire’s adopted Delegations Register, applications for extractive industries may only be refused under delegated authority.

BACKGROUND

Lot 1 Forest Road is a 151.8-hectare property which is zoned “Rural” under the Shire of Toodyay’s *Local Planning Scheme No. 4*. The property is situated at the intersection of Forest Road and Goomalling Toodyay Road in Nunile – approximately 14km east-north-East of the Toodyay Town Centre. The subject land is partially cleared, and the general district is noted for its undulating topography with the predominant land use being broad acre farming.

Please be advised that both Forest Road and Goomalling-Toodyay Road are used interchangeably due to the dual frontage. The Shire of Toodyay's property management system traditionally referred to the land as Lot 1 Goomalling-Toodyay Road and this is also reflected on the title of the Management Plan supplied. The street address is 81 Forest Road, Nunile. For the purposes of this application Lot 1 Forest Road and Lot 1 Goomalling-Toodyay Road is taken to mean:

Lot 1 on D077036

Volume: 1868 Folio: 145

For more details please refer to **Attachment 1 – Map Lot 1 Forest Road, Nunile.**

History

The applicant has been operating a sand and gravel extractive industry at this location since 2015 with Council granting approval for a 4 hectare area for gravel extraction and a 2 hectare area for sand.

Sand extraction area

This application is for an expansion of the gravel operations. However, any approval shall also include the existing 2 hectare sand area. The Shire has been advised that the area granted initially in 2015 for sand extraction (total of 2 ha) is only being used to mix with the gravel material on site to enhance material for various grades. The sand is not being sold as its own product; it is being used onsite.

The applicant wishes to continue to use the sand when required and, therefore, will not be seeking an extension of the sand area and currently plan to rehabilitate when they have finished extracting gravel.

It is recommended that the Council use this opportunity to top up the existing portion of the bond pertaining to the sand area and this is discussed in the Financial section of this report.

Proposal

A summary of the proposal is listed below:

Subject	Description
Basic Raw Material	Gravel
Term of Approval	10 years
Hours of Operation	6.30am – 5.30pm, Monday to Saturday (excluding public holidays)
Operator	Vernice Pty Ltd
Volume Extracted	34,000 tonnes/year
Traffic Movements	8 - 12 truckloads per day varying from 12T to 50T.
Site Preparation	Clearing Permit has been applied for the removal of vegetation.
Depth of Extraction	Maximum depth 2m.

Subject	Description
Extraction Methods	Excavators and front-end loaders will be used to extract the topsoil and gravel. Topsoil will be loaded into an articulated dump truck to be moved to a stockpile onsite, and gravel will be either loaded straight into trucks as raw material or be placed in the screener or crushers for the creation of other raw materials.
Access	The current access from Forest Road will no longer be used to enter the property. Access directly from Goomalling-Toodyay Road (M060) SLK 34.94 will be used. All existing internal site access tracks will be used by trucks and vehicles to enter the excavation area. In addition, a gravel access road will be constructed for trucks and vehicles to enter the excavation area from Goomalling-Toodyay Road.
Structures	The current dwelling is located onsite and has not moved. A site office is onsite with one other storage container. These are shown on the map.
Rehabilitation	At the conclusion of extraction, the site will be rehabilitated with a gently contoured depression with a cover of pasture species that will visually conform to the general rural landscape. Native trees will also be planted, and the land will be returned to a suitable state for grazing.

For more details please refer to **Attachment 2 - EI Application - Clover Downs - Lot 1 Forest Road Nunile - Vernice Pty Ltd**

COMMENTS AND DETAILS

Council has the following alternate options in relation to this item:

- To determine that the proposed use is unacceptable and resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

Times requested.

The applicant has requested the following operating times:

6.30am – 5.30pm, Monday to Saturday (excluding public holidays)

In recent times the Shire in its approvals for Extractive Industries has chosen to separate approval times into operating and cartage.

Operating involves all on-site activities including extraction, stockpiling and rehabilitation.

Cartage involves the movement into and out of the subject site using Shire controlled roads and the transport of extracted materials.

Guidance has been taken here from the work currently being done on the draft Local Planning Policy for Extractive Industries. Whilst not in force, the draft Policy currently will recommend:

Hours of operation are limited to 7:00am to 5:00pm Monday to Friday and 7:00am to 1:00pm on Saturday. No operation on public holiday days.

The Shire has recommended a slightly varied condition to the applicant's request.

In addition cartage, as seen as the most significant impact on tourism and visitors, will be recommended to be limited to Monday to Friday only.

The proposal is considered consistent with the objectives of the zone and the requirements of the Shire of Toodyay LPS4.

The matters raised in the public submissions have also been mitigated through the application of appropriate planning conditions. Specifically, this is focussing on a clearer, more structured approach to conditioning the development that addresses the whole life of the project. These conditions are consistent with the position the Shire is formulating in the development of a local planning policy for extractive industries which is still in draft phase. Key areas identified in the recommended conditions of approval address known compliance areas that have traditionally been noted with this type of land use.

Key to this is the reporting and auditing requirement, which now through conditions, formalises the Shire's expectations for regular and consistent reporting about extractive industry operations. Additionally, the conditions set out clear requirements for legal agreements to be entered into with the Shire regarding rehabilitation and bonding. Lastly, the recommended conditions clearly indicate the Shire's intent for cost recovery for aspects of the regulation and auditing – such as pit inspections, clearance of conditions and pit close out. All of these changes are expected to have a positive and lasting impact on the overall management of these industries and will go to address some of the concerns raised in the community.

On this basis, it is considered the proposal can be approved and appropriately managed through ongoing compliance with conditions and the Shire's annual licence renewal process for Extractive Industries.

It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

IMPLICATIONS TO CONSIDER

Consultative:

The application has been advertised in accordance with the adopted *Local Planning Policy – Advertising of Planning Proposals*.

Given an extractive industry is a significant development application, the consultation period was for 21 days. This application underwent three separate lots of advertising on the Shire's website and in the Toodyay Herald. In addition, the application was advertised to adjoining properties within 1,500 metres of the property boundary and to relevant stakeholders by mail out.

The reason it was advertised three times was:

1. Initial application.
2. Initial application with extended mail outs to capture residents from adjoining local government areas.
3. Revised application with access arrangements clarified. Now direct to Goomalling Toodyay Road.

In all the Shire received eight submissions.

Four of these were from three government agencies and four were from three landowners.

In the case of the landowner submissions, all were raising concerns or objecting to the proposal.

The main points of concern were:

- Non-compliance with existing approval/licence conditions. These were relating mainly to:
 - Hours and days of operation
 - Number of truck movements.
- Other issues raised were regarding dust, noise and traffic impact.

The Shire recognises that there are shortcomings with the history of management of this operation. It recognises that it must do more to control Extractive Industry compliance and to address areas of concern.

The recent work on the draft local planning policy for extractive industries, along with a review of the Local Laws should strengthen compliance issues in this area.

The conditions have been drafted to reflect the stronger position taken in the policy particularly with regards to auditing and compliance.

For further details of this consultation 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.

05.1. Provide responsible planning and development.

Outcome 9. Responsible and effective leadership and governance.

09.1. Provide strong, clear, and accountable leadership.

Policy related:

[State Planning Policy 2.0 – Environment and Natural Resources Policy](#)

The principles from the Policy are below:

- the identification and protection of important and economic mineral resources to enable mineral exploration and mining in accordance with acceptable environmental standards
- the identification and protection of important basic raw material resources and provide for their extraction and use

[State Planning Policy 2.4 – Planning for Basic Raw Materials](#)

The Policy provides guidance to operators and decision makers regarding applications for basic raw materials extraction, as well as other types of planning applications that can potentially impact on extraction sites or significant geological supplies.

[State Planning Policy 2.5 – Rural planning](#)

The Western Australian Planning Commission seeks to protect and preserve rural land for rural purposes including primary production, basic raw materials, regional facilities, and protection of biodiversity and landscape.

Basic raw materials are essential for the construction of buildings, roads and other infrastructure, and also for the sustainability of agricultural production.

[State Planning Policy 3.7 – Planning in Bushfire Prone Areas](#)

The latest DPLH mapping (2021) identifies “Bushfire Prone Areas” across the entire site. It should be noted that Version 1.4 of the SPP 3.7 Guidelines includes a provision stating that the requirement for a Bushfire Management Plan for extractive industry is up to the discretion of the decision-maker. Clause 2.6 of the Guidelines states that:

Decision-makers can apply exemptions from the requirements of SPP 3.7 and these Guidelines where there is no intensification of land-use, and/or the proposal is not increasing the bushfire threat.

An example given in the Guidelines for the type of proposal/development which could be exempt includes extractive industries as follows:

A development application for an extractive industry where the extraction is undertaken in an open cleared area (for example, quarries and open cut mining) and no habitable buildings are proposed.

Therefore, although a Bushfire Management Plan has previously been prepared for the site to assist with site operations and compliance, the requirement for this plan is at the discretion of the Local Government and as no habitable building are located on the site, the requirement for a Bushfire Management Plan could be waived.

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

This policy provides guidance on the exercise of discretion under the Shire of Toodyay Local Planning Scheme No. 4 in terms of when public notice is given, and the means and duration of public notice periods, where these periods are not prescribed by the Local Planning Scheme.

[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:

All costs associated with the development will be borne by the proponent. This includes applicable rehabilitation bonds, road maintenance contributions and annual licence fees.

Rehabilitation Bond

In the previous approval issued in 2015, the Shire of Toodyay calculated a rehabilitation bond of \$33,000. This was for a 4-hectare gravel pit and a 2-hectare sand pit. The figure was calculated using the adopted Shire of Toodyay Schedule of Fees and Charges from 2015 which listed the following:

- Secured sum – Rehabilitation for sand or fine grain less than 3m deep per hectare (Clause 5.1) - \$4,500.00
- Secured sum – Rehabilitation for gravel, clay, or stone less than 3m deep per hectare (Clause 5.1) - \$6,000.00

Thus, the 2015 calculated figure was as follows:

Gravel Pit	\$6,000 x 4 hectares	\$24,000.00
Sand Pit	\$4,500 x 2 hectares	\$9,000.00
Total		\$33,000.00

The current application seeks approval to extend the gravel pit area from 4-hectares to 15.9-hectares.

