



Ordinary Council Meeting

27 March 2024

Commencing at 1:00 PM

AGENDA

Notice of Meeting.

To: The President and Councillors.

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

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

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

An Agenda Briefing will be held at the same venue as above on 20 March 2024, commencing at 1.00pm to discuss the contents of this agenda.

Tabitha Bateman

ACTING 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

Information about Council Meetings is located on the website

<http://www.toodyay.wa.gov.au/Council/Council-Meetings>

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

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

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



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

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

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

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

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

Nil.

4.2 PUBLIC QUESTION TIME**5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 28 February 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 28 February 2024 be confirmed.

5.2 Special Meeting of Council held on 13 March 2024**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 13 March 2024 be confirmed.

5.3 Agenda Briefing held on 20 March 2024

OFFICER'S RECOMMENDATION

That the Notes of the Agenda Briefing held on 20 March 2024 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's announcement, in accordance with the *Shire of Toodyay Standing Orders Local Law 2008* (Section 4.3) is as follows:

8.1 Shire President activities

- Visited the Evacuation Centre in the Memorial Hall on 21 and 22 December.
- With the CEO, met with the Sergeant of the Toodyay Police on 16 January.
- With the CEO, met with the Editor of the Toodyay Herald on 18 January.
- Attended the Australia Day celebrations and Citizenship Ceremony at the Toodyay Recreation Centre on 26 January.
- Attended the opening of the half court-basketball facility at Morangup on 29 January; this event was also attended by Melissa Price MP.
- Attended the Wheatbelt Secondary Freight Network Steering Committee meeting in Midland on 30 January.
- Attended the Regional Road Group Avon Sub-Group meeting in Toodyay on 15 February.
- With the Deputy President, met with the Executive Director of the Department of Local Government Sport and Cultural Industries by Zoom on 12 February.
- Met with finance and governance officers of the Department of Local Government Sport and Cultural Industries in Toodyay on 16 February.
- Attended the WALGA Avon-Midland Zone meeting in Gingin on 23 February.

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

Nil.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 MOU Approval for Avon Valley Alliance

Date of Report:	23 February 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	TOU5
Author:	K Hardie – Economic Development Coordinator
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	No
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Avon Valley Alliance MOU; 2. Avon Valley Alliance Minutes of a Meeting that was held on 15 Feb 2024; 3. Destination Perth Corporate Membership Report FY 2023.

PURPOSE OF THE REPORT

To present the Avon Valley Alliance Memorandum of Understanding (MOU) for Council’s consideration and support.

BACKGROUND

The Avon Valley Alliance began in 2019 when Avon Valley Inc. folded. An informal group worked together on regional tourism and marketing projects until the formation of the partnership with Destination Perth. A formal MOU had not been drawn up.

The Avon Valley Alliance currently comprises five (5) member councils, including the Shires of Toodyay, Goomalling, Beverley, Northam, and York. Each member council contributes annually towards the marketing and promotion of the Avon Valley. The MOU for Avon Valley Alliance is asking Councils to commit from 2024 - 2027.

The Shire’s Economic Development Officer attends the Avon Valley Alliance meetings as a Shire of Toodyay representative.

COMMENTS AND DETAILS

The Advisory Group met in February 2024 to discuss the following:

- Drafting of the MOU;
- Presentation of the draft to Councils in February and March for endorsement;
- Website planning and;

- Strategic planning.

For the 2023/24 financial year, of \$27,500. \$5,500 per Shire to Destination Perth.

Budget report from 2022/2023 attached.

The financial commitment of \$2,500 per annum is the maximum requested on any given year unless unanimously agreed upon by parties. Investment will be contributed on a project basis, with no monies held on account.

The Avon Valley Alliance and Destination Perth has been a positive and productive collaboration.

MOU attached **Attachment 1**. Minutes of the Advisory Group meeting held 15 Feb 2024 are attached at **Attachment 2**. Annual Report 2022/2023 from DP at **Attachment 3**.

IMPLICATIONS TO CONSIDER

Consultative:

Member Councils of the Avon Valley Alliance – Toodyay, Goomalling, Northam, York and Beverley.

Destination Perth

Strategic:

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

Outcome 8: Toodyay is a popular tourism destination.

08.1: Collaborate with local businesses to promote and deliver exceptional tourism experiences.

08.1.1 Provide funding contribution to the Destination Perth Avon Valley Alliance to market Toodyay to Tourists and visitors.

Policy related:

Nil.

Financial:

Commitment to The Avon Valley Alliance will require an ongoing budgetary allocation of \$2,500 per financial year for the life of the MOU. This amount can be accommodated within the Shire's annual marketing and promotion budget. The expenditure has been included in the annual budget since 2017.

Legal and Statutory:

Nil

Risk related:

Financial or reputational risks associated with this report are considered moderate. The Avon Valley Alliance has steadily grown since its formation. With the assistance of Destination Perth's support and substantial marketing, the Avon Valley region is gaining momentum. Once the MOU is signed, Officers will maximise on the use of shared branding, website, social media, and marketing campaigns. In the event Council chose not to support the MOU, there could be a financial and reputational implications in addition to reduced tourism opportunity, not only for the Shire but also for local businesses.

Workforce related:

The actions arising from the Officers recommendation can be managed within existing Shire resources. Officers from the member councils, and with the support of Destination Perth, will continue to collaborate and expand on the opportunities and future projects as developed.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Approves Avon Valley Alliance Memorandum of Understanding, as attached (**Attachment 1**) with an expiry date of 30 June 2027.
2. Requests the CEO to include an allocation of \$2,500 in the 2024/25 draft budget as the Shire of Toodyay's contribution to the Avon Valley Alliance.

9.2.2 Monthly Financial Statements - February 2024

Date of Report:	23 February 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Acting CEO
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 Statement as at 29 February 2024 2. Supplementary Information as at 29 February 2024

PURPOSE OF THE REPORT

This report provides Council with financial information for the period ending 29 February 2024.

BACKGROUND

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires a local government to prepare each month a statement of financial activity including the sources and applications of funds, as compared to the budget and the year-to-date budget.

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. 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 the month ending 29 February 2024.

Outstanding Rates

The notices for rates and charges levied for 2023/24 were raised in September 2023 after adoption of the annual budget. Council approved revised rates due dates at its Ordinary Council Meeting held 25 October 2023 as a result of challenges faced during rates notice production.

The *Local Government Act 1995* provides for ratepayers to pay rates in full or by instalments. The revised due dates for 2023/24 are as follows:

Instalment	Due Date
First Instalment	2 November 2023
Second Instalment	2 January 2024
Third Instalment	4 March 2024
Fourth Instalment	6 May 2024

The total outstanding rates balance at the end of February 2024 was \$2,508,825.47 compared to the January 2024 closing balance of \$3,113,935.82.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of February 2024 was \$600,182.25 broken down as follows:

Category	31/01/2024	29/02/2024
> 90 days and over	\$ 20,809.65	\$ 12,605.15
> 60 days and over	\$ 8,058.17	\$ 7,303.60
> 30 days and over	\$ 12,521.17	\$ 5,127.24
Current	\$ 59,979.58	\$ 575,146.26
TOTAL	\$101,368.57	\$600,182.25

The table above shows an increase in the outstanding sundry debtors balance due to progress claim invoices approximating \$522,535 for the grants that have been sent.

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.
DLGSC

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 29 February 2024, the balance of funds held in the Shire's operating accounts was \$218,373.48 and the total of all interest bearing term deposits invested for the period ended 29 February 2024 was \$5,717,100.27

Of the \$5,717,100.27 invested in interest bearing deposits, \$2,531,145.57 relates to reserve funds.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives, for the month ending 29 February 2024 the following:

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

9.2.3 Mid-Year Budget Review 2023/2024

Date of Report:	12 February 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN28
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. TO BE TABLED: Mid-Year Budget Review 2023/24 Summary of Proposed Amendments; 2. TO BE TABLED: Mid-Year Budget Review 2023/24 - Revised Capital Program; 3. TO BE TABLED: Forecasted Statement of Financial Activity as at 30 June 2024

PURPOSE OF THE REPORT

To consider the Mid-Year Budget Review 2023/2024 (**Attachments 1, 2 and 3**) and adopt budget amendments as presented pursuant to r.33A(3) of the *Local Government (Financial Management) Regulations 1996*.

BACKGROUND

Council is required to review the adopted budget and assess actual values against budgeted values for the period at least once a year, after the December quarter pursuant to the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

The results of the mid-year budget review assist with not only forecasting the year-end position but also the following year’s budget planning process by highlighting variations to estimated income and expenditure.

The 2023/24 Annual Budget was adopted by Council on 28 August 2023. At the time of adopting the budget, the following was also resolved:

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996 and AASB 1031 Materiality, resolves that the level to be used in statements of financial activity in 2023/2024 for reporting material variances shall be 10% for variances with a dollar value greater than \$5,000.

