



Ordinary Council Meeting

22 May 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 was held on 15 May 2024, at 3.00pm to discuss the contents of this agenda.

Tabitha Bateman

ACTING CEO



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 24 April 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 24 April 2024 be confirmed.

5.2 Agenda Briefing held on 15 May 2024**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 15 May 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)

Nil.

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

9.1.1 P2023-87 - Lot 1 (No. 1010) Morangup Road, Morangup - Renewal of Extractive Industry Licence - Austral Bricks Pty Ltd

Date of Report:	10 May 2024
Applicant or Proponent:	Austral Bricks Pty Ltd / Land Insights
File Reference:	P2023-87/A1331/1MORG/1EXT
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Item 9.2.1 27 September 2016
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> Management Plan - Lot 1 Morangup Road - Austral Bricks Pty Ltd - August 2023; and ↗ Additional Bond Calculations and Extraction Details Map. ↗

SUMMARY

Applicant: Austral Bricks Pty Ltd / Land Insights
 Owner: Bristile Holdings Ltd
 Proposal: Renewal of Extractive Industry - Clay
 Location: Lot 1 (No. 1010) Morangup Road, Morangup

PURPOSE OF THE REPORT

To consider an application for renewal of an Extractive Industry Licence of a clay quarry at Lot 1 (No. 1010) Morangup Road, Morangup, submitted by Land Insights on behalf of Austral Bricks Pty Ltd. Under the Shire's adopted Delegations Register, applications for extractive industries may only be refused under delegated authority.

BACKGROUND

Land Insights act for Bristile Holdings Pty Ltd (Austral Bricks (WA) Pty Ltd) and lodge this application on their behalf. The application seeks to renew the Extractive Industry Licence for 21 years (as permitted by the Extractive Industry Local Law) for the "Schist Pit" located at Lot 1 Morangup Road, Morangup. The application seeks the continuation of the operation.

The Shire issued Development Approval on the 7 October 2016 for the extraction, cartage, and associated activities for the Schist clay pit. An Extractive Industry Licence was issued by the Shire and by order of the WA State Administrative Tribunal (SAT) on 5 August 2014 which expired on 19 November 2023.

The Shire has had written confirmation from the applicant that no operations or cartage are occurring at this time.

For the sake of clarity, this application confirms the continuation of the approved extraction will be consistent with the proposal outlined below.

Subject	Description
Operating times	<ul style="list-style-type: none"> (a) 06:00 – 17:00 hours from Monday to Saturday between the months of October and May; (b) 06:00 – 17:00 hours from Monday to Friday between the months of June and September; (c) 06:00 – 17:00 hours from Monday to Saturday between the months of June to September with no more than 5 days annually subject to the maximum number of truck movements on those days being no greater than 40. Should any of the days fall on a Shire event day the number will be no greater than 30; (d) During the Saturday of the Shire's Agricultural Show the number of trucks on the day will be limited to 30 (although it is unlikely that carting will occur on this day).
Volume extracted	Approximately 160,000 tonnes annually. This is consistent with the current approval and no increase in tonnage/operation is proposed as part of this application.
Site preparation	Limited site preparation is required as the site is already established for clay extraction. Access, signage, fencing, bunding and drainage management has already been established in accordance with the current approvals.
Pit area	The total “excavation operation area” is approximately 44.7 hectares. This includes the current excavation area, the next stage of extraction, water detention basins, stockpile areas and overburden bunds.
Staging	The existing pit area has not previously been given a stage number, however for this application it has been allocated as “Stage 1a” for the sake of completeness and consistency. The expansion area (previously labelled as “Stage 1”) has been labelled as “Stage 1b” to indicate the next phase of excavation. Stage 1b is consistent with the area previously labelled as “Stage 1”.
Depth	Depth of excavation is approximately 14-15 metres, depending on the depth of resource across the site.

Subject	Description
Excavation	Clay is excavated from the pit area and placed onto stockpile. Earthworks take place as and when required throughout the year but generally during the dry months. The timing of excavation depends on weather conditions, market demand and operational requirements. Excavation will most likely take place over approximately 16 weeks in total per annum, usually divided into 2 or 3 "campaigns".
Direction of excavation	The direction of excavation is generally in a southern direction.
Stockpiling	Clay is stockpiled within the pit area. This is to allow for efficient carting and transport of material from the site and utilises the existing pit area to avoid the need for clearing additional areas of vegetation.
Access	Existing site access is located at Morangup Road at the southern end of Lot 1. A crossover is already located at Morangup Road, and the sealed section is approximately 30 metres in length. The main haul road travels north through the site and provides access to the pit and clay stockpiles.
Carting	It is estimated that there will be approximately 4,250 truckloads per annum. Carting will take place as and when required throughout the year but generally during the dry months. The timing of carting depends on weather conditions, market demand and operational requirements. It is expected that carting will occur over two separate campaigns each year, lasting approximately 3-4 weeks for each campaign.
Environmental management	<ul style="list-style-type: none"> (a) The proposed excavation operation has been subject to a rigorous environmental assessment (this is presented in Chapter 3) which has considered ways to avoid, reduce and mitigate environmental impact as required by EPA Guidance Statement No. 33. (b) As such, the clay extraction operation will comply with a range of management procedures as presented in the following management plans included with this report: <ul style="list-style-type: none"> (i) Dust Management Plan (Land Insights, 2023); (ii) Noise Management Plan (Land Insights, 2023); (iii) Water Management Plan (Land Insights, 2023); (iv) Visual Amenity Management Plan (Land Insights, 2023); (v) Rehabilitation Management Plan (Land Insights, 2023); (vi) Refuelling Management Plan (Land Insights, 2023);

Subject	Description
	(vii) Waste Management Plan (Land Insights, 2023); (viii) Phytophthora Dieback Hygiene Management Plan (Glevan Consulting, 2020); (ix) Bushfire Management Plan (Bushfire Prone Planning, 2021).
Refuelling	The operation will use mobile refuelling. There will be no storage of fuel on site.
Structures	A temporary lunchroom and portaloo will be located on site. It will only be used during site operations.
Decommissioning	The pit will be recontoured and rehabilitated in accordance with the Rehabilitation Management Plan.

The progress of this application has been stalled on a number of occasions since the original submission in late 2023. This has been due to:

- Christmas shutdown period;
- Further assessment and processing agreed to between applicant and the Shire; and
- Additional rehabilitation details to be supplied by applicant.

However there has been a written undertaking that there has been no cartage or operation of the pit throughout this time.

COMMENTS AND DETAILS

The following modifications are proposed:

1. Operating and cartage times

The applicants in their management plan seek a continuation of the existing hours of operation as follows:

- 06:00 – 17:00 hours from Monday to Saturday between the months of October and May
- 06:00 – 17:00 hours from Monday to Friday between the months of June and September
- 06:00 – 17:00 hours from Monday to Saturday between the months of June to September with no more than 5 days annually subject to the maximum number of truck movements on those days being no greater than 40. Should any of the days fall on a Shire event day the number will be no greater than 30.
- During the Saturday of the Shire's Agricultural Show the number of trucks on the day will be limited to 30 (although it is unlikely that carting will occur on this day).

It should be noted that the above arrangement was derived as part of an appeals process through the State Administrative Tribunal in 2014.

Council can choose to keep the arrangement as is, however for consistency it is recommended that the hours and wording of the proposed conditions of approval be:

(1) Pit operating hours

- (a) Hours of operation within the extraction area are limited to 6:00am to 5:00pm Monday to Friday and 6:00am to 1:00pm on Saturday. No operation on public holiday days.

(2) Transport management

- 1. Operating hours for cartage shall be limited to between 6:00am and 5:00pm Monday to Friday. No cartage on public holidays.

2. Duration of approval being sought

The Shire of Toodyay is considering granting Austral Bricks a 21-year development approval for a large-scale clay extractive industry, as opposed to a more conventional 10-year approval. This extended duration raises several significant risks and implications that require careful consideration across environmental, economic, social, and regulatory domains:

(a) Environmental Risks

The primary concern revolves around the long-term environmental impacts of sustained clay extraction, including potential soil erosion, water resource depletion, and loss of biodiversity. A 21-year operation complicates the prediction and management of these impacts, increasing the likelihood of irreversible environmental degradation.