It is a requirement for the Shire to recalculate rehabilitation bonds from time to time to reflect change in rehabilitation costs over time. This is usually done as part of a development approval renewal or extractive industry licence renewal.

The current adopted Shire of Toodyay Schedule of Fees and Charges list the following sums for rehabilitation.

- Secured sum – Rehabilitation for sand or fine grain less than 3m deep per hectare (Clause 5.1) - \$5,990.00
- Secured sum – Rehabilitation for gravel, clay, or stone less than 3m deep per hectare (Clause 5.1) - \$8,370.00

Therefore, the collected bond will need to be adjusted to reflect these changes by topping up. The additional expansion areas will have an additional bond applied.

Gravel Pit	\$8,370 – \$6,000 = \$2,370	\$2,370 x 4 hectares	\$9,480.00
Expansion	16.04 hectares – 4 hectares = 12.04 hectares	\$8,370 x 12.04 hectares	\$100,774.80
Sand Pit	\$5,990 - \$4,500 = \$1,490	\$1,490 x 2 hectares	\$2,980.00
TOTAL			\$113,234.80

Legal and Statutory:

Planning and Development Act 2005

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Toodyay Local Planning Scheme No. 4

Extractive Industry is classified as a 'D' use within the 'Rural' zone under LPS4, meaning that the use is not permitted, unless the local government has exercised its discretion by granting development approval.

Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.

The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The Shire of Toodyay may be required to defend the decision at a State Administrative Tribunal hearing.

Risk related:

In accordance with the Shire of Toodyay Risk Management Policy the following risks have been determined:

Risk Type	Risk	Likelihood	Consequence	Score
Financial Impact	The Applicant has the right of appeal through the State	Possible (3)	Moderate (3)	Moderate (9)

Risk Type	Risk	Likelihood	Consequence	Score
	Administrative Tribunal of Council's decision on this matter. This would potentially expose the Shire to increased legal costs.			
Reputational	Extractive Industries are highly scrutinised by elements of the community – particularly landowners in close proximity. There is an expectation that the Shire will manage and regulate these processes effectively. When this does not occur, it can lead to reputational damage.	Possible (3)	Moderate (3)	Moderate (9)

Workforce related:

Historically, regulation of the Extractive Industry in Toodyay has been labour intensive for Shire Officers with workflows impacting a number of departments throughout the lifecycle of the project. The Shire is currently in the process of improving these processes so that there will be less burden in the future. By being implicit about cost recovery, many of these processes such as an audit inspection will be able to be outsourced.

Should Council choose to refuse this application, the applicant has the right of appeal through the State Administrative Tribunal. Were this to happen, the Shire would likely have to commit additional funds to undergo this process, and there is a potential financial implication for loss of productivity due to Officer time required in dealing with such matters.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Notes the submissions received relating to the Extractive Industry application for Lot 1 Forest Road, Nunile.
2. Pursuant to Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; approves the **development approval** for an industry - extractive land use at Lot 1 Forest Road in Nunile in, subject to the following conditions:

(a) Management Plan

Development is to be in accordance with the approved Extractive Industries Licence Application – “CLOVER DOWNS – Lot 1 Forest Road (a.k.a Lot 1 Goomalling-Toodyay Road), Nunile. Prepared for Vernice Pty Ltd,” including

any amendments placed thereon by Council and except as may be modified by the following conditions:

Term of approval

- (i) The term of the Development Approval is for ten (10) years from the date of this approval;

Site Specific

- (ii) The location and total area of the excavation is to be limited to:
- a. Gravel 16.04 hectares (ha)
 - b. Sand 2 hectares (ha) as depicted in the approved management plan.
- (iii) The extraction of material is limited to a depth of 2 metres (m) as depicted in the approved management plan.
- (iv) The maximum permitted extraction is limited to 34,000 tonnes (t) per annum as depicted in the approved management plan.
- (v) Extraction is to be undertaken entirely within the land defined as:
Lot 1 on D077036
Volume: 1868 Folio: 145
And must be set back a minimum of 50m from the lot boundary.

Pit operating hours

- (vi) Hours of operation are limited to 7:00am to 5:00pm Monday to Friday and 7:00am to 1:00pm on Saturday. No operation on public holiday days.

Transport management

- (vii) Operating hours for cartage shall be limited to 6:00am until 5:00pm Monday to Friday. No cartage on public holidays.
- (viii) All trucks involved in the project shall comply with the Shire of Toodyay's Council Infrastructure Policy Restricted Access Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- (ix) All truck loads leaving the site with materials are to be covered.
- (x) The operator shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire of Toodyay which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair.
- Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the operator, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay.
- (xi) The cost for road maintenance and road rehabilitation contributions shall be calculated using the method outlined in the latest version of the Western Australian Local Government Association's policy area

relating to [Recovering the Cost of Road Wear from Heavy Vehicles](#) available at the time of application and of any future renewal.

- (xii) Suitable arrangements being made with Main Roads WA for the upgrade of the existing access on Goomalling Toodyay Rd to service the lot.

Noise and vibration

- (xiii) The noise generated by the development is not to exceed the levels as set out under the *Environmental Protection Act 1986* (and the *Environmental Protection (Noise) Regulations 1997*).

Water

- (xiv) The operations are managed in accordance with “Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources”.
- (xv) Any dewatering shall be in accordance with “Water Quality Protection Note 13 - Dewatering of Soils”.

Dust

- (xvi) Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Environmental Regulation Guidelines.

Native Vegetation

- (xvii) The Operator is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
- (xviii) The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the Shire of Toodyay

Bushfire management

- (xix) Bushfire Management is to be in accordance with the Bushfire Management Plan (Version 0 August 2022)

Reporting / Auditing

- (xx) The Applicant is required to provide the local government a Surveyor’s Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time, the Applicant will provide an update and forecast on staging for the following two-year period.
- (xxi) The Applicant/Operator is to provide a written report to the Shire of Toodyay no later than 31 July each year outlining:
 - a. Quarry progress including photos.
 - b. Progress of Rehabilitation including photos.
 - c. Monitoring Results
 - (i) Clearing Permits

- (ii) Water Testing Results
- (iii) Other Environmental Factors
 - a. Safety
 - b. Road Maintenance Contributions
 - c. Cartage Management Report

Site Rehabilitation

- (xxii) The excavation site is to be rehabilitated in accordance with the Rehabilitation and Recommissioning Programme specified as part of the Extractive Industries Licence Application “**CLOVER DOWNS – Lot 1 Forest Road, Nunile. Prepared for Vernice Pty Ltd,**” and the Shire of Toodyay’s Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- (xxiii) Prior to the commencement of the development, the applicant is required to pay an additional bond of **\$113,234.80** as a performance guarantee against the satisfactory completion of the rehabilitation of the site, as detailed in Condition (a)(xviii).

This is in addition to the existing bond of **\$33,000** which was applied to the previous approval in 2015. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period.
- (xxiv) Prior to the commencement of the development the applicant is to enter into a legal agreement with the Shire of Toodyay outlining the terms of bonding and rehabilitation. This is to be accompanied by written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. All costs including legal fees associated with the creation of this agreement are to be borne by the applicant.
- (xxv) The bond may either be in the form of cash or an unconditional, irrevocable Bank Guarantee.
- (xxvi) Final sign-off and release of bonds will also require written agreement from the landowner that rehabilitation is satisfactory.

Insurance

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

Costs

- (xxviii) Cost recovery shall apply to all costs and expenses associated with monitoring during the life of the project including audits and pit closures.

Advice Notes

1. In relation to Condition (a)(xii), the applicant is advised to contact Main Roads WA Wheatbelt Region at wheatbelt@mainroads.wa.gov.au for advice and guidance.

OFFICER'S RECOMMENDATION 2

That Council, pursuant to Clause 3.1(2)(b) of the *Shire of Toodyay Extractive Industry Local Law*; approves the application for an **Extractive Industry Licence** at Lot 1 Forest Road in Nunile in, subject to the following conditions:

Licence

1. The licence is granted to Vernice Pty Ltd.

Management Plan

2. Development is to be in accordance with the approved Extractive Industries Licence Application – “**CLOVER DOWNS – Lot 1 Forest Road, Nunile. Prepared for Vernice Pty Ltd**”, including any amendments placed thereon by Council and except as may be modified by the following conditions:

Term of approval

- (a) The term of the Extractive Industry Licence is for ten (10) years from the date of this approval.

Payment of Annual Licence Fee

- (b) On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

Transfer, Cancellation and Renewal of Licence

- (c) Must be carried out in accordance with Part 4 of the *Shire of Toodyay Extractive Industry Local Law*

Site Specific

- (d) The location and total area of the excavation is to be limited to:
 - (i) Gravel 16.04 hectares (ha)
 - (ii) Sand 2 hectares (ha)as depicted in the approved management plan.
- (e) The extraction of material is limited to a depth of 2 metres (m) as depicted in the approved management plan.
- (f) The maximum permitted extraction is limited to 34,000 tonnes (t) per annum as depicted in the approved management plan.
- (g) Extraction is to be undertaken entirely within the land defined as:

Lot 1 on D077036
Volume: 1868 Folio: 145
And must be set back a minimum of 50m from the lot boundary.

Pit operating hours

- (h) Operating hours within the extraction area shall be restricted to 6:00am and 5:00pm Monday to Saturday (excluding public holidays);

Transport management

- (i) Operating hours for cartage shall be limited to 6:00am until 5:00pm Monday to Friday.
- (j) All trucks involved in the project shall comply with the Shire of Toodyay's Council Infrastructure Policy Restricted Access Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- (k) All truck loads leaving the site with materials are to be covered.
- (l) The operator shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire of Toodyay which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair.

Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the operator, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay.

- (m) The cost for road maintenance and road rehabilitation contributions shall be calculated using the method outlined in the latest version of the Western Australian Local Government Association's policy area relating to Recovering the Cost of Road Wear from Heavy Vehicles available at the time of application and of any future renewal.

Noise and vibration

- (n) The noise generated by the development is not to exceed the levels as set out under the *Environmental Protection Act 1986* (and the *Environmental Protection (Noise) Regulations 1997*).