Officers use the above resolution as a guide for highlighting any variations and as a basis for any budget amendment requests.

A review of the 2023/24 Adopted Budget and year to date actuals to 31 December 2023 has been undertaken. Officers have reported on major variances in accordance with the above resolution and provided comments where applicable.

COMMENTS AND DETAILS

As part of the annual budget preparation, Officers across the organisation are assigned projects and accounts within the budget for which they are responsible to monitor and manage.

During February 2024, responsible Officers met with the Finance Coordinator to analyse budgets and consider any variations to the adopted budget. The review takes into account a number of factors including what has occurred during the first half of the financial year, the likely operating environment over the remaining months and the estimated impact on the Shire's financial position at year-end.

That being said, the budget review maintained a conservative budget approach but at the same time, budgets were proposed to be increased or decreased to a more realistic estimate where necessary.

The budget amendments from this review incorporate the following adjustments as detailed in the documents tabled to this report:

(a) Adjustments to the budget include:

- (i) The CEO recruitment process not included in the adopted budget - estimated to require approximately \$50,000.
- (ii) The implementation of a fit-for-purpose Records Management System, estimated to be \$96,158.
- (iii) The costs for the Heritage Survey project not included in the adopted budget totalling \$30,000 - dependent on grant approval.
- (i) A timing variance is also expected to affect the capital budget due to projects anticipated to be deferred or carried forward. These include some of the following items:

Project	Expenditure	Revenue
Bejoording Fire Station	\$ 135,000	\$ 135,000
Non-Crown Land Mitigation	\$ 275,539	\$ 137,770
Nottingham Road	\$ 166,976	\$ 83,488
North Street	\$ 145,903	\$ 72,951
Plant & Equipment purchases	\$ 781,212	\$ 298,824
	\$ 1,504,630	\$ 728,033

Construction of the Bejoording Fire Station has been delayed due to an unsuccessful grant application for the 2023/24 financial year. Officers will apply for funding from DFES again for consideration in the 2024/25 budget.

Road projects noted above, have been delayed as a result of unsuccessful grant applications in 2023/2024 however, Officers are confident that these grants would be considered for approval by the State Government, based upon feedback from the funding agencies.

Proposed adjustments to the plant and equipment purchases are a result of high demand for vehicles and extra funds required for the grader. The adjustment for the generator is a result of delays to the signing of the grant agreement.

Additional funds are required from the Asset Development Reserve to fund the roof sheeting renewals, gutters of the building, the Tote area and Horseshoe Bar at Toodyay Racecourse for \$200,000. Officers are unsure how much of these funds will be required prior to 30 June 2024.

IMPLICATIONS TO CONSIDER

Consultative:

Workshops were held with responsible officers. The results of these discussions assisted in the development of the proposed budget amendments as attached to this report.

Information was provided to Councillors on 12 March 2024 for discussion.

Strategic:

The way the Shire leads and operates:

- 2: Consistently improve our governance practices.
- 3: Ensure rigorous organisational systems.

Policy related:

F6 Significant Accounting Policy

F16 Financial Governance Policy

Financial:

The financial impact of the mid-year budget review is detailed within the tabled reports.

Legal and Statutory:

Local Government Act 1995

Section 6.2 Local government to prepare annual budget

Section 6.10 Financial management regulations

Local Government (Financial Management) Regulations 1996

Part 2. Reg 5(g) CEO's duties as to financial management

Part 3. Reg 33A Review of budget

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires a Local Government to conduct a mandatory review between 1 January and 31 March each year and a copy to be forwarded to the Department of Local Government within 30 days.

Risk related:

It is a legislative requirement to undertake a review of the budget and to lodge it with the Department of Local Government, Sport and Cultural Industries. Failure to monitor and financially manage budgeted projects exposes the Shire to significant financial risk. This report helps to mitigate this risk.

It is critical that any projects required to be carried forward are identified and quarantined in order that expenditure is catered for in development of the 2024/25 annual budget. Additionally, grant income received to date for these projects must be recognised as a contract liability at year end and included in the upcoming budget. These funds must not be recognised as revenue for the current year.

The review does not seek to make amendments below the materiality threshold unless strictly necessary. The materiality threshold is set at \$5,000 as adopted by Council. Should a number of accounts exceed their budget within these thresholds, it poses a risk that the forecasted year end position may be understated.

Workforce related:

The budget review process has been managed within current resources.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Adopts the mid-year budget review and supporting information as tabled to this report.
2. Requests the Chief Executive Officer to forward the adopted 2023/24 mid-year budget review to the Department of Local Government, Sport and Cultural Industries within 30 days of Council's adoption.

9.2.4 List of Payments - February 2024

Date of Report:	11 March 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	NA
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Legislative
Attachments:	1. Creditor Payments Listing - February 2024

PURPOSE OF THE REPORT

To present the list of payments raised during December 2023.

BACKGROUND

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

The regulations were amended this year 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 February 2024 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 payments made to employees on a fortnightly basis.

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 February 2024 total \$899,394.15.

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 February 2024 as attached to this report, summarised as follows:	
Municipal Cheques	761.00
Electronic Funds Transfer Payments	832,561.67
Direct Debits	

Payroll	54,342.73
Purchasing Cards	11728.75
TOTAL	899,394.15

9.3 EXECUTIVE SERVICES

9.3.1 Adoption of Amended Local Laws: Cats and Dogs

Date of Report:	10 March 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LAW1
Author:	M Rebane – Executive Assistant
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nov 2023 – Local Law Review
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Amended Cat Local Law 2024; 2. Advert - Cat Local Law; 3. Amended Dog Local Law 2024; 4. Advert - Dog Local Law;

PURPOSE OF THE REPORT

To consider the adoption of the:

1. Cat Local Law 2024 (refer to **Attachment 1**); and the
2. Dog Local Law 2024 (refer to **Attachment 3**).

BACKGROUND

Local laws can only be made when authorised by the *Local Government Act 1995* (the Act) or other written laws but cannot be inconsistent with any State or Federal law.

At the November 2023 Council Meeting it was resolved that:

That Council:

1. Pursuant to section 3.16(4) of the *Local Government Act 1995* (the Act), resolves its intent to not change the *Cemeteries Local Law*; and
2. Pursuant to section 3.16(4) of the Act, resolves its intent to repeal the *Pest Plants Local Law* subject to the *Repeal Local Law 2023* being workshopped by Council;
3. Pursuant to section 3.16(4) of the Act, resolves its intent to workshop and amend the following local laws:
 - (a) *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*;
 - (b) *Cat Local Law*;

- (c) *Dogs Local Law;*
 - (d) *Extractive Industries Local Law;*
 - (e) *Fencing Local Law;*
 - (f) *Health Local Laws;*
 - (g) *Local Government Property Local Law;*
 - (h) *Parking and Parking Facilities Local Law;*
 - (i) *Standing Orders Local Law.*
4. *Determines that the periodic review of the local laws for the Shire of Toodyay has concluded.*

COMMENTS AND DETAILS

There are two local laws that have been amended thus far, by the Officers who enforce these local laws. Pursuant to section 3.12 of the *Local Government Act 1995* (the Act) the Shire of Toodyay, in making a local law, must follow the procedure described, in the sequence in which it is described. Now that the two local laws have been amended significantly, using the WALGA model local laws where available, and through workshopping and desktop reviews by Shire Officers, they are presented to Council for consideration to make them local laws pursuant to section 3.12 of the Act.

It is recommended that Council resolve its intent to adopt the following local laws:

- *Shire of Toodyay Cat Local Law 2024.*
- *Shire of Toodyay Dog Local Law 2024.*

Section 3.12 (2) states:

"At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner."

It is recommended that the Presiding Person read out the following:

Cat Local Law

1. Pursuant to section 3.12 of the *Local Government Act 1995* the Shire of Toodyay resolves its intent to adopt the *Shire of Toodyay Cat Local Law 2024*:
 - (a) The **purpose** of which is to improve the permit conditions, definitions of nuisance behaviour, modification of penalties, and to continue to provide the Shire of Toodyay with measures in addition to those under the *Cat Act 2011* to control the keeping of cats.
 - (b) The **effect** of which will repeal the previous local law, and continue to control cat ownership, to limit the number of cats that can be kept and to specify the places where cats can be kept.
 - (c) The **justification** of which is that it will provide enforcement options for issues that previously were unable to be dealt with by the Shire's authorised officers pursuant to the *Cat Act 2011* and the provisions of its subsidiary legislation.