(b) Economic and Social Risks

Extended operations risk generating sustained community opposition due to noise, dust, and traffic impacts. Economically, a prolonged dependency on a single industry could make the local economy vulnerable to market fluctuations and inhibit economic diversification.

(c) Regulatory and Compliance Risks

Over two decades, regulatory landscapes are likely to shift, possibly imposing unforeseen compliance costs or operational restrictions. Continuous monitoring and enforcement over such a long period also pose significant challenges.

(d) Market and Technological Risks

The demand for clay bricks may decline due to market trends or technological advancements in building materials, potentially rendering the industry less viable. The Shire must consider the opportunity costs of committing to a single, potentially outdated industry for over two decades.

(e) Strategic and Opportunity Costs

A 21-year approval limits the Shire's flexibility to adapt to emerging opportunities or alternative land uses. Delayed land rehabilitation may also restrict future development options, impacting the Shire's long-term strategic interests.

(f) Mitigation Strategies

To address these risks, the approval process can incorporate environmental monitoring, periodic project reviews, and community engagement requirements. These measures aim to ensure the project's adaptability to changing conditions and its alignment with the community's and environment's best interests.

Conclusion

Granting a 21-year development approval to Austral Bricks presents considerable risks that necessitate a thorough evaluation and the implementation of robust mitigation strategies. The decision must balance the immediate economic benefits against the potential long-term consequences, ensuring that the Shire of Toodyay's environmental, economic, and social interests are safeguarded for the future.

Therefore, it is not recommended that a twenty-one-year approval be granted for the reasons listed above.

IMPLICATIONS TO CONSIDER

Consultative:

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

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

The Shire received one submission from the Department of Water and Environmental Regulation (DWER) that states:

The Department has identified that the proposed extractive industry renewal has the potential to impact on environment values and management. Key issues and recommendations that should be addressed are provided below:

Native vegetation clearing

Under section 51C of the Environmental Protection Act 1986 (EP Act), clearing of native vegetation is an offence unless:

- *it is undertaken under the authority of a clearing permit;*
- *it is done after the person has received notice under Section 51DA(5) that a clearing permit is not required; and*
- *the clearing is subject to an exemption.*

Exemptions for clearing that are a requirement of written law, or authorised under certain statutory processes, are contained in Schedule 6 of the EP Act. Exemptions for low impact routine land management practices outside of environmentally sensitive areas (ESAs) are contained in the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (the Clearing Regulations).

Stages 1 and 1b of the pit expansion have been cleared in accordance with Clearing Permit CPS 5495/2. A copy of this permit is available here: [Index of /permit/5495 \(dwer.wa.gov.au\)](https://dwer.wa.gov.au/)

Based on the information provided, clearing of native vegetation for future expansion stages will require a clearing permit.

The Shire recommends that this submission is noted by the Council and that this is dealt with under appropriate standard conditions of approval as follows:

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

Strategic:

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

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

05.1. Provide responsible planning and development.

05.3. Preserve and showcase local history and heritage.

Outcome 9. Responsible and effective leadership and governance.

09.1 Provide strong, clear, and accountable leadership.

Policy related:

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

The principles from the Policy are below:

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

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

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

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

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

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

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

Development applications for vulnerable or high-risk land uses in areas between BAL-12.5 to BAL-29 will not be supported unless they are accompanied by a Bushfire Management Plan jointly endorsed by the relevant local government and the State authority for emergency services. Development applications should include an emergency evacuation plan for proposed occupants and/or a risk management plan for any flammable on-site hazards.

The application is accompanied by a Bushfire Management Plan which meets the above requirements.

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

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

Risk Management

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

Financial:

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

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

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

Rehabilitation Bond

The previous approval in August 2016 contained the following condition relating to rehabilitation bonds:

Prior to the commencement of operations, the applicant shall provide a cash bond to the Shire of Toodyay as a performance guarantee against the satisfactory completion of the rehabilitation of the site. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period. The bond is to be accompanied by a bonding agreement and written Authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the Shire in completing and/or rectifying the outstanding works.

The cash bond is payable prior to the commencement of each stage as follows:

- (1) Stage 1: \$144,000.00;
- (2) Stage 2: \$120,000.00;
- (3) Stage 3: \$90,000.00;
- (4) Stage 4: \$90,000.00.

The ultimate figure for the rehabilitation for Stages 2-4 will be based on the current Shire of Toodyay Schedule of Fees and Charges at the time of each new licence application and is therefore subject to change.

The matter was heard the following month on 27 September 2016 where the report provided further clarification on the bonding calculations as follows:

Stage	Cost over area in hectares	Sub-Total
Stage 1	\$12,000 x 11.54 hectares	\$138,480
Stage 2	\$12,000 x 10 hectares	\$120,000
Stage 3	\$12,000 x 7.5 hectares	\$ 90,000
Stage 4	\$12,000 x 7.5 hectares	\$ 90,000
Total		\$438,480

To date the Shire has bonds totalling \$438,480.00 for 36.54 hectares.

If Officers used the maximum depth and area, then the additional amount payable would be \$896,972.00.

After further consultation and review of the application, the bond has been calculated based on revised assessment of depth and operational areas as follows:

Extraction below 3m depth – 3.09ha x \$19,160 = \$59,204

Extraction above 3m depth – 8.02ha x \$8370 = \$67,127

Stockpile – 1.98ha x \$8370 = \$16,573 (using the rates for extraction below 3m)

Laydown – 1.82ha x \$8370 = \$15,233 (using the rates for extraction below 3m)

TOTAL = \$158,137.

It will therefore be a condition of licence approval to collect the additional bond of \$158,137.00.

This exercise has also demonstrated that there is a more accurate and fairer process available. It is recommended that this gets incorporated into future policy and procedures dealing with rehabilitation. For more details please refer to **Attachment 2 – Additional Bond Calculations and Extraction Details Map**.

Legal and Statutory:

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Planning and Development Regulations 2009

Shire of Toodyay Local Planning Scheme No. 4

Shire of Toodyay Extractive Industry Local Law

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

Risk related:

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

Risk Type	Risk	Likelihood	Consequence	Score
Financial Impact	The Applicant has the right of appeal through the State Administrative Tribunal of Council's decision on this matter. This would potentially expose the Shire to increased legal costs.	Possible (3)	Moderate (3)	Moderate (9)
Reputational	Extractive Industries are highly scrutinised by elements of the community	Possible (3)	Moderate (3)	Moderate (9)

Risk Type	Risk	Likelihood	Consequence	Score
	– particularly landowners in close proximity. There is an expectation that the Shire will manage and regulate these processes effectively. When this does not occur, it can lead to reputational damage.			

Environmental related

The application has been referred to the Shire's Environmental Sustainability Officer for assessment who has provided the following comments:

1. Major Risks:

(a) Impact on Native Vegetation:

- **Impact:** Significant clearing of native vegetation can lead to habitat loss and fragmentation.
- **Mitigation:** Implement strict avoidance and mitigation measures as outlined in the Flora and Vegetation Assessment. Utilise the Rehabilitation Management Plan to restore cleared areas with native species.

(b) Threatened and Priority Fauna:

- **Impact:** Disturbance and impact on threatened and priority fauna, including a threatened priority bird species within a 450m vicinity and an endangered priority mammal species within a 1.2km vicinity look at the attached figure for reference.
- **Mitigation:** The company is advised to maintain a buffer zone of 500m as per the Wildlife Conservation Act 1950 and the Environmental Protection Act 1986. Other endangered species have also been identified through surveys conducted by the Government of Western Australia in the vicinity as well. Moreover, implement measures to avoid disturbance during operations, adhere to the requirements of the Environmental Management and Offset Strategy, while monitoring and protecting fauna habitats.