Water

- (o) The operations are managed in accordance with "*Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources*".
- (p) Any dewatering shall be in accordance with "*Water Quality Protection Note 13 - Dewatering of Soils*".

Dust

- (q) Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Environmental Regulation Guidelines.

Native Vegetation

- (r) The Operator is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
- (s) The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the Shire of Toodyay.

Bushfire management

- (t) Bushfire Management is to be in accordance with the Bushfire Management Plan (Version 0 August 2022)

Reporting / Auditing

- (u) The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period;

Site Rehabilitation

- (v) The excavation site is to be rehabilitated in accordance with the Rehabilitation and Recommissioning Programme specified as part of the Extractive Industries Licence Application "**CLOVER DOWNS – Lot 1 Forest Road, Nunile. Prepared for Vernice Pty Ltd**", and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- (w) Prior to the commencement of the development, the applicant is required to pay an additional bond of **\$113,234.80** as a performance guarantee against the satisfactory completion of the rehabilitation of the site, as detailed in Condition (a)(xviii). This is in addition to the existing bond of **\$33,000** which was applied to the previous approval. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period.
- (x) Prior to the commencement of the development the applicant is to enter into a legal agreement with the Shire of Toodyay outlining the terms of bonding and rehabilitation. This is to be accompanied by written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. All costs including legal fees associated with the creation of this agreement are to be borne by the applicant.
- (y) The bond may either be in the form of cash or an unconditional, irrevocable Bank Guarantee.
- (z) Final sign-off and release of bonds will also require written agreement from the landowner that rehabilitation is satisfactory.

Insurance

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

Costs

- (bb) Cost recovery shall apply to all costs and expenses associated with monitoring during the life of the project including audits and pit closures.

9.1.2 Lot 22 Chitty Road, Hoddys Well - Extension of Extractive Industry (Development Approval and Extractive Industry Licence) - WA Gravel Pty Ltd

Date of Report:	18 September 2023
File Reference:	A4575
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	OCM 28 June 2016 Item 9.2.1 – WA Gravel OCM 27 February 2018 Item 9.2.1 – A1 Gravel
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. Map - Lot 22 Chitty Road - WA Gravel Pty Ltd 2. Extractive Industry Application and Environmental Management Plan - WA Gravel

SUMMARY

Applicant:	Lundstrom Environmental Consultants Pty Ltd
Owner:	D. Best
Proposal:	Extension of Extractive Industry
Location:	Lot 22 Chitty Road, Hoddys Well.

PURPOSE OF THE REPORT

To determine an application for development approval and for an extractive Industry licence (EIL) for an extension to a gravel extractive industry operated by WA Gravel Pty Ltd at Lot 22 Chitty Road in Hoddys Well. Under the Shire's adopted Delegations Register, applications for extractive industries may only be refused under delegated authority.

BACKGROUND

Lot 22 (formerly Lot 8) Chitty Road in Hoddys Well is a 209.67 hectare property. It is zoned Rural under the Shire's *Local Planning Scheme No. 4*. There are no zoning changes proposed for this property under the *Draft Local Planning Scheme No. 5*. The property is situated adjacent to Chitty Road – approximately 14km south-west of the Toodyay town site. Please refer to **Attachment 1 – Map**.

The land in the locality is rural, with cropping and grazing being the predominant agricultural types. The locality is also noted as one of the main areas of extractive industry operations in the Shire of Toodyay. Chitty Road along with Fernie Road and Salt Valley Road are

haulage routes for heavy vehicles operating in and out of the extractive industry pits and the waste disposal facilities.

Works and Excavation Program

The purpose of this application is to allow resumption of gravel extraction at the site given that the development approval and Extractive Industry Licence for the 5.28ha area expired on 8 March 2023.

For simplicity, the applicant is seeking a renewal of the development approval and EIL for the entire 9.57ha area under the name of WA Gravel Pty Ltd and this should supersede the existing Shire approvals.

Extraction details

- The total extraction area is 9.57ha
- Maximum depth is 5m
- Total volume of the resource to be 375,900 m³ (639,030 tonnes).
- The estimated annual volume of material to be trucked off site each year will be 54,000 tonnes.

Operating times

- Operating times are proposed to be Monday to Friday 6:00am to 5:00PM and Saturday 6:00am to 12:00pm, excluding public holidays.

Transportation

The following estimates are made:

- Total annual gravel removal: 54,000 tonnes
- Number of working days per month: 24 days
- Vehicle payloads (GAV's): Standard rigid truck (14 tonnes)
Single semi-loader (26 tonnes)
- Proportional use: 14 tonnes (10%), 26 tonnes (90%)

The above estimates suggest an average of 18 truck trips (i.e. 9 in and 9 out) per day, but this will be dependent on demand.

For more details, please refer to **Attachment 2 - Extractive Industries Licence Application and Environmental Management Plan**.

COMMENTS AND DETAILS

Times requested.

The applicant has requested the following operating times:

- Monday to Friday 6:00am to 5:00PM and Saturday 6:00am to 12:00pm, excluding public holidays.

In recent times the Shire, in its approvals for Extractive Industries, has chosen to separate approval times into operating and cartage.

Operating involves all on-site activities including extraction, stockpiling and rehabilitation.

Cartage involves the movement into and out of the subject site using Shire controlled roads and the transport of extracted materials.

Guidance has been taken from the work currently being done on the draft Local Planning Policy for Extractive Industries. Whilst not in force, the draft Policy currently will recommend:

Hours of operation are limited to 7:00am to 5:00pm Monday to Friday and 7:00am to 1:00pm on Saturday. No operation on public holiday days.

The Shire has recommended a slightly varied condition with a later start applicable on Monday to Friday and a later finish on Saturday.

In addition, cartage, as seen as the most significant impact on tourism and visitors, will be recommended to be limited to Monday to Friday only.

Rehabilitation Bond

The Shire recognises that the costs associated with doing rehabilitation on land at the end of an extractive industry can change over time. Accordingly, the initial rehabilitation bonds collected have been adjusted with top-ups to reflect the per hectare rate as indicated in the Schedule of Fees and Charges for the recently adopted budget. Additionally, the Shire recognises that liquidity is important for the operation of these businesses and will therefore recommend that the rehabilitation bond is collected either as cash or in the form of an unconditional, irrevocable Bank Guarantee.

The application has received no objections during the public consultation period. Accordingly, it is recommended that this application for development approval and for an extractive industry licence be approved subject to conditions.

The matters raised in the public submissions have also been mitigated through the application of appropriate planning conditions. Specifically, this is focussing on a clearer, more structured approach to conditioning the development that addresses the whole life of the project. These conditions are consistent with the position the Shire is formulating in the development of a local planning policy for extractive industries which is still in draft phase. Key areas identified in the recommended conditions of approval address known compliance areas that have traditionally been noted with this type of land use.

Key to this is the reporting and auditing requirement, which now through conditions, formalises the Shire's expectations for regular and consistent reporting about extractive industry operations. Additionally, the conditions set out clear requirements for legal agreements to be entered into with the Shire regarding rehabilitation and bonding.

Lastly, the recommended conditions clearly indicate the Shire's intent for cost recovery for aspects of the regulation and auditing – such as pit inspections, clearance of conditions and pit close out. All of these changes are expected to have a positive and lasting impact on the overall management of these industries and will go to address some of the concerns raised in the community.

IMPLICATIONS TO CONSIDER

Consultative:

This application has been advertised in accordance with the Shire of Toodyay's *Local Planning Policy – Advertising of Planning Proposals*. This has included:

- Notice in July 2023 edition of the *Toodyay Herald*.
- Notice on the Shire of Toodyay website.
- Mail out to properties within 1,500m of the subject site.
- Mail out to government agencies (DBCA, DWER, DPIRD, DMIRS and MRWA).

The proposal was advertised for a period of twenty-eight days and the Shire received two submissions. Both were from government agencies and neither have objected to the proposal.

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.

Policy related:

[State Planning Policy 2.0 – Environment and Natural Resources Policy](#)

The principles from the Policy are below:

- “the identification and protection of important and economic mineral resources to enable mineral exploration and mining in accordance with acceptable environmental standards
- the identification and protection of important basic raw material resources and provide for their extraction and use

[State Planning Policy 2.4 – Planning for Basic Raw Materials](#)

The Policy provides guidance to operators and decision makers regarding applications for basic raw materials extraction, as well as other types of planning applications that can potentially impact on extraction sites or significant geological supplies.

[State Planning Policy 2.5 – Rural planning](#)

The Western Australian Planning Commission seeks to protect and preserve rural land for rural purposes including primary production, basic raw materials, regional facilities, and protection of biodiversity and landscape.

Basic raw materials are essential for the construction of buildings, roads and other infrastructure, and also for the sustainability of agricultural production.

[State Planning Policy 3.7 – Planning in Bushfire Prone Areas](#)

The latest DPLH mapping (2021) identifies “Bushfire Prone Areas” across the entire site. It should be noted that Version 1.4 of the SPP 3.7 Guidelines includes a provision stating that the requirement for a Bushfire Management Plan for extractive industry is up to the discretion of the decision-maker. Clause 2.6 of the Guidelines states that:

Decision-makers can apply exemptions from the requirements of SPP 3.7 and these Guidelines where there is no intensification of land-use, and/or the proposal is not increasing the bushfire threat.

An example given in the Guidelines for the type of proposal/development which could be exempt includes extractive industries as follows:

A development application for an extractive industry where the extraction is undertaken in an open cleared area (for example, quarries and open cut mining) and no habitable buildings are proposed.

Therefore, although a Bushfire Management Plan has previously been prepared for the site to assist with site operations and compliance, the requirement for this plan is at the discretion of the Local Government and as no habitable building are located on the site, the requirement for a Bushfire Management Plan (BMP) could be waived.

The Community Emergency Services Manager (CESM) recommends the following controls as conditions in lieu of a formal BMP:

1. *All plant & vehicle movement related to this approval on Lot 22 Chitty Road, shall maintain 5m clearance to fine fuel vegetation (less than 6mm diameter or thickness) during the Restricted Burning Period and Prohibited Burning Period.*
2. *All plant & vehicles must carry fire extinguisher(s) of no less than 7.5 kilogram or litre capacity, suitable for extinguishing fire of plant/vehicle and vegetation.*

Accordingly, these conditions have been added in those recommended.