Dog Local Law

2. Pursuant to section 3.12 of the *Local Government Act 1995* the Shire of Toodyay resolves its intent to adopt the *Shire of Toodyay Dog Local Law 2024*:

- (a) The **purpose** of which is to make provisions about the transferring of dogs to another person, modification of penalties, impounding of dogs, and to control the number of dogs that can be kept on premises and the manner of keeping those dogs, including fencing measures; and to prescribe areas in which dogs are prohibited and as dog exercise areas .
- (b) The **effect** of which will repeal the previous local law, and put in measures related to dog ownership, to limit the number of dogs that can be kept and to extend the controls over dogs which exist under the *Dog Act 1976* .
- (c) The **justification** of which is that it will provide enforcement options for issues that previously were unable to be dealt with by the Shire's authorised officers pursuant to the *Dog Act 1976* and the provisions of its subsidiary legislation.

IMPLICATIONS TO CONSIDER

Consultative:

A workshop on 12 February 2024 with councillors was held to go through the amended local laws being presented with this report. All Councillors were in attendance.

National Competition Policy: Local Laws Review Guidelines

WALGA

Strategic:

Shire of Toodyay Council Plan 2023-2033

The Shire regulates compliance with legislation, regulations, local laws and policies.

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

5.1. Provide responsible planning and development.

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Dogs Policy

Financial:

This proposal will require local notice/advertisement to the value of approximately \$300.00.

Legal and Statutory:

Section 3.12 of the *Local Government Act 1995*

Risk related:

If Council chooses to delay the making of these amended local laws there would be moderate reputational and compliance risks. This report mitigates the risk.

Workforce related:

Council's decision can be implemented with existing resources.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council, pursuant to the provisions of section 3.12(3) of the *Local Government Act 1995*:

1. Resolves its intent to adopt the *Shire of Toodyay Cat Local Law 2024*:
 - (a) The **purpose** of which is to improve the permit conditions, definitions of nuisance behaviour, modification of penalties, and to continue to provide the Shire of Toodyay with measures in addition to those under the *Cat Act 2011* to control the keeping of cats.
 - (b) The **effect** of which will repeal the previous local law, and continue to control cat ownership, to limit the number of cats that can be kept and to specify the places where cats can be kept.
 - (c) The **justification** of which is that it will provide enforcement options for issues that previously were unable to be dealt with by the Shire's authorised officers pursuant to the *Cat Act 2011* and the provisions of its subsidiary legislation.
2. Requests the CEO to advertise a local public notice (**Attachment 2**);
3. Requests the CEO to send to the Minister a copy of:
 - (a) The proposed local law – Refer to **Attachment 1**; and
 - (b) A copy of the public Notice – Refer to **Attachment 2**.
4. Requests the CEO to provide a copy of the proposed local law, in accordance with the notice to any person requesting it.

OFFICER'S RECOMMENDATION 2

That Council, pursuant to the provisions of section 3.12(3) of the *Local Government Act 1995*:

1. Resolves its intent to adopt the *Shire of Toodyay Dog Local Law 2024*:
 - (a) The **purpose** of which is to make provisions about the transferring of dogs to another person, modification of penalties, impounding of dogs, and to control the number of dogs that can be kept on premises and the manner of keeping those dogs, including fencing measures; and to prescribe areas in which dogs are prohibited and as dog exercise areas .
 - (b) The **effect** of which will repeal the previous local law, and put in measures related to dog ownership, to limit the number of dogs that can be kept and to extend the controls over dogs which exist under the *Dog Act 1976* .
 - (c) The **justification** of which is that it will provide enforcement options for issues that previously were unable to be dealt with by the Shire's authorised officers pursuant to the *Dog Act 1976* and the provisions of its subsidiary legislation.
2. Requests the CEO to advertise a local public notice (**Attachment 4**);
3. Requests the CEO to send to the Minister a copy of:

- (a) The proposed local law – Refer to **Attachment 3**; and
 - (b) A copy of the public Notice – Refer to **Attachment 4**.
4. Requests the CEO to provide a copy of the proposed local law, in accordance with the notice to any person requesting it.

9.3.2 Committee Membership: Deputy Committee Members

Date of Report:	10 March 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	GOV1
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	October and November 2023 OCM
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	Nil

PURPOSE OF THE REPORT

To consider re-appointments of Elected Members to deputy member positions pursuant to section 5.11A of the *Local Government Act 1995* (the Act).

BACKGROUND

At the Council meetings held in October and November 2023, the following Elected Members were appointed by Council:

Committee	Primary members	Deputy members
Audit & Risk Committee (ARC)	Cr Dival Cr McKeown Cr McCormick Cr Prater	Cr Madacsi Cr Duri
Environmental Advisory Committee (EAC)	Cr Madacsi Cr McCormick	Cr Dival Cr Prater
Local Emergency Management Committee (LEMC)	Cr Wrench Cr Duri	Cr Madacsi Cr McKeown
Bush Fire Advisory Committee (BFAC)	Cr McKeown Cr Prater	Cr McCormick Cr Dival
Heritage Advisory Committee (HAC)	Cr Dival Cr McCormick	

At an Audit and Risk Committee held on 14 February 2024 it came to light that the Shire had been non-compliant in its appointment of deputies to the committees as the Act states the following:

5.11A. *Deputy committee members*

- (1) *The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.*

** Absolute majority required.*

- (2) *A person who is appointed as a deputy of a member of a committee is to be —*
- (a) *if the member of the committee is a council member — a council member; or*
- (b) *if the member of the committee is an employee — an employee; or*
- (c) *if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or*
- (d) *if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.*
- (3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*
- (4) *A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.*

Standing Orders also states the following:

The Council may appoint one or more Members to be a deputy or deputies for a committee member and, where two or more deputies for the same Member are appointed, the Council is to determine the order of priority among those deputies.

Cr Madacsi and Cr Duri have both resigned from their deputy positions on the Audit and Risk Committee. Cr Madacsi has also resigned from her deputy position on the Local Emergency Management Committee. There have not been any other resignations of Deputy Members from any other Committee.

COMMENTS AND DETAILS

Previously, it had been practice to appoint deputies to the committee so that in the event that another Council member was unable to attend a committee meeting, that council member would contact the deputy to stand in their place at the meeting.

It is recommended that Council consider the reappointment of deputies to multiple councillor positions.

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.***

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

Policy related:

Governance Framework.

Committee Book.

Financial:

Nil

Legal and Statutory:

s.5.11A of *the Local Government Act 1995*.

Risk related:

If Council choose not to appoint deputies there is an low risk that this may affect a quorum for the larger committees, such as the BFAC and LEMC. The risk is moderate to high for committees such as the ARC, the HAC and the EAC. The risk is that without deputy members being available at times when the other members cannot be at the meeting, the quorum of those meetings may not be achieved, and therefore the meeting cannot be held. This report mitigates the risk and sets the future appointment of deputies on the correct path.

Workforce related:

Once the recommendation is resolved by Council Officers will update the Committee Book and republish it to the Shire's website and communicate its change across the organisation. Community members of committees will be notified of Council's decisions through either email or teams.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1 – Environment Advisory Committee

That Council :

1. Appoints Cr Dival as the first preference and Cr Prater as the second preference to **Primary Member Cr Madacsi** on the Environment Advisory Committee.
2. Appoints Cr Prater as the first preference and Cr Dival as the second preference to **Primary Member Cr McCormick** on the Environment Advisory Committee.

OFFICER'S RECOMMENDATION 2 – Audit & Risk Committee

That Council :

1. Appoints Cr as the first preference and Cr as the second preference to **Primary Member Cr Dival** on the Audit and Risk Committee.
2. Appoints Cr as the first preference and Cr as the second preference to **Primary Member Cr McCormick** on the Audit and Risk Committee.
3. Appoints Cr As the first preference and Cr as the second preference to **Primary Member Cr Prater** on the Audit and Risk Committee.
4. Appoints Cr as the first preference and Cr as the second preference to **Primary Member Cr McKeown** on the Audit and Risk Committee.

OFFICER'S RECOMMENDATION 3 – Heritage Advisory Committee

That Council :

1. Appoints Cr as the first preference and Cr as the second preference to **Primary Member Cr Dival** on the Heritage Advisory Committee.
2. Appoints Cr as the first preference and Cr as the second preference to **Primary Member Cr McCormick** on the Heritage Advisory Committee.

OFFICER'S RECOMMENDATION 4 – LEMC

That Council :

1. Appoints Cr Madacsi as the first preference and Cr McKeown as the second preference to **Primary Member Cr Wrench** on the Local Emergency Management Committee.
2. Appoints Cr McKeown as the first preference and Cr Madacsi as the second preference to **Primary Member Cr Duri** on the Local Emergency Management Committee.

OFFICER'S RECOMMENDATION 5 – Bush Fire Advisory Committee

That Council :

1. Appoints Cr Dival as the first preference and Cr McCormick as the second preference to **Primary Member Cr McKeown** on the Bush Fire Advisory Committee.
1. 2. Appoints Cr McCormick as the first preference and Cr Dival as the second preference to **Primary Member Cr Prater** on the Bush Fire Advisory Committee.