(c) Spread of Phytophthora dieback:

- **Impact:** The destruction of entire plant populations, particularly in forests and crops. This can lead to significant economic losses for farmers and devastating effects on ecosystems.
- **Mitigation:** Strict quarantine measures should be implemented to prevent contaminated soil from being transported to new areas. Additionally, improving drainage and soil management practices can help reduce water-logged conditions that promote the growth of Phytophthora. Conducting regular surveys and monitoring programs within the mining site can help detect and respond to outbreaks of Phytophthora in a timely manner, allowing for quick intervention and containment of the disease. Moreover, continue to follow the Phytophthora Dieback Hygiene Management Plan to prevent the introduction and spread of weeds and pathogens.

(d) Noise and Dust Emissions:

- Impact: Excessive noise and dust emissions can impact the surrounding environment and nearby residents.
- Mitigation: Implement noise and dust management plans, ensure compliance with regulations, and regularly monitor and mitigate noise and dust levels.

2. Minor Risks:

(a) Weeds and Dieback Introduction:

- Impact: Introduction of weeds and pathogens can impact native vegetation and biodiversity.
- Mitigation: Implement a comprehensive Weed Management Plan and continue to follow the Phytophthora Dieback Hygiene Management Plan to prevent the introduction and spread of weeds and pathogens.

(b) Soil Erosion:

- Impact: Soil erosion can lead to sediment runoff and impact water quality in surrounding water bodies.
- Mitigation: Implement erosion control measures, stabilize exposed soils, and monitor erosion-prone areas regularly to prevent soil erosion.

(c) Impact on Visual Amenity:

- Impact: The pit area being visible from the public realm can affect visual amenity.
- Mitigation: Implement the Visual Amenity Management Plan to restore and rehabilitate the site, plant native vegetation to screen the pit area, and enhance visual aesthetics.

Overall, it is essential for the operation to continue implementing and monitoring the various management plans in place to effectively mitigate environmental risks and ensure sustainable practices. Regular monitoring, compliance with regulations, and proactive measures are key to reducing the environmental footprint of the operation.

Workforce related:

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

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council

1. Notes the submission received relating to the Extractive Industry application for Lot 1 (No. 1010) Morangup Road, Morangup.
2. That Council, pursuant to Clause 3.1(2)(b) of the *Shire of Toodyay Extractive Industry Local Law*; approves the application for an **Extractive Industry Licence** at Lot 1 (No. 1010) Morangup Road, Morangup, subject to the following conditions:

Licence

- (a) The licence is granted to Austral Bricks Pty Ltd.

Management Plan

- (a) Development is to be in accordance with the approved Extractive Industries Licence Application – “*Management Plan - Lot 1 Morangup Road - Austral Bricks Pty Ltd - August 2023*”, including any amendments placed thereon by Council and except as may be modified by the following conditions:

Term of approval

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

Payment of Annual Licence Fee

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

Transfer, Cancellation and Renewal of Licence

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

Site Specific

- (iv) The location and total area of the excavation is to be limited to 69.7 hectares as depicted in the approved management plan.
- (v) The extraction of material is limited to a depth of 15 metres (m) as depicted in the approved management plan.
- (vi) The maximum permitted extraction is limited to 160,000 tonnes (t) per annum as depicted in the approved management plan.
- (vii) Extraction is to be undertaken entirely within the land defined as:

Lot 1 on D034893

Volume: 82 Folio: 1A

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

Pit operating hours

- (viii) Hours of operation within the extraction area are limited to 6:00am to 5:00pm Monday to Friday and 6:00am to 1:00pm on Saturday. No operation on public holiday days.

Transport management

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

Prior to the commencement of operation of the Facility, a Road Maintenance Plan based on this principle and including the below shall be prepared and implemented, at the cost of the operator, throughout the duration of the operation of the development to the satisfaction of the Shire of Toodyay.
- (xiii) The cost for road maintenance and road rehabilitation contributions shall be calculated using the method outlined in the latest version of the Western Australian Local Government Association's Heavy Vehicle Cost Recovery Policy Guideline for Sealed Roads available at the time of application and of any future renewal.

Noise and vibration

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

Water

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

Dust

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

Native Vegetation

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

Bushfire management

(xx) The development shall be operated in accordance with the Bushfire Management Plan 200850 Lot 1 Morangup Road, Morangup BMP v1.0 which is contained in "Management Plan - Lot 1 Morangup Road - Austral Bricks Pty Ltd - August 2023 "

Reporting / Auditing

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

(xxii) The Applicant/Operator is to provide a written report to the Shire of Toodyay no later than 31 July each year outlining:

1. Quarry progress including photos.
2. Progress of Rehabilitation including photos.
3. Monitoring Results
4. Clearing Permits
5. Water Testing Results
6. Other Environmental Factors
7. Safety
8. Road Maintenance Contributions
9. Cartage Management Report

Site Rehabilitation

(xxiii) The excavation site is to be rehabilitated in accordance with the Rehabilitation and Recommissioning Programme specified as part of the Extractive Industries Licence Application "**Management Plan - Lot 1 Morangup Road - Austral Bricks Pty Ltd - August 2023**", and the Shire of Toodyay's Extractive Industry Local Law or any subsequent programme approved thereafter. The rehabilitation works must be completed within the first winter months following the re-establishment of the final contour ground levels and maintained for a period of three years thereafter.

(xxiv) Prior to the commencement of the development, the applicant is required to pay an additional bond of **\$158,137.00** as a performance guarantee against the satisfactory completion of the rehabilitation of the site, as detailed in Condition (2)(b)(xxiii). This is in addition to the existing bond of **\$438,480.00** which was applied to the previous approval. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the three-year monitoring period.

(xxv) Prior to the commencement of the development the applicant is to enter into a legal agreement with the Shire of Toodyay outlining the terms of bonding and rehabilitation. This is to be accompanied by written

authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. All costs including legal fees associated with the creation of this agreement are to be borne by the applicant.

- (xxvi) The bond may either be in the form of cash or an unconditional, irrevocable Bank Guarantee.
- (xxvii) Final sign-off and release of bonds will also require written agreement from the landowner that rehabilitation is satisfactory.

Insurance

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

Costs

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

9.1.2 P2024-16 - Lot 3 (No. 34) Stirling Terrace, Toodyay - Proposed fence in Catholic Church Precinct

Date of Report:	8 May 2024
File Reference:	P2024-16/A2120/3STIT
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> Attachment 1 - Map.pdf; ↗ Attachment 2 - Plans and cover note; and ↗ Attachment 3 - Submission from Heritage Council. ↗

SUMMARY

Applicant: C. Jean

Owner: C. Jean

Proposal: Proposed fence in Catholic Church Precinct

Location: P2024-16 - Lot 3 (No. 34) Stirling Terrace, Toodyay

PURPOSE OF THE REPORT

To determine an application to erect a boundary fence at Lot 3 (No. 34) Stirling Terrace in Toodyay. This matter must be considered by Council as no delegated authority exists for development occurring in the Catholic Church Precinct.

BACKGROUND

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

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

It is recommended that maximum encouragement is provided to the owner to conserve the significance of the place.

Proposal

The applicant is seeking development approval to erect boundary fencing along the side and rear of the property. Construction will be post and rail with black chain mesh. After installation, plants and shrubs will be planted along the fence line.

COMMENTS AND DETAILS

The proposal for fencing is supportable in that it meets the requirements for residential fencing as listed in the Shire's Local Planning Policy being of a post and rail type with wire mesh.

Should Council be of a mind to support this proposal, it would need to consider the potential impact on the general amenity of the Catholic Church Precinct which is noted for its open parkland style landscape. Fencing will reduce this effect.

However, with no policy provision or design guideline for the precinct in place, it would be hard to defend a refusal in the State Administrative Tribunal.