Local Planning Policy – Advertising of Planning Proposals

This policy provides guidance on the exercise of discretion under the Shire of Toodyay Local Planning Scheme No. 4 in terms of when public notice is given, and the means and duration of public notice periods, where these periods are not prescribed by the Local Planning Scheme.

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*.

All costs associated with the development will be borne by the proponent.

This includes applicable rehabilitation bonds, road maintenance contributions and annual licence fees.

Rehabilitation Bond

In the previous approval issued to WA Gravel Pty Ltd in 2016, the Shire of Toodyay calculated a rehabilitation bond of \$52,160.40. This was for a 4.3467-hectare gravel pit. The figure was calculated using the adopted 2016 Shire of Toodyay Schedule of Fees and Charges which listed the following:

Secured sum – Rehabilitation for gravel, clay or stone greater than 3m deep per hectare (Clause 5.1) - \$12,000.00

In 2018, the Shire of Toodyay issued an approval for A1 Gravel Pty Ltd and a rehabilitation bond was calculated as \$46,080.00 for the 2.88-hectare Stage 1. The figure was calculated using the adopted 2018 Shire of Toodyay Schedule of Fees and Charges which listed the following:

Secured sum – Rehabilitation for gravel, clay or stone greater than 3m deep per hectare (Clause 5.1) - \$16,000.00

Thus, the Shire currently holds the following bonds:

Gravel Pit (WA Gravel – 2016)	\$12,000 x 4.3467 hectares	\$52,160.40
Gravel Pit (A1 Gravel Stage	\$16,000 x 2.88	\$46,080.00

1 – 2018).	hectares	
Total		\$98,240.40

The current application seeks approval to cover the whole gravel pit area of 9.57 hectares.

It is a requirement for the Shire to recalculate rehabilitation bonds from time to time to reflect change in costs over time. This is usually done as part of a development approval renewal or extractive industry licence renewal.

The currently adopted Shire of Toodyay Schedule of Fees and Charges list the following sum for rehabilitation.

- Secured sum – Rehabilitation for gravel, clay or stone greater than 3m deep per hectare (Clause 5.1) - \$19,160.00

Therefore, the collected bond will need to be adjusted to reflect these changes by topping up.

The area that was approved as Stage 2 in the 2018 A1 Gravel application will have an additional bond applied. This was not collected at the time.

Gravel Pit (WA Gravel 2016)	\$19,160 – \$12,000 = \$7,160	\$7,160 x 4.3467 hectares	\$31,122.37
Gravel Pit (A1 Gravel Stage 1 – 2018)	\$19,160 – 16,000 = \$3,160	\$3,160 x 2.88 hectares	\$9,100.80
Additional area (Stage 2 – A1 Gravel)	9.57-4.3467-2.88 = 2.34 hectares	\$19,160 x 2.34 hectares	\$44,834.40
TOTAL			\$85,057.57

Legal and Statutory:

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Planning and Development Regulations 2009

Shire of Toodyay Local Planning Scheme No. 4

Shire of Toodyay Extractive Industry Local Law

The *Shire of Toodyay Extractive Industries Local Law* was endorsed by Council on 24 June 1999. It sets out the licencing requirements for an extractive industry, including the information which is required in an application and determination of the application. This application for a renewal of the extractive industry licence renewal is submitted in accordance with the Local Law.

Risk related:

In accordance with the Shire of Toodyay Risk Management Policy the following risks have been determined:

<i>Risk Type</i>	<i>Risk</i>	<i>Likelihood</i>	<i>Consequence</i>	<i>Score</i>
Financial Impact	The Applicant has the right of appeal through the State Administrative Tribunal of Council's decision on this matter. This would potentially expose the Shire to increased legal costs.	Possible (3)	Moderate (3)	Moderate (9)
Reputational	Extractive Industries are highly scrutinised by elements of the community – particularly landowners in close proximity. There is an expectation that the Shire will manage and regulate these processes effectively. When this does not occur, it can lead to reputational damage.	Possible (3)	Moderate (3)	Moderate (9)

Workforce related:

The Extractive Industry regulation has been labour intensive for Shire Officers with workflows impacting a number of departments throughout the lifecycle of the project. The Shire is currently in the process of improving these processes so that there will be less burden in the future. By being implicit about cost recovery, many of these processes such as an audit inspection will be able to be outsourced.

Should Council choose to refuse this application, the applicant has the right of appeal through the State Administrative Tribunal. Were this to happen, the Shire would likely have to commit additional funds to undergo this process, and there is a potential financial implication for loss of productivity due to Officer time required in dealing with such matters.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION 1

That Council:

1. Notes the submissions received relating to the Extractive Industry application for Lot 22 Chitty Road, Hoddys Well.
2. Pursuant to Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; approves the **development approval** for an industry - extractive land use at Lot 22 Chitty Road, Hoddys Well, subject to the following conditions:

(a) Management Plan

Development is to be in accordance with the approved Extractive Industries Licence Application – “*Extractive Industries Licence Application and*

Environmental Management Plan - Lot 22 (formerly Lot 8) on Deposited Plan 420530 Chitty Road, Hoddys Well. Prepared for WA Gravel Pty Ltd - Version 0.1 - August 2023, including any amendments placed thereon by Council and except as may be modified by the following conditions:

Term of approval

- i. The term of the Development Approval is for ten (10) years from the date of this approval.

Site Specific

- ii. The location and total area of the excavation is to be limited to 9.57 hectares as depicted in the approved management plan.
- iii. The extraction of material is limited to a depth of 5 metres (m) as depicted in the approved management plan.
- iv. The maximum permitted extraction is limited to 54,000 tonnes (t) per annum as depicted in the approved management plan.
- v. Extraction is to be undertaken entirely within the land defined as:
Lot 22 on D420530
Volume: 4015 Folio: 45
And must be set back a minimum of 50m from the lot boundary.

Pit operating hours

- vi. Hours of operation within the extraction area are limited to 7:00am to 5:00pm Monday to Friday and 7:00am to 1:00pm on Saturday. No operation on public holiday days.

Transport management

- vii. Operating hours for cartage shall be limited to between 6:00am and 5:00pm Monday to Friday. No cartage on public holidays.
- viii. All trucks involved in the project shall comply with the Shire of Toodyay's Council Infrastructure Policy Restricted Access Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- ix. All truck loads leaving the site with materials are to be covered.
- x. The operator shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire of Toodyay which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair.

Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the operator, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay.
- xi. The cost for road maintenance and road rehabilitation contributions shall be calculated using the method outlined in the latest version of the Western Australian Local Government Association's policy area

relating to Recovering the Cost of Road Wear from Heavy Vehicles available at the time of application and of any future renewal.

Noise and vibration

- xii. The noise generated by the development is not to exceed the levels as set out under the *Environmental Protection Act 1986* (and the *Environmental Protection (Noise) Regulations 1997*).

Water

- xiii. The operations are managed in accordance with “*Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources*”.
- xiv. Any dewatering shall be in accordance with “*Water Quality Protection Note 13 - Dewatering of Soils*”.

Dust

- xv. Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Environmental Regulation Guidelines.

Native Vegetation

- xvi. The Operator is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.
- xvii. The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the Shire of Toodyay.

Bushfire management

- xviii. In lieu of a formal bushfire management the development must observe the following controls:
1. All plant & vehicle movement related to this approval on Lot 22 Chitty Road, shall maintain 5m clearance to fine fuel vegetation (less than 6mm diameter or thickness) during the Restricted Burning Period and Prohibited Burning Period.
 2. All plant & vehicles must carry fire extinguisher(s) of no less than 7.5 kilogram or litre capacity, suitable for extinguishing fire of plant/vehicle and vegetation.

Reporting / Auditing

- xix. The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period.
- xx. The Applicant/Operator is to provide a written report to the Shire of Toodyay no later than 31 July each year outlining:
1. Quarry progress including photos.

2. Progress of Rehabilitation including photos.
3. Monitoring Results
 - a. Clearing Permits
 - b. Water Testing Results
 - c. Other Environmental Factors
4. Safety
5. Road Maintenance Contributions
6. Cartage Management Report

Site Rehabilitation

- xxi. The excavation site is to be rehabilitated in accordance with the Rehabilitation and Recommissioning Programme specified as part of the Extractive Industries Licence Application “**Extractive Industries Licence Application and Environmental Management Plan - Lot 22 (formerly Lot 8) on Deposited Plan 420530 Chitty Road, Hoddys Well. Prepared for WA Gravel Pty Ltd - Version 0.1 - August 2023**”, and the Shire of Toodyay’s Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- xxii. Prior to the commencement of the development, the applicant is required to pay an additional bond of **\$85,057.57** as a performance guarantee against the satisfactory completion of the rehabilitation of the site, as detailed in Condition (a)(xx).
- This is in addition to the existing bond of **\$98,240.40** which was applied to the previous approvals in 2016 and 2018. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period.
- xxiii. Prior to the commencement of the development the applicant is to enter into a legal agreement with the Shire of Toodyay outlining the terms of bonding and rehabilitation. This is to be accompanied by written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. All costs including legal fees associated with the creation of this agreement are to be borne by the applicant.
- xxiv. The bond may either be in the form of cash or an unconditional, irrevocable Bank Guarantee.
- xxv. Final sign-off and release of bonds will also require written agreement from the landowner that rehabilitation is satisfactory.

Insurance

- xxvi. The Applicant must maintain a current public liability insurance policy in which the interests of the Shire of Toodyay are formally noted by the insurer, indemnifying the Applicant and the Shire of Toodyay for a sum

of not less than \$20,000,000 in respect of any one claim relating to any of the excavation and transport operations.

Costs

- xxvii. Cost recovery shall apply to all costs and expenses associated with monitoring during the life of the project including audits and pit closures.