9.3.3 Department of Local Government, Sport & Cultural Industries correspondence

Date of Report:	15 March 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7/ICR94409
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. DLGSC Correspondence.

PURPOSE OF THE REPORT

To receive correspondence of a governance nature or non-compliance matters between the Shire of Toodyay and the Department of Local Government, Sport and Cultural Industries (DLGSC).

BACKGROUND

Council resolved in 2018:

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

COMMENTS AND DETAILS

DLGSC described in the table below is attached (**Attachment 1**).

Document Number	Date sent / received	File Ref	Description
ICR94680	29/02/2024	STR87	Shire of Toodyay - outcomes regarding Temporary CEO
ICR94683	01/03/2024	MEM1	Meeting Minutes - 16 February 2024

At the February 2024 Council Meeting Council resolved to receive correspondence dated 21 December 2023 that had been missing from the February 2024 DLGSC Correspondence report. This is also attached together with the above correspondence.

It is recommended that Council receive the correspondence.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Local Government, Sport and Cultural Industries.

Strategic:

Plan for the future: Shire of Toodyay Council Plan – 2023 to 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:

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:

The risk in Council not choosing to receive the DLGSC correspondence is moderate however from a reputational and compliance perspective the risk could be high. This report mitigates the risk.

Workforce related:

Officers are required to formally report on all correspondence with the DLGSC. There is no action to be taken once Council receives the correspondence.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the correspondence with the Department of Local Government, Sport and Cultural Industries as attached to this report.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Bush Fire Mitigation Works Program Tender

Date of Report:	28 February 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIR1
Author:	R Koch – Community Emergency Services Manager
Responsible Officer:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Bush Fire Mitigation Program of Works (Treatments) MAF 2023/24 Round 2; 2. Evaluation Report – Bush Fire Mitigation Works Program Tender (TEN94/2024). (confidential) <i>Section 5.23(2)</i> <ul style="list-style-type: none"> (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government (e)(i) a matter that if disclosed, would reveal a trade secret where the trade secret or information is held by, or is about, a person other than the local government (e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)

PURPOSE OF THE REPORT

To consider awarding the tender for the Shire’s Bush Fire Mitigation Works Program utilising the Mitigation Activity Fund (MAF) Grant funding.

BACKGROUND

The Shire of Toodyay (the Shire) is an extreme bushfire risk area, as highlighted in the Shire’s Bush Fire Risk Management Plan (BRMP), and associated Bush Fire Risk Management Software (BRMS) assessments.

To assist in managing these risks, the Shire successfully secured external funding of \$215,000 (ex GST) through the Mitigation Activity Fund (MAF) for the 2024 calendar year. The expenditure will therefore span the 2023/24 and 2024/25 financial years. Calendar year-based mitigation programs are more suited to the seasonal conditions which are critical to best practice mitigation.

The Shire recently publicly advertised a tender (TEN94/2024) for the execution of bush fire mitigation program works around the Shire. These works encompass firebreak and access track construction/upgrades, and vegetation management via several methods including mechanical, chemical, biological (grazing) and hazard reduction burning.

COMMENTS AND DETAILS

The tender was advertised with each of the 49 treatments assigned to one of four categories of work:

1. Fuel Reduction - Prescribed Burning
May include mechanical elements in creating and maintaining control lines.
2. Fuel Reduction - Mechanical Works
May also involve elements of chemical treatment(s).
3. Fuel Reduction - Chemical Works
May also involve elements of mechanical treatment techniques (i.e., slashing).
4. Fire Access Track Works
Includes associated manual or mechanical vegetation management.

Tenders were invited for all treatments in one or more of the above categories.

Details of the program of works and category allocation is included as **Attachment 1** - Bush Fire Mitigation Program of Works (Treatments).

Four tenders were received from four different firms:

1. Avon Earthworks (Buckland, WA);
2. Fire Mitigation Services (Northam, WA);
3. Martins Environmental Services (Harvey, WA);
4. Intelife (Balcatta, WA).

While some tender categories exceeded estimates for the category, all tenders may be considered within overall estimates (allocated funding), and thus the evaluation focused on the tender with best capabilities to deliver.

Evaluation Summary:

A tender evaluation process was conducted by the following Officers:

- Community Emergency Services Manager.
- Executive Manager Infrastructure, Assets and Services; and the
- Reserves Management Officer.

The tender evaluation process rated the tenders on the following factors and weightings:

Item	Evaluation Criteria	Weight (%)	Scoring Methodology
1	Company Experience & Capability	40	A score out of 40 will be assigned to each Tenderer based on the evidence provided by the Tenderer of their firm's previous experience on similar projects and capability.
2	Nominated Project Team	10	A score out of 10 will be assigned to each Tenderer based on the evidence provided by the Tenderer of the experience and capabilities of their nominated project team members.
3	Program	20	A score out of 20 will be assigned to each Tenderer based on the evidence provided by the Tenderer in the form or a proposed construction program to undertake the Works.
4	Tendered price	30	A score out of 30 will be assigned to each Tenderer based on the best value for money offer by the Tenderer.
TOTAL		100%	

The evaluation criteria weightings emphasise experience and capability with bush fire mitigation projects. Funding for the project is fixed by the MAF Funding allocation and thus overall value within the budget, accounting for experience, project team and program timeline was the objective of the tender.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Fire and Emergency Services Regional Superintendent (MAF application approval).

Department of Fire and Emergency Services Goldfields-Midlands Bush Fire Risk Management Officer.

Department of Fire and Emergency Services Bush Fire Risk Mitigation Branch (assessment of MAF application and awarding of grant).

Strategic:

This program of works addresses actions in the Shire of Toodyay *Bush Fire Risk Management Plan*. The program also uses a range of methods best suited to various vegetation and terrain types as per the council endorsed *Bush Fire Preparedness and Strategies Report*.

Policy related:

Purchasing Policy (FIN3).

Financial:

The tender amount is fully funded by the Mitigation Activity Fund 2023/24 Round 2 grant awarded by Department of Fire and Emergency Services.

Legal and Statutory:

All works will be carried out under *Bush Fires Act 1954* Section 33 Notice to the Shire of Toodyay which provides clearing of vegetation exemption under Schedule 6, Clause 1 of the *Environmental Protection Act 1986*. The *Bush Fires Act 1954* Section 36 also applies to these works which provides clearing of vegetation exemption under Schedule 6, Clause 1 of the *Environmental Protection Act 1986*.

Checks in relation to Declared Rare Flora and Fauna (DRF) are to be carried out prior to commencement of works and appropriate permits sought from the Department of Water and Environmental Regulation where the treatments cannot be modified to avoid the taking of the identified DRF.

Should there be any location where ground disturbance may require an approval under the Aboriginal Heritage Act legislation, consultation will be carried with the relevant Aboriginal representative group prior to consultation with the Department of Planning, Land and Heritage.

Risk related:

The program of mitigation works related to this tender and report is designed to minimise the severity and impacts of bush fire.

There is a risk that not awarding this Bushfire Mitigation Works Tender would severely affect the Shire's obligation to mitigate land which it manages, leading to increased bush fire impact severity and impact on property and life.

Consequence: Catastrophic (5)

Likelihood: Possible (3)

Calculated Risk: High (15)

There is a risk that not awarding this Bushfire Mitigation Works Tender would severely affect the Shire's obligation to mitigate land which it manages leading to a negative public perception (reputation) of the Shire.

Consequence: Moderate (3)

Likelihood: Almost Certain (5)

Calculated Risk: High (15)

Workforce related:

While the mitigation works are directly and fully funded by the Mitigation Activity Grant, project management costs are not. These are borne by the Shire in the form of in-kind resourcing from existing staff (in this case Community Emergency Services Manager and Reserves Management Officer). MAF projects of this size and scale represent a significant component of officer workloads. Selection of Fire Mitigation Services & Avon Earthworks, who have previously completed MAF treatments for the Shire (in all four treatment type categories), will reduce this overhead by selection of contractors with existing local knowledge of the Shire, treatment sites and treatments.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council awards tender TEN94-2024 to the following contractors, for the treatment categories and contract values below:

1. Fuel Reduction - Prescribed Burning: Fire Mitigation Services Pty Ltd to the value \$30,864.00 excluding GST.
2. Fuel Reduction - Mechanical Works: Fire Mitigation Services Pty Ltd to the value \$58,335.00 excluding GST.
3. Fuel Reduction - Chemical Works: Fire Mitigation Services Pty Ltd to the value \$52,097.00 excluding GST.
4. Fire Access Track Works: Avon Earthworks Pty Ltd to the value \$8,230.00 excluding GST.