IMPLICATIONS TO CONSIDER

Consultative:

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

Findings

- *Roman Catholic Church Group, Toodyay has cultural heritage significance as an excellent representative example of a purpose built complex of religious buildings incorporating a convent school, and associated buildings including an original residence adapted for the religious order's use, and individual buildings used as their residences and places of service provision.*
- *The proposal is for a timber post and rail fence with black chain mesh to the side and rear boundary of "The Ship".*
- *The fence is simple in design.*
- *Due to the lengthy occupation of the site, the place has the potential to provide archaeological material that may provide valuable information about life at the place, and its function as a school.*
- *The proposed fence and planting along the fence will have an adverse impact on the overall open parkland landscaping to the site.*
- *The proposal will have a minor adverse impact on the cultural heritage significance of Roman Catholic Church Group, Toodyay.*

Advice

The proposal, in accordance with the plans submitted, is supported subject to the following condition:

1. All contractors are to be made aware of the potential for archaeological material to be uncovered during excavation works, and a clear procedure is to be in place to ensure that any archaeological material is dealt with appropriately.

For more details, please refer to – **Attachment 3 – Heritage Council Submission.**

Strategic:

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

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

O5.1. *Provide responsible planning and development.*

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

Outcome 9. Responsible and effective leadership and governance. O9.1 *Provide strong, clear, and accountable leadership.*

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

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

Policy related:

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

[Local Planning Policy – Central Toodyay Heritage Area](#)

Fences and gates should be simple and low, reflect the rural character of the town and should match the period of development of the dwelling.

Fences and gates associated with residential development shall be consistent with the following requirements:

- (a) For existing houses or properties, fencing and gates shall match the period of development. Local stone, timber picket, picket and pier, or timber post and rail with chain mesh may be appropriate. Hedges of plumbago, privet or rosemary may be appropriate as an alternative to fencing.
- (b) Fibre cement sheeting or steel, iron or colorbond sheeting as a fencing material shall be avoided on any street frontage in front of the building line;
- (c) Fibre cement sheeting or steel, iron or colorbond sheeting can be used to fence back yards if its visual impact from the street will be limited;
- (d) Limestone fencing is not permitted in the Central Toodyay Heritage Area;
- (e) Front fencing shall be open in style to allow views to and from the house;
- (f) Solid fencing on front boundaries and on side boundaries in front of the building line shall not exceed a height of 1200mm;
- (g) Any fencing on front and side boundaries in front of the building line over 750mm shall be truncated a minimum of 1.5m at the entries to driveways and the intersection of streets.

The timber post and rail with chain mesh being proposed is consistent with this policy.

Financial:

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

Legal and Statutory:

Planning and Development Act 2005

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Heritage Act 2018

Shire of Toodyay Local Planning Scheme No. 4

Risk related:

The application to install a post and rail chain mesh boundary fence on the Catholic Church Precinct at Lot 3 Mercy Retreat in Toodyay presents several risks to the Shire of Toodyay, considering both the cultural heritage significance of the site and the operational risk management framework of the Shire.

Cultural Heritage Impact**Impact on Cultural Heritage Significance**

The Roman Catholic Church Group in Toodyay is recognised for its cultural heritage significance as a complex of religious buildings. The installation of the proposed fence, despite its simple design, could have a minor adverse impact on this cultural heritage.

Archaeological Concerns

Given the historical significance and lengthy occupation of the site, there is potential for archaeological material to be uncovered during fence installation. This requires careful management to ensure any findings are appropriately handled and preserved.

Aesthetic and Landscape Impact

The proposed fence and accompanying planting could impact the open parkland landscaping characteristic of the site, which is part of its heritage value.

Operational Risks**Compliance with Heritage Regulations**

The fence installation must comply with heritage regulations, requiring coordination and oversight to ensure no violations that could lead to penalties or legal issues.

Public Safety and Liability

Construction activities must be managed to ensure public safety, avoiding any injuries or accidents at the site, which could also lead to liability issues for the Shire.

Financial Implications

Any unforeseen costs due to compliance issues, damage to archaeological findings, or public safety incidents could impact the financial sustainability of the project.

Reputational Risk

Poor management of the fence installation or its impact on the heritage site could lead to public criticism, affecting the Shire's reputation.

Community Relations

Negative impacts on community sentiment due to changes to a heritage site, could affect the relationship between the Council and the community.

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Notes the submission from the Heritage Council of Western Australia regarding the development application P2024-16 for proposed boundary fencing at Lot 3 (No. 34) Stirling Terrace in Toodyay.
2. Pursuant to Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants development approval for application P2024-16 for proposed boundary fencing at Lot 3 (No. 34) Stirling Terrace in Toodyay, subject to the following conditions:
 - (a) The development hereby permitted must substantially commence within two years from the date of this decision.
 - (b) The development hereby permitted taking place in accordance with the approved plans as shown in Attachment 2.
 - (c) All contractors are to be made aware of the potential for archaeological material to be uncovered during excavation works, and a clear procedure is to be in place to ensure that any archaeological material is dealt with appropriately.

Advice Notes

1. The applicant/contractor is to liaise with the Shire's Cultural Heritage Officer for guidance on how best to meet the requirements of Condition 2(c).

9.1.3 P2024-22 - Lot 4 (No. 3) Mercy Retreat, Toodyay - Proposed fence in Catholic Church Precinct

Date of Report:	10 May 2024
File Reference:	P2024-22/A5620/4MER
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	1. Map; ↗ 2. Application plans; and ↗ 3. HCWA submission. ↗

SUMMARY

Applicant: J Vucemillo & L Ducret
Owner: J Vucemillo & L Ducret
Proposal: Proposed fence in Catholic Church Precinct
Location: P2024-22 - Lot 4 (No. 3) Mercy Retreat, Toodyay

PURPOSE OF THE REPORT

To determine an application to erect a boundary fence at Lot 4 (No. 3) Mercy Retreat, Toodyay. This matter must be considered by Council as no delegated authority exists for development occurring in the Catholic Church Precinct.

BACKGROUND

Lot 4 (No. 3) Mercy Retreat, Toodyay is zoned Mixed Business under the Shire of Toodyay's Local Planning Scheme No. 4. Please refer to **Attachment 1 – Map**.

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

Proposal

The applicant is seeking development approval for:

- a new white picket timber fence 1.2m high along the eastern boundary – which is now the verge boundary;
- An entrance arbor 2m x 2m 2.5m located in the middle of verge boundary fence;
- Cyclone fencing along the boundary adjacent to 32 Stirling Tce- chain and pole; and
- Planting 9 Jacaranda trees along the nature verge strip.

For more details please refer to **Attachment 2 – Application Plans**.

COMMENTS AND DETAILS

The proposal for fencing is supportable in that it meets the requirements for residential fencing as listed in the Shire's Local Planning Policy being of a post and rail type with wire mesh.

Should Council be of a mind to support this proposal, it would need to consider the potential impact on the general amenity of the Catholic Church Precinct which is noted for its open parkland style landscape. Fencing will reduce this effect.

However, with no policy provision or design guideline for the precinct in place, it would be hard to defend a refusal in the State Administrative Tribunal.

IMPLICATIONS TO CONSIDER

Consultative:

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

Findings

- *Roman Catholic Church group, Toodyay has cultural heritage significance as a landmark group, an excellent representative example of a purpose built complex of religious buildings incorporating a convent school, and associated buildings including an original residence adapted for the religious order's use, and individual buildings used as their residences and places of service provision.*
- *O'Connor House part of the Roman Catholic Church Group, Toodyay is designed in the Inter war Georgian Revival architectural style. The characteristics of this style are simplicity, reasonable proportions, restrained and simplified classicism.*
- *The fence is simple in design. The arbor links in with the proposed fence and will not detract from significant views of the Church Group.*
- *The fence and arbor will impact from the open landscape of the site.*
- *The proposal will have a minor adverse impact on the cultural heritage significance of Roman Catholic Church group, Toodyay.*

The proposal, in accordance with the plans submitted, is supported.

For more details, please refer to – **Attachment 3 – Heritage Council Submission**.

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

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

O5.1. *Provide responsible planning and development.*

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

Outcome 9. Responsible and effective leadership and

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

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

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

Policy related:

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

[Local Planning Policy – Central Toodyay Heritage Area](#)

Fences and gates should be simple and low, reflect the rural character of the town and should match the period of development of the dwelling.