OFFICER RECOMMENDATION 2

That Council, pursuant to Clause 3.1(2)(b) of the *Shire of Toodyay Extractive Industry Local Law*; approves the application for an **Extractive Industry Licence** at Lot 22 Chitty Road, Hoddys Well, subject to the following conditions:

Licence

1. The licence is granted to WA Gravel Pty Ltd.

Management Plan

2. Development is to be in accordance with the approved Extractive Industries Licence Application – “*Extractive Industries Licence Application and Environmental Management Plan - Lot 22 (formerly Lot 8) on Deposited Plan 420530 Chitty Road, Hoddys Well. Prepared for WA Gravel Pty Ltd - Version 0.1 - August 2023*”, including any amendments placed thereon by Council and except as may be modified by the following conditions:

Term of approval

- (a) The term of the Extractive Industry Licence is for ten (10) years from the date of this approval.

Payment of Annual Licence Fee

- (b) On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

Transfer, Cancellation and Renewal of Licence

- (c) Must be carried out in accordance with Part 4 of the *Shire of Toodyay Extractive Industry Local Law*.

Site Specific

- (d) The location and total area of the excavation is to be limited to 9.57 hectares as depicted in the approved management plan.
- (e) The extraction of material is limited to a depth of 5 metres (m) as depicted in the approved management plan.
- (f) The maximum permitted extraction is limited to 54,000 tonnes (t) per annum as depicted in the approved management plan.
- (g) Extraction is to be undertaken entirely within the land defined as:

Lot 22 on D420530

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And must be set back a minimum of 50m from the lot boundary.

Pit operating hours

- (h) Hours of operation within the extraction area are limited to 7:00am to 5:00pm Monday to Friday and 7:00am to 1:00pm on Saturday. No operation on public holiday days.

Transport management

- (i) Operating hours for cartage shall be limited to between 6:00am and 5:00pm Monday to Friday. No cartage on public holidays.
- (j) All trucks involved in the project shall comply with the Shire of Toodyay's Council Infrastructure Policy Restricted Access Vehicles and shall seek the approval of Main Roads Western Australia as appropriate.
- (k) All truck loads leaving the site with materials are to be covered.
- (l) The operator shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire of Toodyay which are used by heavy haulage traffic associated with the extractive industry operations to the extent that such traffic contributes to the need for such maintenance and repair.

Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the operator, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay.

- (m) The cost for road maintenance and road rehabilitation contributions shall be calculated using the method outlined in the latest version of the Western Australian Local Government Association's *Heavy Vehicle Cost Recovery Policy Guideline for Sealed Roads* available at the time of application and of any future renewal.

Noise and vibration

- (n) The noise generated by the development is not to exceed the levels as set out under the *Environmental Protection Act 1986* (and the *Environmental Protection (Noise) Regulations 1997*).

Water

- (o) The operations are managed in accordance with "*Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources*".
- (p) Any dewatering shall be in accordance with "*Water Quality Protection Note 13 - Dewatering of Soils*".

Dust

- (q) Measures are to be taken to minimise the amount of dust pollution associated with the extraction site and are to comply with the *Environmental Protection Act 1986* and Department of Environmental Regulation Guidelines.

Native Vegetation

- (r) The Operator is required to obtain approval from the Department of Water and Environment Regulation (DWER) prior to the removal of native vegetation on site.

- (s) The applicant is required to provide a Dieback Disease Management Plan to the satisfaction of the Shire of Toodyay.

Bushfire management

- (t) In lieu of a bushfire management plan, the development must observe the following controls:
- (i) All plant & vehicle movement related to this approval on Lot 22 Chitty Road, shall maintain 5m clearance to fine fuel vegetation (less than 6mm diameter or thickness) during the Restricted Burning Period and Prohibited Burning Period.
 - (ii) All plant & vehicles must carry fire extinguisher(s) of no less than 7.5 kilogram or litre capacity, suitable for extinguishing fire of plant/vehicle and vegetation.

Reporting / Auditing

- (u) The Applicant is required to provide the local government a Surveyors Certificate every two years, prior to the annual renewal fee for that year being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved Extractive Industry Report. At the same time the Applicant will provide an update and forecast on staging for the following two-year period.
- (v) The Applicant/Operator is to provide a written report to the Shire of Toodyay no later than 31 July each year outlining:
- (i) Quarry progress including photos.
 - (ii) Progress of Rehabilitation including photos.
 - (iii) Monitoring Results
 - (iv) Clearing Permits
 - (v) Water Testing Results
 - (vi) Other Environmental Factors
 - (vii) Safety
 - (viii) Road Maintenance Contributions
 - (ix) Cartage Management Report

Site Rehabilitation

- (w) The excavation site is to be rehabilitated in accordance with the Rehabilitation and Recommissioning Programme specified as part of the Extractive Industries Licence Application "***Extractive Industries Licence Application and Environmental Management Plan - Lot 22 (formerly Lot 8) on Deposited Plan 420530 Chitty Road, Hoddys Well. Prepared for WA Gravel Pty Ltd - Version 0.1 - August 2023***", and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.
- (x) Prior to the commencement of the development, the applicant is required to pay an additional bond of **\$85,057.57** as a performance guarantee against the satisfactory completion of the rehabilitation of the site, as detailed in Condition

(a)(xviii). This is in addition to the existing bond of **\$98,240.40** which was applied to the previous approvals. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period.

- (y) Prior to the commencement of the development the applicant is to enter into a legal agreement with the Shire of Toodyay outlining the terms of bonding and rehabilitation. This is to be accompanied by written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. All costs including legal fees associated with the creation of this agreement are to be borne by the applicant.
- (z) The bond may either be in the form of cash or an unconditional, irrevocable Bank Guarantee.
- (aa) Final sign-off and release of bonds will also require written agreement from the landowner that rehabilitation is satisfactory.

Insurance

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

Costs

- (cc) Cost recovery shall apply to all costs and expenses associated with monitoring during the life of the project including audits and pit closures.

9.1.3 Local Planning Policies Review - Caravan Park and Camping Ground, Disused Materials and Temporary Accommodation.

Date of Report:	4 October 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7/PCY2
Author:	S Cope – Environmental Health Officer
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	28 June 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Local Planning Policy - Caravan Park and Camping Ground; 2. Local Planning Policy - Disused Materials; and 3. Local Planning Policy - Temporary Accommodation.

PURPOSE OF THE REPORT

To consider the final adoption of Local Planning Policies (LPPs) as follows:

- (a) Caravan Park and Camping Grounds;
- (b) Disused Materials; and
- (c) Temporary Accommodation (formerly Temporary On-Site Accommodation During the Construction of a Dwelling).

BACKGROUND

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

At the June 2023 Ordinary Council Meeting (OCM), Council adopted the abovenamed Local Planning Policies 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*.

COMMENTS AND DETAILS

Council requested these policies be brought back to the August 2023 OCM for final review. This matter has been delayed due to resourcing and staff workloads which have resulted in longer than normal wait times. After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed policy in the light of any submissions made; and
- (b) resolve to —

- (i) proceed with the policy without modification; or
- (ii) proceed with the policy with modification; or
- (iii) not to proceed with the policy.

All of the LPPs were advertised for 21 days and the Shire received no submissions.

It is recommended that the Council adopts these policies without modifications.

The final draft policies are provided at **Attachments 1, 2 and 3** for Council's consideration.

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 policies were discussed at the Council Workshop held on 14 June 2023 and made available on the Teams environment for input by elected members.

The advertising of the draft Local Planning Policies ended on 27 July 2023 with no submissions received.

Strategic:

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

Outcome 9 Responsible and effective leadership and governance.

O9.1 Provide strong, clear and accountable leadership

The adoption of the revised policies will demonstrate the Shire of Toodyay's continued commitment to these objectives.

Policy related:

All policies have been updated to meet the Corporate Documents Policy requirements and new definitions and diagrams/illustrations have been added where applicable.

Financial:

There are no financial implications associated with the final adoption of these local planning policies.

It is recommended that Council requests the CEO publish a notice in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. To comply with this, no additional newspaper advertising is required, and the notice must only appear on the Shire of Toodyay's website.

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:

The review of the policy framework 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 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. The benefit of 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 *Local Planning Policy – Caravan Park and Camping* as per **Attachment 1**.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.
3. Requests the CEO to publish notice of the policy in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

OFFICER'S RECOMMENDATION 2

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 *Local Planning Policy – Disused Materials* as per **Attachment 2**.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.
3. Requests the CEO to publish notice of the policy in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

OFFICER'S RECOMMENDATION 3

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 *Local Planning Policy Temporary Onsite Accommodation During the Construction of a Dwelling* as per **Attachment 3**.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.
3. Requests the CEO to publish notice of the policy in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

9.1.4 Lot 104 McKnoe Drive, Morangup - Ancillary Accommodation.

Date of Report:	6 October 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	P2023-76 - A1806/104MCK
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	No
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	1. P2023-76 - Application & Plans

SUMMARY

Applicant:	Davley Building Pty Ltd
Owner:	Nicolas Jackson
Proposal:	Ancillary Accommodation
Location:	Lot 104 McKnoe Drive, Morangup

PURPOSE OF THE REPORT

Council is requested to consider an application for development approval for a proposed ancillary accommodation at Lot 104 McKnoe Drive, Morangup. The reason this application is being brought to Council for determination is that the applicant has requested a variation to the *Local Planning Policy No.2 – Ancillary Accommodation*. There is no delegated authority to determine this application at an Officer level.

BACKGROUNDProperty Information

Lot 104 (No. 1352) McKnoe Drive, Morangup is a 100,059 m² (10ha) property in Morangup.

The property is zoned Rural Residential under the Shire of Toodyay's *Local Planning Scheme No. 4*. Mandatory development approval was triggered due to the Ancillary Accommodation policy requirements. The existing development on site is a single dwelling, water tanks, and two outbuildings.

Proposal

The applicant seeks development approval to construct an ancillary accommodation.

The proposed application has the following variations to *Local Planning Policy No. 2 – Ancillary Accommodation*:

- (a) Must be located within 20m of the main house.
- (b) Must be positioned behind or in line with the building line of the existing house.

For more details, please refer to **Attachment 1 – Application and Plans**

Time to determine.

The application was received on 6 September 2023. Pursuant to clause 75(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, this application must be determined within 90 days of the receipt of the application which is 5 December 2023.