9.4.2 Bush Fire Advisory Committee Recommendations - 7 February 2024

Date of Report:	28 February 2024
Applicant or Proponent:	Bush Fire Advisory Committee
File Reference:	FIR1
Author:	R Koch – Community Emergency Services Manager
Responsible Officer:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. BFAC Minutes from 07 February 2024 Meeting

PURPOSE OF THE REPORT

To receive the minutes (**Attachment 1**) from the Bush Fire Advisory Committee Meeting (BFAC) held on 7 February 2024 and consider a recommendation made by the BFAC.

BACKGROUND

The BFAC made a recommendation to Council at their February 2024 meeting as follows:

That Council considers an increase in the CESM's credit card to enable an adequate limit for support during emergencies.

COMMENTS AND DETAILS

The BFAC raised the CESM Corporate Credit Card as an item, in response to the CESM needing to expend personal funds to meet the welfare and other incidental requirements of the Bush Fire Service during December 2023; which was not the first occurrence of that need and is therefore not limited to the December event.

The current Corporate Credit Cards Policy (FIN11) assigns a credit limit of \$2,000 to the CESM role. Welfare and incidental expenditure in December in support of the Bush Fire Service was over \$4,000. While some expenditure was put 'on account' by suppliers, the majority required upfront payment.

It is recommended that Council endorses the Committee's recommendation.

IMPLICATIONS TO CONSIDER**Consultative:**

Nil.

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 1. A safe and healthy community.

1.1. *Facilitate community safety.*

Recognising the role volunteers play in our community and the need to support and foster volunteering.

Policy related:

Corporate Credit Cards Policy (FIN11).

Financial:

Nil.

Legal and Statutory:

Bush Fires Act 1954

Workplace Health and Safety Act 2020

Risk related:

Safe and effective management of Bush Fire Brigades is a responsibility of Local Government under the *Bush Fires Act 1954* and other legislation, most notably the *Workplace Health and Safety Act 2020*.

Improving and reviewing procedures and standards in relation to the operation of our Bush Fire Service personnel reduces exposure to risk.

Workforce related:

Officers will present the proposed Transaction Cards Policy at a Council Workshop, prior to being considered by Council Ordinary Council Meeting.

VOTING REQUIREMENTS

Simple Majority

BUSH FIRE ADVISORY COMMITTEE RECOMMENDATION 1 1

That Council receives the extract of the Bush Fire Advisory Committee Minutes of meeting (**Attachment 1**) held on 07 February 2024.

BUSH FIRE ADVISORY COMMITTEE RECOMMENDATION 2

That the Bush Fire Advisory Committee Recommends to Council:

That Council considers an increase in the CESM's credit card to enable an adequate limit for support during emergencies.

9.5 COMMITTEE REPORTS

9.5.1 EAC recommendations from meetings held on 29 November 2023 and 10 January 2024

Date of Report:	10 January 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC14
Author:	M Rebane – Executive Assistant
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. EAC Minutes from 29 Nov 2023; and 2. EAC Minutes from 10 Jan 2024.

PURPOSE OF THE REPORT

To receive the minutes of the Environmental Advisory Committee (EAC) Meeting held on 29 November 2023 and 10 January 2024, and consider the recommendations made by the EAC at those meetings (Refer to **Attachment 1** and **Attachment 2**).

BACKGROUND

The EAC met on 29 November 2023 and considered the following items:

1. Community Membership
2. Purpose and objectives of the Environmental Advisory Committee meeting; and
3. Status of Environment Sustainability Officer

The EAC met again on 10 January 2024 and considered the following items:

1. Local Biodiversity and Native Vegetation Management Project Update
2. Polyphagus Beetle Threat; and
3. Status of Environment Sustainability Officer

COMMENTS AND DETAILS

At the EAC meeting held in November 2023:

- (a) The Executive Manager Development and Regulation discussed Community membership on the EAC. No formal recommendation was made by the Committee to Council.

- (b) Cr Madacsi raised the “Purpose and Objectives” of the Committee as an item of new business during the meeting held in November 2023 to give the new membership on the Committee an opportunity to consider whether the purpose and objectives were still relevant and achievable. The move to discuss the matter was for the purpose of ensuring the objectives were realistic, given resourcing challenges and the like. It is recommended that the recommendation made by the Committee be endorsed by Council.
- (c) The recommendation made by the EAC in regard to receiving an update on the status of the advertisement of the Environmental Sustainability Officer position was in fact to receive a copy of the application package for that role. This was achieved by making the application package an attachment to the minutes of that meeting.

At the EAC Meeting held in January 2024:

- i. The Executive Manager Development and Regulation provided an overview of the progress made for the recruitment of the Environmental Sustainability role. At the time the role had been re-advertised. The Committee made a recommendation to Council as follows:

That Council:

1. Notes the progress of the recruiting for the Environmental Sustainability Role.
2. Requests a further update on this no later than the April 2024 OCM.

There had been no further applications received for this position following its re-advertising. Officers, in liaison with the CEO at the Shire of Victoria Plains determined to amend the wording of the advertisement for the position and re-advertise for a third time on the Seek and Careers at Council platforms.

At the date of writing this report there have been nine applications. The closing date is 22 March 2024, and interviews will be conducted within two weeks from that closing date. It is the intention of Officers to further update Council through Council Forums and Workshops.

For the purposes of this report, it is recommended that Council endorse the Committee’s recommendation; noting that the above information responds to the recommendation made.

At the EAC meeting held in January 2024:

- (d) The Committee were made aware that until an ESO is appointed, the progress with respect to the Local Biodiversity and Native Vegetation Management Project has been put on hold. It is recommended that Council endorse the Committee’s recommendation.
- (e) The Polyphagus Shothole borer beetle information provided by Cr Madacsi was considered and the Committee asked for Council to request the CEO inform all Shire personnel of the risks. It is recommended that Council endorse the recommendation provided.

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 Provide strong, clear and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995

s.1.7 Local Public Notice

s.5.8 Establishment of Committees

s.5.9 Type of Committees

Risk related:

There are no risks of note related to this report.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the minutes of the meeting of the Environmental Advisory Committee held on 29 November 2023 (**Attachment 1**).

OFFICER'S RECOMMENDATION 2

That Council receives the minutes of the meeting of the Environmental Advisory Committee held on 10 January 2024 (**Attachment 2**).

ENVIRONMENTAL ADVISORY COMMITTEE RECOMMENDATION 1

That Council:

1. Amends the purpose and objectives of the Environmental Advisory Committee to be:

Purpose

Provide guidance and assistance to Council where possible on matters relating to the environment within the Shire of Toodyay.

Objectives

- (a) make recommendations to Council on matters relating to the environment including but not limited to:
 - Protect and enhance natural resources.
 - Reduce, Reuse, Recycle and Recover
 - Sustainability;
 - Climate change resilience and action;
 - (b) educate and generate community interest and participation in matters relating to the above items;
 - (c) provide feedback to Council in relation to point (b) above;
 - (d) provide input and advice to Council on the implementation of environmental strategies and policies.
2. Requests the CEO update the Committee Book with the above details.

ENVIRONMENTAL ADVISORY COMMITTEE RECOMMENDATION 2

That Council:

1. Notes the progress of the recruiting for the Environmental Sustainability Role.
2. Requests a further update on this no later than the April 2024 OCM.

ENVIRONMENTAL ADVISORY COMMITTEE RECOMMENDATION 3

That Council:

1. Requests the CEO inform Shire personnel of the risks of the Polyphagus Shothole borer beetle and recommend they adjust activities to address this issue.
2. Requests the CEO advertise the issue of the Polyphagus Shothole borer beetle as widely as possible including roadside signage, social media, the Shire website and fact sheet at the Waste Transfer Station.

9.5.2 ARC recommendations from meeting held on 14 Feb 2024

Date of Report:	15 February 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2/FIN7
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. ARC Minutes from 14 Feb 2024 meeting. 2. FMR Report (Review of Financial Management, Risk Management, Legislative Compliance and Internal Controls Final Report); (confidential) <i>Section 5.23(2)</i> <i>(f)(i) a matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.</i> <i>(f)(ii) a matter that if disclosed, could be reasonably expected to endanger the security of the local government’s property (under separate cover)</i> 3. PRIS Fact Sheet; 4. CURRENT Audit and Risk Committee Charter; 5. DRAFT Audit and Risk Committee Charter presented by Chair of the Audit and Risk Committee. 6. REVISED Audit and Risk Committee Charter.

PURPOSE OF THE REPORT

To receive the minutes of the Audit and Risk Committee (ARC) Meeting held on 14 February 2024 and consider the recommendations made by the ARC at that meeting (Refer to **Attachment 1**).