Fences and gates associated with residential development shall be consistent with the following requirements:

- (a) For existing houses or properties, fencing and gates shall match the period of development. Local stone, timber picket, picket and pier, or timber post and rail with chain mesh may be appropriate. Hedges of plumbago, privet or rosemary may be appropriate as an alternative to fencing.
- (b) Fibre cement sheeting or steel, iron or colorbond sheeting as a fencing material shall be avoided on any street frontage in front of the building line;
- (c) Fibre cement sheeting or steel, iron or colorbond sheeting can be used to fence back yards if its visual impact from the street will be limited;
- (d) Limestone fencing is not permitted in the Central Toodyay Heritage Area;
- (e) Front fencing shall be open in style to allow views to and from the house;
- (f) Solid fencing on front boundaries and on side boundaries in front of the building line shall not exceed a height of 1200mm;
- (g) Any fencing on front and side boundaries in front of the building line over 750mm shall be truncated a minimum of 1.5m at the entries to driveways and the intersection of streets.

The picket fence and cyclone fencing being proposed is consistent with this policy.

Financial:

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

Legal and Statutory:

Planning and Development Act 2005

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Heritage Act 2018

Shire of Toodyay Local Planning Scheme No. 4

Risk related:

The application to install a white picket fence on the Catholic Church Precinct at Lot 3 Mercy Retreat in Toodyay presents some low risks to the Shire of Toodyay as detailed below, considering the cultural heritage significance of the site and the operational risk management framework of the Shire:

Cultural Heritage Impact

Impact on Cultural Heritage Significance

The Roman Catholic Church Group in Toodyay is recognised for its cultural heritage significance as a complex of religious buildings. The installation of the proposed fence, despite its simple design, could have a minor adverse impact on this cultural heritage.

Archaeological Concerns

Given the historical significance and lengthy occupation of the site, there is potential for archaeological material to be uncovered during fence installation. This requires careful management to ensure any findings are appropriately handled and preserved.

Aesthetic and Landscape Impact

The proposed fence and accompanying planting could impact the open parkland landscaping characteristic of the site, which is part of its heritage value.

Operational Risks

Compliance with Heritage Regulations

The fence installation must comply with heritage regulations, requiring coordination and oversight to ensure no violations that could lead to penalties or legal issues.

Public Safety and Liability

Construction activities must be managed to ensure public safety, avoiding any injuries or accidents at the site, which could also lead to liability issues for the Shire.

Financial Implications

Any unforeseen costs due to compliance issues, damage to archaeological findings, or public safety incidents could impact the financial sustainability of the project.

Reputational Risk

Poor management of the fence installation or its impact on the heritage site could lead to public criticism, affecting the Shire's reputation.

Community Relations

Negative impacts on community sentiment due to changes to a heritage site, could affect the relationship between the Council and the community.

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Notes the submission from the Heritage Council of Western Australia regarding the development application P2024-22 for proposed boundary fencing at Lot 4 (No. 3) Mercy Retreat, Toodyay.
2. Pursuant to Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants development approval for application P2024-16 for proposed boundary fencing at Lot 4 (No. 3) Mercy Retreat, Toodyay, subject to the following conditions:
 - (a) The development hereby permitted must substantially commence within two years from the date of this decision.
 - (b) The development hereby permitted taking place in accordance with the approved plans as shown in Attachment 2.
 - (c) All contractors are to be made aware of the potential for archaeological material to be uncovered during excavation works, and a clear procedure is to be in place to ensure that any archaeological material is dealt with appropriately.

Advice Notes

1. The applicant/contractor is to liaise with the Shire's Cultural Heritage Officer for guidance on how best to meet the requirements of Condition 2(c).

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 Monthly Financial Statements - April 2024

Date of Report:	26 April 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 30 April 2024; and ↗ 2. Supplementary Information as at 30 April 2024 ↗

PURPOSE OF THE REPORT

This report provides Council with financial information for the period ending 30 April 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, comparing actuals against annual budget and 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 were 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 30 April 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 April 2024 was \$2,011,462.55 compared to the March 2024 closing balance of \$2,316,065.97.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of April 2024 was \$514,797.67 broken down as follows:

Category	31/03/2024	30/04/2024
> 90 days and over	\$ 16,941.59	\$ 21,325.68
> 60 days and over	\$ 4,836.34	\$ 320,541.31
> 30 days and over	\$ 530,269.89	\$ 35,033.62
Current	\$176,1401.18	\$ 137,897.06
TOTAL	\$ 728,449.00	\$ 514,797.67

The table above shows a reduction in the outstanding sundry debtor's balance. Category of 60 Days and over is due by \$341,866.99 due to progress claims for grant funding awaiting payment.

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.

Moore Australia

Strategic:

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

Outcome 9. Responsible and effective leadership and governance.

9.2 Govern Shire finances, assets and operations responsibly.

Policy related:

Authorised Signatories

Purchasing

Corporate Credit Cards

Financial Governance

Delegation

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

Financial:

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

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

As at 30 April 2024, the balance of funds held in the Shire's operating accounts was \$185,935.11 and the total of all interest bearing term deposits invested for the period ended 30 April 2024 was \$3,584,648.90

Of the \$4,082,649.51 invested in interest bearing deposits, \$2,545,259.22 relates to reserve funds.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives, for the month ending 30 April 2024 the following:

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

9.2.2 List of Payments - April 2024

Date of Report:	26 April 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. Creditors Payment Listing-April 2024 ↗

PURPOSE OF THE REPORT

To present the list of payments raised during April 2024.

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

COMMENTS AND DETAILS

The list of all invoices processed under delegated authority during April 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.**

O9.1: *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 April 2024 total \$1,612,988.89

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 April 2024 as attached to this report, summarised as follows:

Municipal Cheques	\$ 39,397.44
Electronic Funds Transfer Payments	\$ 1,292,868.41
Direct Debits	\$ 0.00

	Payroll	\$ 278,592.25	
	Purchasing Cards	\$ 2,130.79	
	TOTAL	\$ 1,612,988.89	

9.3 EXECUTIVE SERVICES

9.3.1 Audit and Risk Committee Charter

Date of Report:	9 May 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:	Nil.
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none">1. CURRENT Audit and Risk Committee Charter; and ⇒2. REVISED Audit and Risk Committee Charter. ⇒

PURPOSE OF THE REPORT

To consider the endorsement of the REVISED Audit and Risk Committee Charter.

BACKGROUND

The current charter was adopted by Council at its meeting held on 24 January 2024 (**Attachment 1**).

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 templates are intended to be adapted as required to reflect the specific legal and regulatory requirements of the entity.

The ARC met in February 2024 to review the Audit and Risk Committee Charter. Following this meeting Officers received further advice from the Department of Local Government, Sport and Cultural Industries in March 2024 which prompted further amendments prior to being presented for adoption.

COMMENTS AND DETAILS

The REVISED Audit and Risk Committee Charter is attached and recommended for adoption (refer to **Attachment 2**).

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.

O9.1 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

Office of the Auditor General's Better Practice Guide for Western Australian Public Sector Audit Committees (the Guide)

Risk related:

The risk is considered moderate (8) if Council were to choose not to endorse the Officer's REVISED Audit and Risk Committee Charter. This report mitigates the risk.

Workforce related:

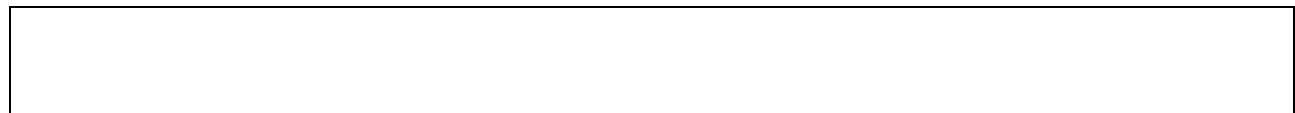
Once Council approves the charter it will be placed onto the Shire's website and sent via email to ARC Members and Shire Officers.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council adopts the REVISED Audit and Risk Committee Charter (**Attachment 2**).



9.3.2 Lease and Agreements Update

Date of Report:	9 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN12
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	Nov 2023 OCM
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Extract of the Contracts and Agreements (Legal) Register - Priority 1 and 2. ↗

PURPOSE OF THE REPORT

To receive an update regarding the Shire's contracts and agreements.