COMMENTS AND DETAILS

Clause 67(2) of the deemed provisions provides that in considering an application for development approval, the local government is to have due regard for a range of specified matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The pertinent matters relating to this application are as follows:

- must be located within 20m of the main house; and
- must be positioned behind or in line with the building line of the existing house.

The intent of these two points is to show the relationship between the two structures. In this instance the location proposed for the ancillary accommodation at 37m in lieu of the 20m from the main dwelling and positioned in front of the main dwelling was chosen to be close to the existing power supply on the property, both points are a variation to the *Local Planning Policy No 2 – Ancillary Accommodation*.

The proposed ancillary accommodation has a floor area of 48m² and a 20m² verandah. Mature vegetation will obscure the ancillary accommodation from view from the neighbouring properties and McKnoe Drive. Additionally, the ancillary accommodation will match the main dwelling with the same building materials and colours proposed. This application is consistent with the remaining requirements listed in *Local Planning Policy No 2 - Ancillary Accommodation*.

The applicants have requested the proposed location to reduce the connection costs associated with available services. Given the location and the low impact of the development, it can be considered as an acceptable justification as it reflects the Shire's commitment to help reduce the cost of housing, as per the *Shire of Toodyay Council Plan 2023-2033 Objective 5.2: to enable access to affordable, sustainable, and diverse housing options*.

This proposal is not envisioned to have a negative impact on the amenity of the area.

It is recommended that Council approves this development with conditions.

IMPLICATIONS TO CONSIDER

Consultative:

Local Planning Policy – Advertising for Planning Proposals.

This application has been advertised in accordance with the local planning policy and to the affected adjoining landowner with no submissions received.

Strategic:

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

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

O5.2: *Enable access to affordable, sustainable, and diverse housing options.*

Policy related:

Local Planning Policy Ancillary Accommodation

Clause 1.0 of the policy states:

All ancillary accommodation within the Shire of Toodyay must comply with the following:

- (a) must be located within 20m of the main house.*
- (b) must be positioned behind or in line with the building line of the existing house.*

Under Section 3.0 of the policy:

Council may vary the requirements of this Local Planning Policy Ancillary Accommodation where it is considered that full compliance is impractical or where it's warranted due to the circumstances of the case.

Financial:

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

Should Council choose to refuse this application, the applicant has the right of appeal through the State Administrative Tribunal. Were this to happen, the Shire would likely have to commit additional funds to undergo this process, and there is a potential financial implication for loss of productivity due to Officer time required in dealing with such matters.

Legal and Statutory:

Planning and Development Act 2005

Schedule 7 – Matters which may be dealt with by planning scheme.

Planning and Development Regulations 2009

Schedule 2 – Maximum fees for certain planning services.

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Toodyay Local Planning Scheme No. 4

Risk related:

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

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

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council, pursuant to clause 68(2)(b) of the deemed provisions for local planning schemes, approves the development application for an ancillary accommodation at Lot 104 McKnoe Drive, Morangup, subject to the following conditions:

- (a) This approval relates only to the development as indicated on the plans received by the Shire of Toodyay, hereinafter referred to as the 'approved plans'.
- (b) The development, including the use approved by this development approval, must be implemented only in accordance with the approved plans.
- (c) The development must be substantially commenced within the period of two years commencing on the date of the Shire of Toodyay Council's decision to grant development approval. The development approval lapses if the development has not substantially commenced within that period.
- (d) All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.
- (e) All storm water discharge from the development shall be contained and disposed of onsite unless otherwise approved by the Shire of Toodyay.
- (f) Prior to occupation, the development hereby permitted shall be connected to an approved effluent disposal system.

9.2 CORPORATE AND COMMUNITY SERVICES**9.2.1 Monthly Financial Statements - August 2023**

Date of Report:	7 September 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 August 2023; and 2. Supplementary Information as at 31 August 2023.

PURPOSE OF THE REPORT

This report provides Council with financial information for the period ending 31 August 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* (FM Regulations).

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 August 2023.

Outstanding Rates

The notices for rates and charges levied for 2022/23 were raised on 7 September 2022 after the adoption of 2022/2023 budget. The rates for 2023/2024 will be raised in September 2023.

The total outstanding rates and charges balance at the end of August 2023 was \$763,217.88 compared to July 2023 closing balance of \$847,285.78. A slight decrease in July was due to a number of ongoing payment arrangements with rate payers.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of August 2023 was \$120,359.22 broken down as follows:

Category	31/07/2023	31/08/2023
> 90 days and over	\$ 8,162.11	\$ 5,910.14
> 60 days and over	\$ 1,403.94	\$ 21,158.43
> 30 days and over	\$ 53,685.95	\$ 87,897.92
Current	\$ 292,406.90	\$ 5,392.73
TOTAL	\$355,658.90	\$120,359.22

The table above shows a decrease in the outstanding sundry debtors balance.

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.

O.9.2. 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 August 2023, the total funds held in the Shire's operating accounts was \$909,712.07 and the total of all interest bearing term deposits invested for the period ended 31 August 2023 was \$3,471,625.50

Of the \$3,471,625.50 invested in interest bearing deposits, \$1,831,420.91 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.

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

9.2.2 Monthly Financial Statements - September 2023

Date of Report:	27 September 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 30 September 2023 and 2. Supplementary Information as at 30 September 2023

PURPOSE OF THE REPORT

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

Outstanding Rates

The total outstanding rates balance at the end of September 2023 was \$8,979,357.99. This is due \$7,592,855.70 which was 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 September 2023 was \$164,954.73 broken down as follows:

Category	31/08/2023	30/09/2023
> 90 days and over	\$ 5,910.14	\$ 20,718.60
> 60 days and over	\$ 21,158.43	\$ 88,033.87
> 30 days and over	\$ 87,897.92	\$ 3,879.69
Current	\$ 5,392.73	\$ 52,322.57
TOTAL	\$120,359.22	\$164,954.73

The table above shows a slight increase in the outstanding sundry debtor's balance. During the month of September, Officers submitted an invoice for a Biodiversity and Native Vegetation Management grant for \$22,000.00.

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.***

9.2 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 30 September 2023, the total funds held in the Shire's operating accounts was \$1,251,254.63 and the total of all interest bearing term deposits invested for the period ended 30 September 2023 was \$3,483,419.52

Of the \$3,483,419.52 invested in interest bearing deposits, \$2,480,172.10 relates to reserve funds.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives, for the month ending 30 September 2023 the following:

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

9.2.3 Toodyay Recreation Centre - Management Reporting

Date of Report:	10 October 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Executive 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. Monthly Reports September Quarter 2023; and 2. Marketing Reports September 2023 quarter

PURPOSE OF THE REPORT

To receive the management reporting packs for the September 2023 quarter consisting of monthly reports and a marketing report. The management reporting packs were submitted by the Venue Manager on behalf of Clublinks Management Pty Ltd in accordance with the management contract.

BACKGROUND

Clublinks Management Pty Ltd manages the Toodyay Recreation Centre (TRC) on behalf of the Shire of Toodyay and is required to submit reports to the Shire detailing 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. Monthly Reports (**Attachment 1**) which includes a summary of activities for the months of July, August and September 2023; and
2. Marketing Reports (**Attachment 2**) which provide further detail on visitation and usage in addition to key financial information.

Clublinks has also provided monthly reports for the September 2023 quarter that contain financial information which is considered commercial in confidence. These reports have been placed on the Council Hub as one attachment. They are not included as confidential attachments to this report.

IMPLICATIONS TO CONSIDER**Consultative:**

Clublinks and Shire Officers meet monthly.

Strategic:

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

Outcome 1: A safe and healthy community

O1.3: Grow participation in sport and recreational activities.

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 Sept 2023 quarter (**Attachment 1**); and
2. Receives the Marketing Reports for the Sept 2023 quarter (**Attachment 2**).

9.2.4 List of Payments - September 2023

Date of Report:	13 October 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	T Bateman – Executive Manager Corporate and Community Services
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. Creditors Payments Listing - September 2023

PURPOSE OF THE REPORT

To present cheques and electronic payments raised during September 2023.

BACKGROUND

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

The regulations were recently amended to further include the requirement for a list of all payments made using a credit, debit, or purchasing card to be prepared each month, effective 1 September 2023.

COMMENTS AND DETAILS

The list of all invoices processed under delegated authority during September 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 September 2023 total \$821,840.24.

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.

Regulation 13A requires that if any payments are made via purchasing cards, a list 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 September 2023 as attached to this report, summarised as follows:

Municipal Cheques	14,952.20
Electronic Funds Transfer Payments	533,197.25

Direct Debits	14,903.32
Payroll	252,155.34
Purchasing Cards	6,632.13
TOTAL	821,840.24

9.3 EXECUTIVE SERVICES

9.3.1 Committee Membership and Council Representation

Date of Report:	14 November 2022
Applicant or Proponent:	Shire of Toodyay, WALGA, and the Government of Western Australia – Development Assessment Panels
File Reference:	GOV1/PLA1/MAN
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	LEMC Appointments 24/08/2022 BFAC Appointments 28/01/2020
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Committee Book (Revised);

PURPOSE OF THE REPORT

To seek Council's endorsement of the Committee Book and request Council to consider:

1. Appointments to Council and statutory committees; and
2. Representation to other organisations.

BACKGROUND

This report requests Council to appoint members to various committees following the 2023 local government ordinary elections.

The Shire of Toodyay has historically appointed representatives to the following:

Committee/Group	Primary members	Deputy members	Other
Audit & Risk Committee (ARC) - statutory	4 elected members	2 elected members	4 community representatives
Bush Fire Advisory Committee (BFAC) - statutory	2 elected members	2 elected members	Bush Fire Control Officers, Brigade Captains, Agency representatives, Shire officers
Local Emergency Management Committee (LEMC) - statutory	2 elected members	2 elected members	District Emergency Management Advisor, Chief Bush Fire Control Officer, Local Recovery

Committee/Group	Primary members	Deputy members	Other
			Coordinators, Agency representatives, Shire officers
Environmental Advisory Committee (EAC)	2 elected members	2 elected members	Up to 6 community members
Museums Advisory Committee (MAC)	2 elected members	2 elected members	Up to 6 community members
Local Recovery Committee (LRC)	Shire President	Deputy Shire President	Shire officers
Avon Midland Country Zone of WA Local Government Association	Shire President	Deputy Shire President	
Avon Regional Organisation of Councils (AROC)	Shire President	Deputy Shire President	Shire CEO
Rural Water Council	Shire President		
Wheatbelt Regional Road Group North	Shire President		Shire officers
Development Assessment Panels (DAP) - statutory	2 elected members	2 elected members	

In the past the Shire has also appointed a single representative to:

- Butterly Cottages Association
- Safer Toodyay
- Toodyay Roadwise Committee

COMMENTS AND DETAILS

As the 2023 Ordinary Election will result in there being only seven elected members forming Council, a discussion took place at a Council Workshop held on 11 October 2023 as to how committee representation might change. The following matters were discussed.