BACKGROUND

When Council establishes an audit committee as per the Act and Regulations, the Audit in Local Government guideline published by the Department of Local Government, Sport and Cultural Industries states:

The only powers and duties that can be delegated to a committee are any of the powers and duties of the local government under Part 7 of the Act; that is, those relating to Audit. The committee cannot on-delegate the powers and duties delegated to it.

The ARC met on 14 February 2024 and considered the following Officer reports:

- (a) Item 4.1 Financial Management, Risk Management, Legislative Compliance and Internal Controls;
- (b) Item 4.2 Privacy and Responsible Information Sharing Legislation; and
- (c) Item 4.3 Audit and Risk Committee Charter.

COMMENTS AND DETAILS

The role of the audit committee is to support Council in fulfilling its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, internal and external audit functions, and ethical accountability.

Recommendation 1 – Financial Management, Risk Management, Legislative Compliance and Internal Controls

The ARC Members considered the Officer's Report and the attached FMR Report from Moore Australia. (**Attachment 2**).

At the meeting, the CEO also provided an overview of the Risk Assessment (Audit Regulation 17) report that was provided by Moore Australia as part of their review, advising that she was in the process of writing up actions to address the risks contained in the report. In consultation with the DLGSC, it was intended that this report become the basis for an Improvement Plan, for endorsement by Council.

The ARC requested the CEO to provide an action plan to respond to the actions contained in Moore's Final Report, for review at its meeting to be held 6 March 2024. This is the subject of another report within this agenda.

Recommendation 2 – Privacy and Responsible Information Sharing Legislation

The WA Government drafted new Privacy and Responsible Information Sharing (PRIS) legislation regarding personal privacy protections and the accountability of information sharing within government. The intent of the legislation is to provide Western Australians with more control over their personal privacy, improve the delivery of government services and create local research and development opportunities (**Attachment 3**).

The Officer's report was prepared to inform the ARC members and Council about the upcoming legislation.

Recommendation 3: Audit and Risk Committee Charter

The current charter was adopted by Council at its meeting held on 24 January 2024 (**Attachment 4**).

This charter was initially developed in 2020 and adopted by Council, using the [Office of the Auditor General's Better Practice Guide for Western Australian Public Sector Audit Committees](#) (the Guide) as the basis for its development. This Guide was for the purpose of providing public sector entities with templates to help them establish and maintain an effective Audit Committee.

The Guide states that:

Entities should take care to modify the tools to reflect their legal or regulatory requirements. For example, local government entities will need to adapt these

templates to address the specific requirements of the Local Government Act 1995 and relevant regulations.

The Guide also states that:

The following part of the model charter provides an extensive list of many functions that the audit committee can perform. It is not intended that entities copy all of the functions in these lists. Instead, the accountable authority should review and modify the functions to suit the entity. It is important that the accountable authority and the audit committee agree on these functions.

The ARC met on 14 February 2024 and considered the Item 4.3 Audit and Risk Committee Charter. At this meeting, the Officer recommended that the ARC review the wording of the draft provided by the Chairperson (**Attachment 5**). However, due to timing constraints, Officers were unable to provide timely input prior to production of the ARC agenda, and the Charter was recommended to Council for adoption without amendment.

The draft Charter as presented to the ARC included all of the functions contained within the Guide's template, however as the Guide indicates, the charter should be reviewed to suit the functions of the entity and consider potential compliance risks.

Following the ARC meeting, Officers reviewed the draft Charter as presented to the ARC (**Attachment 5**) and made amendments based on the Guideline Number 9 – Audit on Local Government and advice from the DLGSC.

A REVISED Charter has been prepared by Officers for consideration (**Attachment 6**).

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 9 Responsible and effective leadership and governance.

09.1 Provide strong, clear and accountable leadership.

Policy related:

Corporate Documents

Council delegates roles and responsibilities

Financial Governance

Internal Control

Legislative Compliance.

Risk Management

Financial:

Nil.

Legal and Statutory:

r.16. Local Government (Audit) Regulations 1996

r.17 Local Government (Audit) Regulations 1996

r.5 *Local Government (Financial Management) Regulations 1996*

s.1.7, s.5.20, s.7.12A, and s.7.9 *Local Government Act 1995*

[*Audit in Local Government – operational guidelines for Audit Committees*](#)

Risk related:

This report mitigates the following risks:

Financial Management, Risk Management, Legislative Compliance and Internal Controls

Elevating risk management, internal controls, financial management, and legislative compliance practices is imperative to uphold the Shire's commitment to excellence, transparency, and accountability. By prioritising these areas and implementing requisite actions, the governance framework will be fortified, and risks will be mitigated while fostering sustainable growth and development for our community.

The risk in Council not receiving the reports, using the current Shire of Toodyay Risk Matrix is moderate (5).

Recommendation 2 – Privacy and Responsible Information Sharing Legislation

There is a moderate risk should ARC and Council not be kept abreast of legislative updates or changes.

Audit Committee Charter

There is a risk of non-compliance if the Council was to proceed with adopting the Draft Charter as provided to the ARC (**Attachment 5**). The risk is considered a moderate (5) and high (15).

Workforce related:

Significant Officer time is involved in developing the Action Plan and continuing to make improvements that were addressed in the FMR Report.

A significant amount of Officer time is also required towards the completion of all the milestones for the PRIS legislation.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the minutes of the Audit and Risk Committee Meeting from their meeting held on 14 February 2024 (**Attachment 1**).

AUDIT AND RISK COMMITTEE RECOMMENDATION 1

That Council:

1. Receives the Final Report from Moore regarding the Review of Financial Management, Risk Management, Legislative Compliance and Internal Controls (**Confidential Attachment 2**).

2. Requests the CEO to develop and provide an action plan to respond to the actions contained within the Final Report from Moore for consideration and review by the ARC at their March 2024 meeting.

AUDIT AND RISK COMMITTEE RECOMMENDATION 2

That Council notes the Officer's Report relating to Privacy and Responsible Information Sharing legislation recently introduced.

OFFICER'S RECOMMENDATION 2

That Council:

1. Notes the Audit and Risk Committee recommendation made at their meeting held on 14 February 2024; and
2. Adopts the REVISED Audit and Risk Committee Charter as attached (**Attachment 6**) to this report.
3. Requests the CEO make typographical amendments to the Audit and Risk Committee Charter, including formatting to ensure its consistency with the Corporate Documents Policy.

9.5.3 ARC Recommendations from Meeting held on 6 March 2024

Date of Report:	9 March 2024
Applicant or Proponent:	Audit and Risk Committee
File Reference:	COC2
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Audit and Risk Committee Minutes of meeting held on 6 March 2024; 2. 2023 Compliance Audit Return; 3. CURRENT Local Government Payments and Gifts to Members Policy; 4. REVISED Local Government Payments and Gifts to Members Policy; 5. Datascape Migration Action Plan (confidential) Section 5.23(2) <i>(f)(i) a matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.</i> <i>(f)(ii) a matter that if disclosed, could be reasonably expected to endanger the security of the local government’s property (under separate cover)</i> 6. Implementation Quote; (confidential) Section 5.23(2) <i>(e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)</i> 7. REVISED Risk Management Framework; 8. REVISED Risk Management Policy; 9. DRAFT Risk Assessment & Improvement (Action) Plan; (confidential) Section 5.23(2) <i>(f)(i) a matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful</i>

	<p><i>method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.</i></p> <p><i>(f)(ii) a matter that if disclosed, could be reasonably expected to endanger the security of the local government's property (under separate cover)</i></p>
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PURPOSE OF THE REPORT

To receive the minutes of the Audit and Risk Committee (ARC) Meeting held on 6 March 2024 and to consider the recommendations made by the ARC at that meeting (Refer to **Attachment 1**).

BACKGROUND

The ARC met on 6 March 2024 and considered the following Officer reports:

- (a) 4.4 Compliance Audit Return 2023;
- (b) 4.2 Local Government Payments and Gifts to Members Policy;
- (c) 4.3 Update on the Datascape Migration Project;
- (d) 4.1 Records Management Project 2023/2024;
- (e) 4.5 Risk Management Updates; and
- (f) 4.6 Risk Assessment and Improvement Plan.

COMMENTS AND DETAILS

In addition to the above items, ARC resolved the following as a result of receiving two resignations from deputy members:

That Council requests the CEO to review procedures for the appointment of deputy members of committees in accordance with legislative requirements.

Appointment of members to committees is covered within the legislation which provides that following ordinary elections, Council:

1. Must establish the Audit Committee - with membership of 3 or more persons, by Absolute Majority, and appoint committee members and deputies. [Legislative references: s.7.1A, s.5.8, s.5.9, s.5.10, s.5.11A, and s.5.11 of the Local Government Act 1995](#); and
2. May establish committees (other than Audit) of 3 or more persons, by Absolute Majority, and appoint committee members and deputies. Each Elected Member is entitled to be a member of at least one committee. [Legislative reference: s.5.8, s.5.9, s.5.10, s.5.11A, and s.5.11 of the Local Government Act 1995](#)

In the past, deputy Council Members have been appointed under s.5.11A of the legislation to the degree that they are appointed to replace any of the members who have been appointed primary members, however the legislation requires Council to appoint deputy members to a primary member of a specific committee, and if more than one person is nominated as a deputy for one, or for all members, there needs to be an order of preference as part of Council's decision to appoint deputy members. Officers have provided a report to the March 2024 Council meeting. Please refer to that report for further information.