BACKGROUND

At an Ordinary Council Meeting held in May 2023, Council resolved that the CEO continue to provide six monthly updates to Council on Lease Agreements and other legal documents.

COMMENTS AND DETAILS

Attachment 1 contains the records listed as Priority 1 and Priority 2 on the 'Contracts and Agreements (Legal) Register' (the Register). The attachment includes a comments column in respect to what action has been taken.

It is recommended that the Attachment be received.

IMPLICATIONS TO CONSIDER

Consultative:

Officers consult with community groups when appropriate.

Strategic:

Shire of Toodyay Plan for the future - Council Plan 2023-2033

Outcome 9: Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Financial Governance

Risk Management

Financial:

Financial implications arising from conditions of Shire leases and agreements are included in the annual budget as adopted each year.

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

3.58 *Disposing of property*

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

Delegations

ES12 Lease of Council Buildings

ES13 Tenancy Agreements

ES14 Contract Formalities

Risk related:

There are financial and reputational risks associated with not managing lease agreements, contracts, MOU's, licences and agreements appropriately.

Workforce related:

The administration of contracts and agreements can be managed within budgeted resources.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the extract of the Contracts and Agreements (Legal) Register - Priority 1 and 2 as attached to this report (**Attachment 1**).

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Tender Evaluation TEN 95 04/2024 WasteTransfer Station and Bulk Waste Transfer

Date of Report:	5 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	TEN 95 04/2024
Author:	C Sullivan – Executive Manager Infrastructure, Assets & Services
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:	<p>1. Tender Submission Broderick Waste Solutions Pty Ltd (confidential) <i>Section 5.23(2)</i></p> <p>(c) <i>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</i></p> <p>(e)(iii) <i>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 (under separate cover)</i></p> <p>2. Tender Evaluation Report (confidential) <i>Section 5.23(2)</i></p> <p>(c) <i>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</i></p> <p>(e)(iii) <i>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 (under separate cover)</i></p>

PURPOSE OF THE REPORT

To consider award of the tender for the management of the waste transfer station and bulk waste transfer.

BACKGROUND

The current contract comes to an end on 30 June 2024, which will be the end of the two extension periods in the contract. The current contract is performed by Broderick Waste Solutions Pty Ltd.

COMMENTS AND DETAILS

The Shire of Toodyay invited Tenders for the Management of its Waste Transfer Station for a period of five (5) years commencing 1 July 2024 with an option to extend by three (3) years, subject to Council approval. The contract includes supply of skip bins and bulk waste transfer from the transfer station site to recycling facilities.

Tender 95 04/2024 Waste Transfer Station and Bulk Waste Transfer was publicly advertised on Tenderlink and close of tender submissions was 30 April 2024. One tender was submitted from Broderick Waste Solutions Pty Ltd which is included as Attachment 1 for reference.

A tender evaluation process was conducted by the following Shire officers:

- Coordinator Plant, Fleet and Waste
- Executive Manager Infrastructure, Assets and Services
- Reserves Management Officer.

The tender evaluation process rated the tender on the following factors and weightings as advertised in the public tender – Compliance Criteria and Qualitative Criteria. The tender submission complied with the Compliance Criteria.

Item	Evaluation Criteria	Weight (%)	Scoring Methodology
1	Company Experience on similar projects.	20	A score out of 20 will be assigned to each Tenderer based on the evidence provided by the Tenderer of their firm's previous experience.
2	Workplace Health and Safety	20	A score out of 20 will be assigned to each Tenderer based on the evidence provided by the Tenderer of their understanding and implementation of Work Health and Safety Standards.
3	Regional price Preference	10	A score out of 10 will be assigned to each Tenderer based on the evidence provided by the Tenderer where the whole or part of the contract is provided by and from regional sources.
4	Tendered price	50	A score out of 50 will be assigned to each Tenderer based on the best value for money offer by the Tenderer.
	TOTAL	100%	

Based on the weightings of the Qualitative and Price criteria, the tender submission was assessed by the tender evaluation panel as a score of 87% overall. As there was no comparison with other tenders, the evaluation panel recommends the tender submitted by Broderick Waste Solutions Pty Ltd for approval by Council. A copy of the Tender Evaluation Report is included as Attachment 2 for reference.

IMPLICATIONS TO CONSIDER

Consultative:

The tender was advertised for public notification on Tenderlink. Prospective tenderers were given two opportunities for a site inspection to view the existing operation of the waste transfer station and make their own assessment of tender requirements.

Strategic:

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

Outcome 9.2 Govern Shire finances, assets and operations responsibly.

Policy related:

Purchasing Policy (FIN 3)

Financial:

Funds must be included in the 2024/25 budget.

Legal and Statutory:

Public Health Act 2016

Local Government Act 1995 as amended.

Risk related:

There is a risk that not awarding this Tender would severely affect the Shire's obligation to collect and dispose of municipal waste and hence cause a major public health risk as well as the reputational damage.

Consequence: Catastrophic (5)

Likelihood: Likely (4)

Calculated Risk: Extreme (20)

Workforce related:

While the management and operation of the contract works are entirely carried out by the contractor, Shire staff will still be required to manage and audit the contract activities. This is not seen as a significant impost on Shire resources as this has been the operation for many years.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council award Tender 95 04/2024 Waste Transfer Station and Bulk Waste Transfer to Broderick Waste Solutions Pty Ltd for the initial five (5) year period commencing on 1 July 2024 for the tender price of:

- (a) Waste Transfer Station Management - \$5500.00 per fortnight excluding GST;
- (b) Supply of skip bins and transportation of general waste to Northam - \$60.00 per tonne excluding GST;
- (c) Supply of skip bins and transportation of E waste, plastic, cardboard, and glass to Perth - \$600.00 per trip excluding GST.

9.4.2 Concept Design of Bridge 4085 Toodyay West Road

Date of Report:	6 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	BR 4085
Author:	C Sullivan – Executive Manager Infrastructure, Assets & Services
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. MRWA Bridge Alignment Options; ↗ 2. B4085 Toodyay West Raod Speed Limit Diagrams; ↗ 3. Precast Concrete Bridge Option; ↗ 4. Unibridge Steel bridge deck option; and ↗ 5. MRWA correspondence 29 April 2024. ↗

PURPOSE OF THE REPORT

To consider the approval of the proposed option for the reconstruction of Bridge 4085 Toodyay West Road.

BACKGROUND

A capacity assessment of the Bridge 4085 Toodyay West Road was carried out by the Main Roads WA (MRWA) in November 2021, which identified significant deterioration in the timber elements of the support structure of the bridge. The existing bridge is 4.2metres kerb width – single lane only with 40 kph speed limit and bollards in place.

In March 2023, the MRWA notified the Shire officers of the options to limit the load on the bridge until such time as the bridge could be replaced with a new structure. A load limit of 9 tonnes was imposed based on emergency repairs carried out in September/October 2023 and a heavy vehicle diversion implemented. Additional props under the bridge were also installed.

MRWA also notified in March 2023 that planning had commenced to replace the bridge with a notional program as follows (extract from MRWA e-mail dated 15 March 2023):

As you are aware planning is under way to replace the bridge:

- 2021/22 *Waterways Investigation has been undertaken.*

- 2023/24 *Commence Preliminary Design - Obtain clearances Aboriginal, European Heritage and Vegetation and commence Preliminary Design.*
- 2024/25 *Finalise replacement design*
- ~ 2026/27 *Construction to occur once design are finalised and funding obtained.*

At this time, the funding for the bridge replacement was believed to be entirely from the Federal Bridge Renewal Program, based on a funding application by the Shire with MRWA to carry out the detailed design.

COMMENTS AND DETAILS

MRWA notified Shire officers in February 2024 that an options study had been carried out and this was discussed with Elected Members at the Council Forum on 17 April 2024. A copy of the Bridge Alignment Options is included for reference as Attachment 1.