1. One community member has resigned from the Environmental Advisory Committee. Other current community representatives on Council committees proposed to be continued, have been contacted and have advised their desire to remain a member.
2. Given the increasing workload on elected members and time constraints of individuals, it is often difficult to get members to nominate for or attend committee and community organisation meetings. This will be exacerbated by the reduction in the number of elected members from nine to seven.

3. As a result of the above, it is sometimes difficult to achieve a quorum for meetings.
4. Committee representation should be limited to areas where there is a current strategic focus that may require recommendation to be made to Council, or a statutory requirement.

As a result of the discussion, it is proposed that:

- the Museum Advisory Committee be disbanded;
- Council declines to nominate representatives to Butterly Cottages Association, Safer WA and the Toodyay Roadwise Committee; and
- if future requests are received for an elected member to be nominated as a representative on a community organisation, they are considered only if the nomination would be of a broad benefit to the community.

Council had last appointed members in 2022 to the Local Emergency Management Committee. Councillors will be aware that this committee includes stakeholder members from the community. Council will need to consider appointment of elected members to this committee.

Council last appointed members in 2020 to the Bush Fire Advisory Committee. Council will need to consider appointment of elected members to this committee. The Department of Parks & Wildlife Representative will need to be amended because the department's name changed to Biodiversity Conservation and Attractions. The Emergency Management Officer and the Captain (or their representative) for the Toodyay SES Brigade is also recommended as a member of this Committee. It was noted that the latter membership, although in the 2021 Committee Book, had not officially been appointed.

Toodyay is required to nominate two Development Assessment Panel (DAP) members and two alternative members listed with the DAP system; via the Government of Western Australia link: <https://www.wa.gov.au/system/files/2022-08/2022-2024-DAP-LG-Members.pdf> and their membership is listed until 26 January 2024.

To date the services of our members have not been required because no application proposed has triggered the need for DAP assessment in the Shire of Toodyay.

There are 4 committees requiring representation. The other Committees are intended to be represented by the Shire President or the Deputy Shire President.

As all membership for Committees is contained within the Committee Book, it is recommended that Council endorses the Committee Book (**Attachment 1**) which incorporates the above recommendations.

It is recommended that Council appoints elected members to all of its Committees and the Development Assessment Panel.

IMPLICATIONS TO CONSIDER

Consultative:

In order to ascertain whether current community members wished to continue as a community member, a Shire Officer contacted members of committees as follows:-

- Audit and Risk Committee;
- Museum Advisory Committee; and the
- Environmental Advisory Committee.

At a Council Workshop held on 11 October 2023 this matter was brought to the attention of current Councillors. There were six elected members in attendance, four of which were online.

Strategic:

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

Outcome 9. Responsible and effective leadership and governance.

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

Policy related:

Committee Book.

Financial:

Advertising costs in the Toodyay Herald will be minimal and can be managed within existing budget allocations.

Councillors nominated as members for the DAPs will be eligible for reimbursement at successful completion of training.

Member of DAPs are eligible for a payment for attendance at a meeting. They are also entitled to be reimbursed for motor vehicle and travel expenses at the rate decided from time to time by the Public Sector Commissioner for members of Government boards and committees. These fees mentioned are payable by the Department of Planning.

Legal and Statutory:

Sections 5.10 and 5.11 of the *Local Government Act 1995*

r.24. Local government members of LDAP of the *Planning and Development (Development Assessment Panel) Regulations 2011*.

s.67 of the *Bushfires Act 1954*

s.38(1) of the *Emergency Management Act 2005* and *State Emergency Management Guidelines*

Risk related:

Development Assessment Panel

If Council does not nominate any local government members then r.26(4) of the *Planning and Development (Development Assessment Panel) Regulations 2011* states that “*the Minister may instead include on the register a person who is an eligible voter of the district of the local government.*”

To date the services of our members have not been required because no application proposed has triggered the need for DAP assessment in Toodyay Shire.

The DAP regulations prevent a DAP member from attending a meeting without first completing mandatory training. Any DAP member who successfully completes training is entitled to a payment from the Department.

WALGA Zone Appointments

Should Council choose not to appoint any elected members to the Avon Midland Country Zone, the Shire of Toodyay would be unrepresented at the local zone and potentially, at State Council level. This report will mitigate the risk.

1. WALGA has requested notification of the Shire’s appointments no later than Friday, 3 November 2023. This is because the first item of business at the November 2023 Zone meeting will be for Zones to elect their State Council representative(s) and Deputy representative(s), as well as their Zone Chair and Zone Deputy Chair.
2. An Induction Session will be held for all incoming State Councillors and Deputy State Councillors on Thursday, 30 November with the new State Council taking office at the Ordinary Meeting of State Council on Wednesday, 6 December 2023.

Workforce related:

Once endorsed, Shire Officers will publish the Committee Books to the Shire website and notify relevant external agencies. Community members will be notified of Council’s decisions and advertisements will be placed on the Shire’s website, and social media as well as the local newspaper.

The updated Committee Book will also be provided to all Councillors through their hub. A copy will also be provided to community members.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION 1

That Council:

1. Endorses the Committee Book as attached to this Report (**Attachment 1**);
2. Authorises the CEO to make any typographical amendments to the committee book prior to it being published on the Shire’s website.

OFFICER'S RECOMMENDATION 2 – Audit & Risk Committee

That Council:

1. Appoints the following Primary Elected Members to the Audit and Risk Committee:
 - (a) Cr _____
 - (b) Cr _____
 - (c) Cr _____
 - (d) Cr _____
2. Appoints the following Deputy Elected Members to the Audit and Risk Committee:
 - (e) Cr _____
 - (f) Cr _____
3. Appoints the following Community Members to the Audit and Risk Committee:
 - (g) K Barrack
 - (h) S Clarke
 - (i) S Hefferon
 - (j) S Rutter

OFFICER'S RECOMMENDATION 3 – Environmental Advisory Committee

That Council:

1. Appoints the following Members to the Environmental Advisory Committee:
 - (a) Cr _____
 - (b) Cr _____
 - (c) Reserves Management Officer (non-Voting)
2. Appoints the following Deputy Elected Members to the Environmental Advisory Committee:
 - (d) Cr _____
 - (e) Cr _____
3. Appoints the following Community Members to the Environmental Advisory Committee:
 - (f) E Hall
 - (g) J Von Perger
 - (h) B Foley
4. Authorises the CEO to advertise for expressions of interest from members of the public in the next Toodyay Herald.

OFFICER'S RECOMMENDATION 4 – Bush Fire Advisory Committee

That Council:

1. Appoints the following Members to the Bush Fire Advisory Committee:
 - (a) Cr _____
 - (b) Cr _____
 - (c) Captain (or their representative) Toodyay SES Brigade.
 - (d) Emergency Management Officer
2. Appoints the following Deputy Elected Members to the Bush Fire Advisory Committee:
 - (a) Cr _____
 - (b) Cr _____
3. Appoints the following Representatives (non-voting) to the Bush Fire Advisory Committee:
 - (a) Department of Biodiversity Conservation and Attractions

OFFICER'S RECOMMENDATION 5 – Local Emergency Management Committee

That Council:

1. Appoints the following Members to the Local Emergency Management Committee:
 - (a) Cr _____
 - (b) Cr _____
2. Appoints the following Deputy Members to the Local Emergency Management Committee:
 - (a) Cr _____
 - (b) Cr _____

OFFICER'S RECOMMENDATION 6 – Rural Water Council, AROC and WRRG

That Council nominates the Shire President as a Primary Delegate, and the Deputy Shire President as a Proxy Delegate for the following organisations:

- (a) Rural Water Council of WA
- (b) Avon Regional Organisation of Councils; and the
- (c) Wheatbelt Regional Road Group North.

OFFICER'S RECOMMENDATION 7 – Avon Midland Country Zone of WA

That Council endorses the nomination of the Shire President as a Primary Delegate and the Deputy Shire President as a Deputy Delegate to represent the Shire of Toodyay on the Avon Midland Country Zone of the WA Local Government Association (WALGA).

OFFICER'S RECOMMENDATION 8 – Development Assessment Panels

That Council:

1. Nominates Cr _____ and Cr _____ as member of the Development Assessment Panel representing the Shire of Toodyay.
2. Nominates Cr _____ and Cr _____ as alternate members of the Development Assessment Panel representing the Shire of Toodyay.

OFFICER'S RECOMMENDATION 9

That Council determines to disband the Museum Advisory Committee and requests the Chief Executive Officer to write to all members of the Committee to thank them for their contribution.

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

Date of Report:	12 October 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:	Nil

PURPOSE OF THE REPORT

To present details of correspondence with the Department of Local Government, Sport and Cultural Industries (DLGSC) from 15 September 2023 to 11 October 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.

This matter was discussed at a Council Forum held on 20 September 2023, where 6 Councillors were present with 2 of those Councillors attending online.

The above resolution requires that the CEO submits a report to Council. There was a consensus at the forum, that in accordance with the above resolution, the report did not need to include correspondence received or sent as an attachment. Correspondence can be made available to Councillors through the Council Hub upon request.

COMMENTS AND DETAILS

The following table provides a summary of correspondence with the DLGSC of a governance nature since 14 September 2023.

Type	Date	Description
Incoming	19/09/2023	Feedback on the Draft Improvement Action Plan by DLGSC.