Recommendations made by the Committee connected with Officer Reports are explained below.

(a) 4.4 Compliance Audit Return 2023 (Refer to Attachment 2)

Local governments are required by legislation to complete an annual Compliance Audit Return by 31 March each year. The Compliance Audit Return (CAR) is a checklist of the Shire of Toodyay's (the Shire) statutory compliance with the *Local Government Act 1995* and its Regulations, which focuses on high-risk areas of statutory reporting as prescribed in Regulation 14 of the *Local Government (Audit) Regulations 1996*.

The Department of Local Government, Sport and Cultural Industries provides the questions in the CAR to all local governments. The questions contained in the Compliance Audit Return have been responded to by Officers.

The return was presented to the ARC and a recommendation made. It is recommended that Council resolve the ARC's recommendation.

(b) 4.2 Local Government Payments and Gifts to Members Policy

Officers have reviewed the current policy (**Attachment 3**), giving consideration to the FMR recommendations and recent changes to the Act and regulations. The detail of the Officer's review of this policy is contained in the report that was provided to the Audit and Risk Committee at its meeting held on 6 March 2024.

The policy was revised to provide clarity in reference to the annual determination made by the Salaries and Allowances Tribunal as recommended in the FMR Review, and incorporated recent changes to the Act such as payments made to Committee Members of the following Committees:

- Audit and Risk Committee;
- Environment Advisory Committee; and
- Heritage Advisory Committee

When the Audit and Risk Committee Members were asked to review the REVISED Policy they requested that Clause 4 be amended as it was different to the current policy.

Officers reviewed the current SAT Determination which states:

7.3 Annual Allowance for a Deputy Mayor, Deputy President Or Deputy Chair

1. *The percentage determined for the purposes of section 5.98A(1) of the LG Act is 25 per cent.*
2. *If the office of mayor or president is vacant under section 5.34(a) of the Local Government Act 1995, and the deputy performs the functions of mayor or president for a period of no less than four months, the deputy will be entitled to receive the mayor or president allowance according to the applicable local government band in 7.2 of the Determination.*

Having reviewed the above determination, and the provisions of the *Local Government Act 1995* (the Act), Clause 4 was amended. In addition to that change, the headings of the policy were amended to bring them into line with the wording in the SAT Determination. References to the correct sections in the Act were also amended.

The REVISED policy is provided at **Attachment 4** and is recommended for adoption.

(c) 4.3 Update on the Datascape Migration Project

The Shire resolved to transition to new software in 2018.

For various reasons including significant staff changeover, reduced capacity and resources, and COVID-19, the transition was especially difficult. Officers report to the Audit and Risk Committee and Councillors regularly to provide an update on the ongoing challenges and the remaining aspects requiring attention

The Datascape Migration Action Plan (**Attachment 5**) was provided to the ARC in December 2023. The Shire and Datacom have dedicated significant resources to work through the actions identified in the plan.

It is recommended that Council resolve the Committee's recommendation.

(d) 4.1 Records Management Project 2023/2024;

In 2018, an assessment was made of the Shire's existing ICT infrastructure, prompting the decision to move to a cloud-based Enterprise Software solution. The transition to Datascape commenced in 2019 with the goal of decommissioning SynergySoft as it was coming to end-of-life and transferring records management to SharePoint. Currently, the Shire's corporate records continue to be managed in Synergy Soft.

As part of a 5-year Record Keeping Systems Review, the Shire is required to undertake a review of the efficiency and effectiveness of the organisations record keeping systems ensuring that records and documents are properly kept. The evaluation raised concerns regarding compliance with the State Records Act and, after seeking advice from external consultants, SharePoint is not seen as a sustainable choice as previously thought.

Officers have reviewed alternative, fit-for-purpose records management systems and are proposing to implement OpenText Content Manager (CM). Other options considered included Altus Records and TechOne, in addition to the existing SynergySoft and SharePoint options. CM is specifically designed for records management and manages the lifecycle of records from creation to disposal. Additionally, CM is built to comply with legislation and manage security and access levels appropriately.

The project scope includes implementation of the software including system configuration, training of staff in the configuration and use of the Content Manager software and ongoing software support and integration with Datascape (**Confidential Attachment 6**).

Significant work has commenced in reference to the management of data, security, access to records and policies for retention and disposal. Preliminary training has been provided to staff in relation to the transition and moving forward, records training will form part of the organisation's annual training schedule.

It is recommended that Council resolve the Committee's recommendation.

(e) 4.5 Risk Management Updates

Please note that the current risk management framework was an attachment to the agenda of the Audit and Risk Committee. It has not been included with this report due to its size.

The REVISED Risk Management Framework 2024 (RMF) is provided (**Attachment 7**).

The revised RMF was reviewed by Shire Officers and updated to reflect the most recent Australian Standard for Risk Management, ISO 31000:2018.

The REVISED Risk Management Framework was reviewed by LGIS with the following notes:

- the framework relies on the development of risk profiles.
- the proof of adequacy of the framework lies in the implementation and whether risks are being managed.
- the framework is consistent with what we see across the member base and in the main follows the principles identified in ISO31000.
- the Shire has chosen to use its risk acceptance criteria as its risk appetite.

The risk acceptance criteria was amended by Officers following LGIS advice so that *extreme risk* was unacceptable.

The REVISED Risk Management Policy is provided (**Attachment 8**).

The risk acceptance criteria in the current Risk Management Policy was developed and endorsed by Council on 24 Aug 2021 (CRN: 175/08/21). The risk acceptance criteria in the REVISED Risk Management Policy will mirror the criteria in the RMF.

It is recommended that the REVISED Risk Management Framework and policy be recommended for adoption by Council.

(Please note that the two recommendations made by the Committee have been merged due to software limitations).

(f) 4.6 Risk Assessment and Improvement Plan (Refer to Attachment 9)

In August 2023, the Shire President and Chief Executive Officer (CEO), met with representatives of the Department of Local Government, Sport and Cultural Industries (DLGSC) to discuss the outcomes of the 2021 audit and issues raised by the Auditor.

Officers have met with DLGSC representatives monthly to provide an update on the progress of the Plan which has been delayed due to several factors.

The Shire engaged Moore Australia to assist the CEO to undertake reviews on the appropriateness and effectiveness of the Shire's risk management, internal controls and legislative compliance systems and procedures as required by the Local Government (Audit) Regulations 1996 (Regulation 17). At the same time, an examination of the Shire's financial management systems and processes was carried out pursuant to Local Government (Financial Management) Regulation 5(2)(c).

Officers have used the Risk Assessment Report developed by Moore Australia as the basis for the draft Risk Assessment and Improvement Plan (the Plan) with columns added to capture comments and progress, articulation of the specific officer responsible for each action, and a timeframe for completion.

In addition, following feedback from the DLGSC and the ARC, several 'additional' actions have been added to the Plan which was placed on Teams for Councillors and ARC members to provide comment on before the OCM.

Officers are proposing that the Plan is reviewed by the ARC quarterly and recommended to Council before updates are provided to the DLGSC.

It is recommended that the ARC recommendation be resolved by Council.

IMPLICATIONS TO CONSIDER**Consultative:**

Datacom

Department of Local Government, Sport & Cultural Industries

Dry Kirkness

Information Proficiency

Office of the Auditor-General

Other Local Governments

WALGA

XL2

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

9.1.4. Undertake regular reviews of organisation and Council culture and implement initiatives to improve.

9.1.5. Establish a Risk Working Group.

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

Policy related:

Disposal of Property Policy (FIN12);

Attendance at Events Policy (GOV14);

Continuing Professional Development Policy (GOV9);

Council Delegates Roles and Responsibilities Policy (GOV12); and

Risk Management Policy (ADM18)

Internal Control Policy (ADM19).

Legislative Compliance Policy (ADM20)

Financial:**Records Management System**

There will be a one-off implementation cost for Content Manager of \$90,182 plus ongoing annual maintenance fees of \$5,976. Currently, the Shire pays approximately \$40,000 annually for 10 SynergySoft software licences and \$2,725 for an annual AvePoint licence.

Whilst there is a significant implementation cost to consider, ongoing costs for records management will reduce from approximately \$43,000 to \$6,000.

Officers are proposing to include these costs for consideration during the mid-year budget review.