MRWA nominated a Project Manager for the design of the bridge and Shire officers were briefed on 11 April 2024 on the 15% design stage. By this stage, **Option 3** from the alignment study was proposed by Shire officers as the preferred alignment based on the minimising of land take required from adjacent private properties and a design speed limit of 70 kph.

MRWA conducted a speed zone assessment based on the preferred option which is included for reference as **Attachment 2** – B4085 Toodyay West Road – Speed Limit Diagrams. **Option 3** allows for a posted speed limit of 60 kph from the railway level crossing south of the bridge through to and past the horizontal curve of the road north of the bridge.

For the bridge replacement, two types of construction were assessed – the precast concrete plank deck structure and the Unibridge steel structure. Preliminary concepts of both options are included for reference as Attachments 3 and 4. The steel structure is not preferred due to future maintenance costs compared to the precast option.

The other aspect of the design discussed at the Council Forum was the inclusion of a pedestrian footpath to allow bicycle traffic to safely cross the bridge without conflict movements with vehicles.

Further discussion then took place with MRWA officers in relation to the funding for the bridge reconstruction. MRWA by e-mail dated 29 April 2024 clarified their position on the bridge funding. A copy of this e-mail is included for reference as Attachment 5.

This is a significant development as MRWA have foretold a change to the Federal funding program to commence 1 July 2024. The program is the Safer Roads and Infrastructure Program which combines two funding programs into one. The new requirement for bridge replacement on roads which the local government responsibility will be 80% from the Federal fund and the local authority will have to fund the remaining 20%. MRWA will continue to fund the detail design of the bridges.

With the inclusion of the pedestrian footpath, the expected cost of the Bridge 4085 replacement is expected to be between six and eight million dollars. A more detailed cost estimate would be carried out by MRWA at the 50% design stage. While the local authority must apply for the Federal funding, MRWA comments on the funding application as part of the Federal government review process prior to endorsement of the funding.

The financial risk to the Shire is significant as the bridge must be replaced. Enquiries must be made for alternative funding sources to cover the local authority portion of the total cost.

IMPLICATIONS TO CONSIDER

Consultative:

Public consultation must be carried out by MRWA in relation to land acquisition and speed zoning with support from the Shire of Toodyay.

Strategic:

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

Outcome 5.1 Provide Responsible Planning and Development

Outcome 6.1 Keep a persistent focus on building a safe, efficient road network.

Policy related:

ADM 18 Risk Management

FIN 18 Long term Financial Planning

Financial:

The Shire of Toodyay will not have the capacity to fund 20% of the bridge reconstruction cost and hence will need to seek funding from other sources.

Legal and Statutory:

Local Government Act 1995 as amended.

Risk related:

Since the financial impact is higher than \$500,000 the Rating level is Catastrophic (5). Until other funding sources are confirmed, the Likelihood is rated as Likely (4) and hence the Risk is Extreme (20).

Workforce related:

While MRWA are entirely funding and implementing the detail design, Shire Officers will need to assist with the public consultation stage. The construction stage is proposed to be carried out by MRWA also which is yet to be confirmed.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Approve the selection of Option 3 as the preferred option for the bridge alignment of BR 4085; and
2. Approve the inclusion of a footpath into the detail design; and
3. Request a further report to Council at the 50% design stage with a detailed cost estimate and clarification of alternative funding sources.

9.4.3 Toodyay Racecourse Precinct - Site Works Update

Date of Report:	16 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG002
Author:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Responsible Officer:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Previously Before Council:	Ordinary Council Meeting 24 April 2024
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	Nil

PURPOSE OF THE REPORT

The purpose of the report is to update Council on the progress of the works on site including further remediation of the Main Building steel structure.

BACKGROUND

At the Ordinary Meeting of Council on 24 April 2024 Council considered a report item 9.4.2 (OCM 143/0424) Toodyay Racecourse Precinct – Main Building Roof Resheeting. Council resolved as follows:

That Council:

- Notes the report including the progress of works on site;*
- Approves the submission by Reliable Asset Maintenance for the sum of \$121,760.00 excluding GST for the replacement of the roof sheeting to the Main Building; and*
- Approves the request for demolition of the existing ablutions block; and*
- Requests the Acting CEO provide an update through a written report to the Ordinary Council Meeting of 22 May 2024 detailing progress of works on the site including further remediation of the Main building steel structure.*

The above report to Council included a list of activities and tasks that had either been completed on site or were underway, all carried out by resources organised by the Toodyay Racing Club. An attachment to the report was the structural assessment of the Main Building steel structure by Lalli Consulting Engineers.

COMMENTS AND DETAILS

The structural assessment by Lalli Consulting Engineers included a list of recommendations to be carried out in the short, medium, and longer term based on the level of risk. The

recommendation to replace the existing roof purlins due to the high level of corrosion and loss of structural integrity was a short term recommendation.

Shire officers obtained three quotes for the replacement of the roof purlins on a like for like basis. Quotes were obtained from Reliable Asset Maintenance, Sheppard Steel and Oxley Roofing. The successful quote was awarded to Reliable Asset Maintenance under delegation for the sum of \$65,085.00 excluding GST.

A site meeting to commence the project is to be conducted on 17 May 2024 with representatives of Reliable Asset Maintenance, Shire officers and the Toodyay Race Club to plan the works on site including site management, safety, access and egress, storage of materials and coordination with other works on the precinct.

Shire staff have excavated several footings to the existing steel columns of the Main Building and remediation as recommended by Lalli Consulting Engineers can be carried out as part of the medium term recommendations. A site inspection was carried out by the Shire Executive Manager Infrastructure, Assets and Services and the structural engineer from Lalli Consulting Engineers on 30 April 2024. The remediation required to the footings will include sandblasting and painting, corrosion protection, welding additional steel plates, and possible replacement of some of the nuts on the holding down bolts.

Further to the list of activities on site by the Toodyay Race Club as reported to Council at the Ordinary Council Meeting of 24 April 2024, the demolition and removal of the ablutions block has been completed, including asbestos removal by a licenced contractor.

Landscaping and planting have continued onsite around the existing buildings, as well as gravel placement to trafficable areas and maintenance of soak wells. The application to relocate the main transformer pole has been received by Western Power and is being assessed. The removal and replacement of defective timber planks on the verandah of the Members Building has been completed. The aeration, seeding and fertilisation of the racetrack area has been programmed for early June 2024.

The above information is presented for the information of Council.

IMPLICATIONS TO CONSIDER

Consultative:

Shire officers are continuing discussions with the Toodyay Race Club to monitor and coordinate activities on the site. The Shire Executive Manager Infrastructure, Assets and Services will be attending the Toodyay Racing Club Committee Meeting on 25 May 2024 to discuss the modifications required to the existing lease to accommodate community activities and events on the precinct.

Funding application criteria for Shire funding applications to external funding programs such as Lottery West will be discussed and the program of works on site (including the Main Building roof Resheeting) will be updated in terms of timing and coordination with Shire activities. The results of these discussions can then be reported back to Council for consideration.

Strategic:

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

Outcome 1: A safe and healthy community

O1.1. Facilitate community safety.

Outcome 9: Responsible and effective leadership and governance

09.2 *Govern Shire finances, assets, and operations responsibly.*

Policy related:

Risk Management

Asset Management

Financial Governance

Financial:

The Shire invests significantly in the maintenance costs of all Shire owned buildings. Funds have been allocated by Council from the Asset Development Reserve of up to \$200,000 for the Main Building remediation.

Legal and Statutory:

Local Government Act 1995

Building Act 2011

Building Code of Australia NCC 2022

Plumbing Code of Australia 2022

Electricity Act 1945

Risk related:

The current condition of the buildings and infrastructure in the precinct warrants action to address risks to public safety which is considered moderate (9) and requires adequate controls to be put in place. Demolition of some structures and remediating others seeks to mitigate that risk. There is also a reputational risk should an incident occur which causes personal injury. This is rated high (15).

Workforce related:

The Shire has an ongoing commitment to the upgrade, renewal, and maintenance of Shire buildings.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council notes the report.