Type	Date	Description
Outgoing	19/09/2023	Shire of Toodyay - Request for extension to 31 October 2023 to submit annual financials.
Outgoing	29/09/2023	Local Government Standards Panel - Findings and Reasons for Findings relating to complaint.
Incoming	04/10/2023	DLGSC - Approval of extension to 31 October 2023 to submit annual financials.

Council is informed of any action undertaken regarding the above, through Council workshops.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Local Government, Sport and Cultural Industries.

Strategic:

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

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

O10.1 Keep community members engaged and informed 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:

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

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council notes the correspondence with the Department of Local Government, Sport and Cultural Industries from 15 September 2023 to 11 October 2023, as detailed in this report.

9.3.3 2024 Council and Committee Meeting Schedule

Date of Report:	31 August 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:	Nil.
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Proposed 2024 Council and Committee Meeting Schedule.

PURPOSE OF THE REPORT

To consider adoption of the 2024 Council and Committee Meetings Schedule.

BACKGROUND

The calling of Council meetings is regulated by Section 5.4 of the *Local Government Act 1995*. The regulations about Council and Committee meetings are referred to in Section 5.25(1)(g) of the *Local Government Act 1995*, which specifically refers to the giving of public notice of the date for Council or Committee meetings.

COMMENTS AND DETAILS

This report proposes that Council and Committee meetings continue to be held on Wednesdays at the times specified on the attached schedule (**Attachment 1**).

It is proposed that Ordinary Council Meetings continue to be held at 1pm on the fourth Wednesday of the month (except in December) with the Agenda Briefing held one week prior, and that no meeting (including workshops) is held in January.

The meeting times of some Committee Meetings have been amended to be able to fit into the schedule of meetings all the Council workshops, particularly those related to the development of the 2024/25 Budget.

The changes made to this schedule that differ from the 2023 schedule are:

- Workshops will be held on the first Wednesday of each month; and
- The Audit and Risk Committee and the Local Emergency Management Committee will commence their meetings at 10.00am.

As the 2023 Ordinary Election will result in there being only seven Elected Members forming Council, a discussion took place at a Council Workshop held on 11 October 2023 as to how

committee representation might change. As a result, it is proposed to disband the Museum Advisory Committee, which is why no meetings appear on the attached schedule.

The Committee Book, presented in a separate report to the Agenda, was amended to reflect the changes made to the schedule in the 2024 year.

IMPLICATIONS TO CONSIDER

Consultative:

At a Council Workshop held on 11 October 2023, the schedule was discussed with current Councillors. There were six in attendance, four of which were online.

Strategic:

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

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:

Governance Framework

Council Forums

Financial:

Local public notice will be placed in the local print media which will incur a cost that can be met through the Shire's advertising budget.

Legal and Statutory:

Local Government Act 1995

5.4 Calling Council Meetings;

5.20 Decisions of councils and committees;

5.25 Regulations about council and committee meetings and committees

Local Government (Administration) Regulations 1996

Regulation 12 Meetings, public notice of (Act.s.5.25(1)(g))

Shire of Toodyay Standing Orders Local Law 2008

Parts 2.2 and 2.4

Risk related:

If the decision to set the schedule for 2024 is delayed, it may become a compliance issue because the calling of Council Meetings is regulated through Section 5.4 of the *Local Government Act 1995*. This report mitigates the risk.

Workforce related:

Once the meeting schedule is adopted by Council, Shire officers will create the meetings on the Shire’s website, place them in relevant diaries and prepare advertisements for the local newspaper.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION 1

That Council adopts the 2024 Council and Committee Meeting Schedule as attached to this report at **Attachment 1**.

9.3.4 Policy Review Update

Date of Report:	11 October 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Executive Assistant S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	OCM 23 February 2022 OCM 26 October 2022 Item 9.3.4 OCM 26 April 2023 Item 9.3.2
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Policy List

PURPOSE OF THE REPORT

To provide an update on the progress of the Policy Review (**Attachment 1**).

BACKGROUND

Council resolved to implement a review of all Shire Policies at the February 2022 Ordinary Council Meeting. Officer have been working through the list of policies, prioritising those t

COMMENTS AND DETAILS

Attachment 1 provides a detailed of list of policies and their review status. The table below provides a summary for Council's information.

Area	Total # policies	Policies Reviewed	Priorities O/S	Comment
Administration	12	10	2	CCTV Policy will be reviewed when the MOU is arranged with Toodyay Police. Corporate Documents Policy is set for review in 2024 however the attachment to this policy was revised recently and will be provided to Councillors at the November workshop for endorsement in December 2023.
Community	8	8	0	The next review commences in 2025.

Area	Total # policies	Policies Reviewed	Priorities O/S	Comment
Finance	12	12	0	The next review commences in 2025.
Governance	19	16	3	<p>After the ordinary Election the Code of Conduct for Council Members, Committee Members and Candidates will be provided at the November meeting for review in accordance with the Shire's compliance calendar.</p> <p>The Committee Book is being presented to the October 2023 OCM.</p> <p>The Audit and Risk Committee Charter and the Statement of Business Ethics will be brought to the Audit and Risk Committee in December 2023 and then to Council.</p>
Infrastructure	6	4	2	Vehicle Crossover and Vehicle Crossover Specifications will be brought to Council in November 2023.
Local Planning	26	15	11	<p>7 policies were approved for advertising and 3 have been presented to the October 2023 Council Meeting.</p> <p>Policies yet to come back to Council following advertising:</p> <ul style="list-style-type: none"> • Ancillary Accommodation - to be renamed Ancillary Dwellings • Use of Sea Containers & Other Similar Storage Structures - renamed to Use of Shipping Containers and Similar Storage Structures • Central Toodyay Heritage Area • Extractive Industries and Waste Disposal <p>4 policies are yet to be reviewed. They are:</p> <ul style="list-style-type: none"> • Development in the Residential Development Zone; • Extractive Industries – Road Contributions; • Shire as a Developer; and

Area	Total # policies	Policies Reviewed	Priorities O/S	Comment
				<ul style="list-style-type: none"> Subdivisional Development Guidelines (Previously E.1)
Regulation	6	3	2	<p>Regulatory Compliance Policy was adopted for advertising in February 2022. It is planned to be brought to Council in December 2023.</p> <p>Trading in Thoroughfares and public places is planned to be brought to Council in November 2023. However, the review of local laws may affect timing.</p>
Human Resources Policies	4	1	3	<p>Vehicle usage and loss of driver's licence policies will be brought to the Audit and Risk Committee in December 2023 and then to Council.</p> <p>The Risk Management Framework, although not a policy, is intended to be brought to the Audit and Risk Committee in February 2024, and then to Council.</p>
Total	93	77	16	

77 out of 93 policies have been reviewed in the past 20 months. 5 new policies were created and 7 were revoked. Comments are provided in the attached spreadsheet.

Council indicated that the number of policies to be considered at each Council meeting should be limited to eight (8) to manage workload. This and the volume of other non-policy related work has affected officer capacity to make more progress.

The dates indicated in the attached spreadsheet are indicative only. They may be amended to accommodate this limit and the capacity of officers. Where complex policies are required to be considered, additional workshops may be scheduled.

IMPLICATIONS TO CONSIDER

Consultative:

Policies are provided to Councillors on the Teams environment for comment before workshoping and presentation to Council.

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9: Responsible and effective leadership and governance.

O9.1 Provide strong, clear and accountable leadership.

Policy related:

In November 2021, Council adopted its Corporate Documents Policy which outlines what is to be included in a policy document and the process for its development.

Financial:**Advertising Local Planning Policies**

The main cost associated with policy review is advertising - approximately \$250 per advertisement. Local planning policies require initial advertising for public comment followed by a second notice informing of a Council resolution to proceed with a policy. These costs have been considered in the 2023/24 adopted budget.

Professional Consultancy Fees

The Shire may engage the services of a suitably qualified professional contractor to assist with the development and/or drafting of policies for key policy areas such as heritage, environmental management and extractive industries.

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

s.2.7 Role of Council

Planning and Development (Local Planning Schemes) Regulations 2015

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 which are guidelines used to assist the local government in making decisions under the local planning scheme.

Risk related:

The risk of Council not receiving the Policy Review update is low.

Workforce related:

Reviews of this nature place additional yet necessary additional demands on workforce time and resources. The Shire's compliance register is communicated to all Shire staff and maintained on a regular basis.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the Policy Review Update provided at **Attachment 1** to this report and notes the progress to date.

9.4 INFRASTRUCTURE AND ASSETS

Nil.

9.5 COMMITTEE REPORTS

Nil.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

12 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**12.1 Question Taken on Notice - Cr McKeown**

The following question on notice was received from Councillor McKeown.

Question

The Shire has a policy called Road Upgrade Criteria and one of the reasons given for the closure was the cost of upgrading Fitzgerald Terrace. Where did the upgrade of Fitzgerald Terrace rank according to the assessment process described in the Council's Road Upgrade Criteria Policy.

Response from the Executive Manager Infrastructure, Assets and Services

The Road Upgrade Criteria Policy was not applied in this matter – a cost estimate for the construction of the sections of North Street and Fitzgerald Terrace sections of road reserve was carried out, recognising the practical considerations of the road construction requirements. The objective of the Policy is shown below –

To establish a transparent and quantifiable approach for the prioritisation of proposed road upgrade projects across the Shire's Road network for consideration in the next financial year's budget.

The comparison between North Street and Fitzgerald Terrace was carried out as an aspect of the Bushfire Preparedness and Resilience Strategies Report endorsed by Council in 2022. The subsequent Federal NDRR funding submission was informed by the outcome of the comparison.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the response to the question regarding Fitzgerald Terrace raised by Councillor McKeown be received and noted.

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

BUSHFIRE ADVISORY COMMITTEE MEETING 1 NOVEMBER 2023

ENVIRONMENT ADVISORY COMMITTEE MEETING 1 NOVEMBER 2023

LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING 8 NOVEMBER 2023

AGENDA BRIEFING 15 NOVEMBER 2023

ORDINARY COUNCIL MEETING 22 NOVEMBER 2023

AUDIT & RISK COMMITTEE MEETING 6 DECEMBER 2023

16 CLOSURE OF MEETING