Local Government Payments and Gifts to Members Policy

The current determination stipulates the minimum and maximum allowance to be paid to committee members.

The range for the Shire of Toodyay as a Band 3 Local Government is set at \$0 to \$215 per meeting. Officers are proposing that the fee payable is set at 85% of the maximum, consistent with the allowances paid to Elected Members.

Should Council adopt the fee as recommended, the financial impact on the annual budget would equate to approximately \$5,000 based on quarterly meetings.

Datascope

Expenditure above existing budget allocations will be managed at the mid-year budget review. Datacom has provided significant resources and continue to work with the Shire to address these outstanding actions.

Implementation Plan

The Plan has been developed on the assumption that actions are completed in-house within the current organisational structure and budgeted resources. In the event of ongoing staff vacancies, there may be a requirement to engage contractors to meet timeframes detailed in the Plan. Additional funding requests, if required, will be presented to Council for consideration and approval.

Legal and Statutory:

Regulation 14 of the Local Government (Audit) Regulations 1996

Local Government Act 1995

Salaries and Allowances Tribunal Determination

Division 8 Local Government payment and gifts to members

State Records Act 2000

State Records Principles and Standards 2002 - Principle 6

Record Management Plan

Local Government Act 1995 - s.5.41(h)

Risk related:

This report mitigates the following risks:

Compliance matters

The requirement to lodge an adopted Compliance Audit Return with the DLGSC is a legislative obligation. Failure to do so exposes the Shire to significant risk.

Policy update

The review of this policy is the role of Council and is essential to good governance as it demonstrates the Shire's ability to adapt to changing circumstances to ensure that its policies remain contemporary, compliant with existing legislation, and relevant.

If the Shire chooses to delay the review of this policy, it is considered a medium risk.

Update on Datascope Management

There is a low risk in Council not accepting the recommendation from the ARC which is why the recommendation is being brought to Council. The ARC is established by Council

pursuant to Section 7.1A of the Act. It is the ARC's role to assist Council and make recommendations to Council on matters that Council has a strategic interest in.

Record Management System

There is a significant compliance risk of not meeting the record keeping requirements as stipulated in the *State Records Act 2000*.

Reputational and financial risks also exist in the event the Shire is forced into migrating to a new system prematurely without allocating resources to the project, therefore leading to reputational risk in the event records are not managed appropriately.

Risk Updates

Elevating risk management, internal controls, financial management, and legislative compliance practices is imperative to uphold the Shire's commitment to continuous improvement. By prioritising these areas and implementing requisite actions, the governance framework will be fortified, and risks will be mitigated while fostering sustainable growth and development for our community.

The Moore Australia reports clearly identified the need for improvement to the Shire's risk management processes and recommended they be reviewed and updated. There is a moderate (3) risk presently, however inaction may mean that the risk is increased to Major (4).

Local Government Payments and Gifts to Members Policy

The review of this policy is the role of Council and is essential to good governance as it demonstrates the Shire's ability to adapt to changing circumstances to ensure that its policies remain contemporary, compliant with existing legislation, and relevant.

If the Shire chooses to delay the review of this policy, it is considered a medium risk.

Workforce related:

The workforce related risks associated with this report are as follows:

Datascape transition

The transition to Datascape and associated challenges have had a significant impact on the Shire staff.

Records Management system

Information Proficiency will provide qualified technical consultants for this project to cover training of staff in the configuration and use of the Content Manager software.

Significant Officers time will be required for the implementation testing and training of the new system.

Implementation of the RMF and policy

Collaboration across the organisation is required to focus on the actions contained in the Audit Reg 17 report as well as developing the Shire's risk register, in line with the principles and procedures contained in the RMF. Additional Officer time will be required in order that risks are clearly communicated throughout the organisation.

Improvement Plan

There is significant officer time required to deliver the actions identified in the Plan. Currently, the Shire is experiencing extreme challenges in attracting and retaining staff which must be taken into account during regular reviews.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council receives the minutes of the Audit & Risk Committee Meeting held on 6 March 2024.

ARC RECOMMENDATION 1

That Council adopts the attached Compliance Audit Return for the period 1 January 2023 to 31 December 2023, pursuant to Regulation 14(3) of the Local Government (Audit) Regulations 1996 as attached (**Attachment 2**).

ARC/OFFICER'S RECOMMENDATION 2

That Council:

1. Adopts the REVISED Local Government Payments and Gifts to Members policy as attached to this report (**Attachment 4**); and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

ARC RECOMMENDATION 3

That Council:

1. Notes the progress made to date on the Datascope transition.
2. Requests the CEO to provide quarterly updates including provision of completion dates and budgetary implications until the tasks identified on the Datascope Migration Action Plan have been finalised.

ARC RECOMMENDATION 4

That Council:

1. Supports the implementation of a new, fit-for-purpose records management system, and the allocation of additional funds as part of the mid-year budget review of \$96,158.
2. Requests the CEO to monitor the expenditure and inform the Audit and Risk Committee on a regular basis, of the progress of the project implementation with regard to schedule and budget.

ARC RECOMMENDATION 5

That Council:

1. Receives the Risk Assessment (Audit Regulation 17) Report from Moore (**Confidential Attachment 9**);
2. Notes the actions contained in the report;
3. Requests the CEO report regularly to the Audit and Risk Committee on the actions undertaken toward the completion of the risks identified in the Report.

ARC RECOMMENDATIONS 6 AND 2

That Council:

1. Adopts, by absolute majority, the REVISED Risk Management Framework (**Attachment 7**) as amended;
2. Adopts, by absolute majority, the REVISED Risk Management Policy (**Attachment 8**); and
3. Requests the CEO make any typographical amendments to the Risk Management Framework and Risk Management Policy as required.

ARC RECOMMENDATION 3

That Council:

1. Endorses the draft Shire of Toodyay Risk Assessment Improvement Plan developed following finalisation of the report on the Review of Financial Management, Risk Management, Legislative Compliance and Internal Controls.
2. Requests the CEO to forward a copy of the Improvement Plan to the Department of Local Government, Sport and Cultural Industries; and
3. Requests the CEO to provide quarterly updates to the Audit and Risk Committee on the actions taken, including placing a live version of the plan on the teams environment for the ARC.

ARC RECOMMENDATION 4

That Council requests the CEO to review procedures for the appointment of deputy members of committees in accordance with legislative requirements.

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 Questions from the February 2024 Council Meeting**

The following question on notice was received from Councillor Prater.

Question from Cr Prater

On page 20 the area approved for stage II A1 Gravel application says the additional bond applied was not collected at the time. What was the reason why it was not collected at the time?

Response from Executive Manager Development and Regulation

This has been identified as a possible compliance issue by the Shire. The Shire is currently working with the applicant and reviewing the application of rehabilitation bonds in general. The applicant has already paid a rehabilitation bond for the other extractive industry operation on the land.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the response to the questions raised by Councillor Prater be received and noted.

12.2 Questions raised by Cr Madacsi

The following questions on notice were received from Councillor Madacsi on 14 March 2024.

Background

This memorandum is notice, in accordance with Section 6.1(1) of the Shire of Toodyay Standing Orders of questions I wish Council to consider at the next Ordinary Meeting of Council as follows:

At the Ordinary Council Meeting of the 28 February 2024, I asked several questions and the answers to Question 2 were provided on page 126 of the Unconfirmed Minutes –

Question 2

Why was the decision to exclude observers, including the council appointed Audit and Risk Committee deputies from Audit and Risk committee meetings made -

- (a) by the presiding member of the audit and risk committee prior to the meeting convening?
- (b) without a formal decision of the Audit and Risk Committee?

Question

Please explain why the reply to question 2(a) included, *“the Presiding Member of the Audit and Risk Committee did not make a decision to exclude observers, including the Council appointed Audit and Risk Committee deputies from the Audit and Risk Committee meeting prior to the meeting convening”* when -

- (a) the two council observers were told in front of the committee and attending Shire Staff, that the meeting would not commence until they left, and
- (b) Standing Order 5.13(2) stated - A member may attend, as an observer, any meeting of a committee of which he or she is not a Member or a Deputy of a Member but is to sit in an area set aside by the CEO for observers separated from the committee members. Which is what had occurred.

Response

Response to be provided at the Council Meeting to be held on 27 March 2024.

Question

What is the relevance of the legitimacy of the appointment of deputy committee members, to the answer as to why the observers were asked to leave?

Response

Response to be provided at the Council Meeting to be held on 27 March 2024.

Question

Why was the decision made outside the committee meeting and were all committee members consulted?

Response

Response to be provided at the Council Meeting to be held on 27 March 2024.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the responses to the questions raised by Councillor Madacsi 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

Ordinary Council Meeting	24 April 2024
Agenda Briefing	17 April 2024
Environment Advisory Committee Meeting	10 April 2024

16 CLOSURE OF MEETING