9.5 COMMITTEE REPORTS

9.5.1 HAC recommendations from meeting held on 8 May 2024

Date of Report:	9 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC4
Author:	M Rebane – Executive Assistant
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil.
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<p>1. HAC Minutes from meeting held on 8 May 2024. ↗</p> <p>2. EOI's provided to the HAC. (confidential) <i>Section 5.23(2)</i> <i>(b) the personal affairs of any person</i> <i>(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</i> <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></p>

PURPOSE OF THE REPORT

To receive the minutes of the Heritage Advisory Committee (HAC) Meeting held on 8 May 2024, and consider the recommendations made by the HAC at that meeting (Refer to **Attachment 1**).

BACKGROUND

The HAC met on 8 May 2024 and considered the following Officer reports:

1. Cultural Heritage Update; and
2. Membership Applications.

COMMENTS AND DETAILSRecommendation 1 – Cultural Heritage Update

The minutes of the HAC meeting are attached. The report the Cultural Heritage Officer has done was discussed thoroughly with the Committee Members who have recommended that Council receive the report.

It is recommended that the Officer recommendation to receive the minutes, as well as the Committee's recommendation to receive the report written by the Cultural Heritage Officer be endorsed.

Recommendation 2 – Membership

When Council resolved to establish the HAC part of that resolution stated “existing community members to remain on the committee until the new terms of reference has been adopted by Council.”

Council adopted the terms of reference in April 2024. Local public notice went out requesting expressions of interest be submitted by Friday 3 May 2024 so that they could be presented to the HAC as part of their agenda for their meeting on 8 May 2024.

Confidential Attachment 2 contains the EOI's provided to the HAC at their meeting.

It is recommended that the Committee's recommendation be endorsed.

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:

Museum Collection and Conservation Management Policy

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995

- s.1.7 Local Public Notice
- s.5.10 Committee members, appointment of
- s.5.11 Committee membership, tenure of

Risk related:

There are no risks of note related to this report.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council receives, by simple majority, the minutes of the meeting of the Heritage Advisory Committee held on 8 May 2024. (**Attachment 1**).

HAC RECOMMENDATION 1

That Council, by simple majority:

1. notes the update provided by the Cultural Heritage Officer; and
2. considers the periodic inspection and preventative maintenance schedule of the Shire's Heritage buildings.

HAC RECOMMENDATION 1

That Council, by absolute majority, appoints Elizabeth Frayne, Barry Keens, Carolyn Elphick, Heather McNamara and Derek Donegan as community members on the Heritage and Advisory Committee.

9.5.2 BFAC recommendations from meeting held on 1 May 2024

Date of Report:	9 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIR3
Author:	M Rebane – Executive Assistant
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 meeting held on 1 May 2024. ↗

PURPOSE OF THE REPORT

To receive the minutes of the Bush Fire Advisory Committee (BFAC) Meeting held on 1 May 2024 (Refer to **Attachment 1**).

BACKGROUND

The BFAC met on 1 May 2024.

COMMENTS AND DETAILS

During the Bush Fire Advisory Committee Meeting, discussions encompassed various crucial aspects concerning risk management, the extension of the Restricted Burning period, and training that had been facilitated in Toodyay in the emergency management space, underscoring a need for improved community engagement strategies.

Project updates included the awarding of tenders and grants for mitigation efforts on shire-owned land. Agency updates covered operational aspects, including gratitude for collective efforts during recent incidents, announcements regarding operational changes, and upcoming events such as the Emergency Services Dinner.

The meeting also included updates from brigade representatives, highlighting activities, achievements, and concerns within their respective areas.

As the Committee made no recommendations from Council it is recommended that Council receive the minutes.

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:

Nil.

Financial:

Nil.

Legal and Statutory:

Nil.

Risk related:

The risks are insignificant and low (1) in receiving the minutes of the BFAC.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the minutes of the meeting of the Bush Fire Advisory Committee held on 1 May 2024. (**Attachment 1**).

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Notice of Motion – Works Advisory Committee (Cr McKeown)

Date of Report:	16 May 2024
Applicant or Proponent:	Cr McKeown
File Reference:	MTG7
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:	1. Notice of Motion; and ↗ 2. Terms of Reference. ↗

PURPOSE OF THE REPORT

To consider a notice of motion provided by Councillor McKeown.

BACKGROUND

On 14 May 2024 Councillor McKeown provided the Acting Chief Executive Officer notification of a Notice of Motion for the May 2024 Ordinary Council Meeting.

The Notice of Motion is attached, together with the terms of reference (**Attachments 1 and 2**) which cites that *in the Shire of Toodyay Council Plan 2023-2033, Council committed to deliver and support services that contribute to the achievement of Place aspirational outcomes including: asset management; building maintenance; playgrounds, parks and reserves; streetscapes; footpaths, parks and reserves; roads and bridges; traffic management and signage; parking management; local cemeteries; and property management.*

To achieve this objective, a Works Committee would oversee and make recommendations to the Council on matters related to:

1. *Works required to construct, upgrade and maintain streets, footpaths, thoroughfares and other public places, including streetscape upgrades and landscaping initiative; and*
2. *The design, construction, upgrading and maintenance of parks, reserves, recreational and civic amenities and facilities, and Council owned buildings.*

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

COMMENTS AND DETAILS

Councillors were informed at the Agenda Briefing held on 15 May 2024 that a Notice of Motion had been received and would form part of an Officer's Report for the 22 May 2024 Ordinary Meeting of Council.

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Shire of Toodyay Plan for the future - Council Plan 2023-2033

Outcome 9: Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Policies:

- Local Government Payments and Gifts to Members

Currently this policy only provides for payments to community members of existing committees of Council and would therefore require amendment.

- Financial Governance
- Risk Management

Corporate documents

- Committee Book

Financial:

There will be costs associated with the operation of the Committee, including the normal preparation of agendas, minutes, scheduling, officer time, and administrative costs.

The cost of appointing three community members would be approximately \$2,232 per annum which would need to be included in the DRAFT Annual Budget for 2024/2025.

Legal and Statutory:

Local Government Act 1995

- s.5.8 Establishment of Committees
- s.5.9 Committees, types of
- s.5.10 Committee Members, appointment of
- s.5.11A Deputy Committee Members
- s.5.11 Committee Membership, tenure of

Risk related:

The risks of Council not passing the Notice of Motion as recommended is insignificant, with a Low risk rating (2). This report mitigates the risk.

Workforce related:

The outcomes of this report would be managed using current resources. The primary support to the proposed Committee would be from the Executive Manager Infrastructure, Assets and Services and the Coordinator Infrastructure Projects. The Committee is envisaged to meet four times a year with associated follow up information updates. External advice or assistance may be required for technical information or industry practice.

VOTING REQUIREMENTS

Absolute Majority

NOTICE OF MOTION – CR MCKEOWN

That Council:

1. Establishes a Works Advisory Committee with terms of reference as per Attachment 2.
2. Appoints the following Elected Members to the Works Advisory Committee:
 - (a) _____; and
 - (b) _____; and
 - (c) _____.
3. Requests the Acting CEO to update the 2024 Council and Committee meeting schedule and Committee Book to include the Works Advisory Committee.
4. Requests the Acting CEO to publicly advertise for expressions of interest from community representatives to be appointed to the Works Advisory Committee; and
5. Requests the Acting CEO to provide all expressions of interest received at the first meeting of the Works Advisory Committee to be held on Wednesday 12 June 2024 at 1.00pm.
6. Requests the Acting CEO bring a Works Advisory Committee “Members Appointment” report to Council at the June 2024 Council Meeting.
7. Requests the Acting CEO to amend Local Government Payments and Gifts to Members Policy to include at Point 2 of the policy, the Works Advisory Committee.

11 NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**12 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

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

Nil.

13.2 EMPLOYEES

Nil.

14 CONFIDENTIAL BUSINESS

Nil.

15 NEXT MEETINGS

Ordinary Council Meeting	26 June 2024
Agenda Briefing	19 June 2024
Audit & Risk Committee Meeting	5 June 2024
Local Emergency Management Committee Meeting	12 June 2024

16 CLOSURE OF MEETING