



# Ordinary Council Meeting

26 June 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](mailto:ceo@toodyay.wa.gov.au) at the earliest opportunity so that Officers can prepare responses to those questions prior to the Meeting.

An Agenda Briefing was held at the same venue as above on 19 June 2024, commencing 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.

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**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 22 May 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 22 May 2024 be confirmed.

**5.2 Special Meeting of Council held on 29 May 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 29 May 2024 be confirmed.

**5.3 Special Meeting of Council held on 12 June 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 12 June 2024 be confirmed.

**5.4 Agenda Briefing held on 19 June 2024****OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 19 June 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 Morangup Road, Morangup - Renewal of Extractive Industry Licence - Austral Bricks**

Date of Report:	11 June 2024
Applicant or Proponent:	Land Insights on behalf of Austral Bricks Pty Ltd
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"> <li>1. Management Plan - Lot 1 Morangup Road - Austral Bricks Pty Ptd - August 2023; <a href="#">↗</a></li> <li>2. Additional Bond Calculations and Maps. <a href="#">↗</a></li> </ol>

**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.

### Status of Development Approval

The Schist Pit at Lot 1 Morangup Road in Morangup operates in accordance with a current, valid Development Approval, which does not have an expiry date. All of the conditions of approval for the Development Approval therefore remain in force.

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	<p>(a) 06:00 – 17:00 hours from Monday to Saturday between the months of October and May;</p> <p>(b) 06:00 – 17:00 hours from Monday to Friday between the months of June and September;</p> <p>(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;</p> <p>(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).</p>
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

Subject	Description
	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.
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	<p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"> <li>(i) Dust Management Plan (Land Insights, 2023);</li> <li>(ii) Noise Management Plan (Land Insights, 2023);</li> <li>(iii) Water Management Plan (Land Insights, 2023);</li> </ul>

Subject	Description
	(iv) Visual Amenity Management Plan (Land Insights, 2023); (v) Rehabilitation Management Plan (Land Insights, 2023); (vi) Refuelling Management Plan (Land Insights, 2023); (vii) Waste Management Plan (Land Insights, 2023); (viii) Phytrophthora 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.

For more details, please refer to **Attachment 1 – Management Plan - Lot 1 Morangup Road - Austral Bricks Pty Ltd - August 2023.**

## 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.

- (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).

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

Given these are the agreed conditions of approval on a valid Development Approval, it would not be prudent to make a set of different times for operation and cartage on the Extractive Industry Licence. Therefore, the recommendation would be to condition the licence with the above.

## 2. Duration of approval being sought

The Shire of Toodyay is considering granting Austral Bricks a 21-year extractive industry licence for a large-scale clay extractive industry, as opposed to a more conventional 10-year approval.

Whilst the Shire of Toodyay in recent approvals has had a consistent 10-year maximum, it is quite correct that the Shire's Extractive Industry Local Law does allow for a maximum of 21 years. Specifically, the clause states:

*Where the local government approves an application for a licence, it must -*

- a) determine the licence period, not exceeding 21 years from the date of issue; and*
- b) approve the issue of a licence in the form determined by the local government from time to time.*

From the applicant's perspective:

*"the Local Law allows for a Licence up to 21 years and this has been provided for the site by the Council previously. The limiting factor to the previous 21 year approval was the extent of excavation. The same would also apply to this site (presumably) as a plan has been provided showing the proposed extent of excavation. If this is excavated in less than 21 years then a new Licence would need to be applied for (as was the case in 2014). In essence, regardless of the length of approval, the Licence has a few other conditions limiting operations. Conversely, having a longer timeframe also allows Austral Bricks to keep extracting within the approved area up to 21 years if market conditions slow and the rate of excavation is less than expected".*

Issuing a 21-year extractive industry license over a 10-year one can have several pros and cons for both the local government and the extractive industry operator.

### **Pros and Cons for Local Government**

Pros:

**Long-term Planning Stability:** A 21-year license can provide long-term stability and predictability for local government planning and infrastructure development.

**Reduced Administrative Burden:** Less frequent renewals mean fewer administrative processes and costs associated with reviewing and issuing new licenses.

Cons:

**Flexibility Loss:** A longer license duration reduces the local government's flexibility to adapt to changing circumstances, such as environmental regulations, economic shifts, or community needs.

Potential for Conflicts: Long-term licenses might lead to conflicts if new developments, environmental concerns, or public opposition arise during the license period.

### **Pros and Cons for Extractive Industry Operator**

#### **Pros:**

**Investment Security:** A 21-year license provides a secure investment environment, encouraging long-term investments in technology, infrastructure, and workforce.

**Operational Stability:** Long-term licenses allow for better long-term planning and operational efficiency, leading to cost savings and optimised resource extraction.

**Financial Planning:** Predictable and stable license terms enable better financial planning and access to funding from investors who prefer long-term stability.

#### **Cons:**

**Risk of Regulatory Changes:** Operators might be locked into terms that could become less favourable if regulatory environments change over the long term.

In accordance with the *Extractive Industry Local Law* Clause 3.1(2)(b)(ii), the Local Government may, in respect of an application for a licence – approve the application on such terms and conditions, if any, it sees fit. Therefore, Council can choose to impose a ten-year limit for consistency, or the longer twenty-one-year duration that the applicant is seeking.

It is the Officer's opinion that the duration should be kept at ten years as this is consistently applied.

### **3. Road Maintenance Contributions**

Condition 1. (h)(i) of the active and valid Development Approval states:

*h) The applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the clay extractive industry operations at 1010 (Lot 1) Morangup Road, Morangup, 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:*

- i. A Road Maintenance Contribution of \$0.20 per tonne shall be made annually for the term of this planning approval, the conclusion of which will be marked by the completion of all extraction works;*
- ii. Payment shall be made within 30 days of the 30 June each year based on actual tonnages as supplied by the weighbridge dockets;*
- iii. Shall be lodged with the Shire for approval and the Road Maintenance Plan shall be implemented throughout the duration of the operation of the Facility.*

Given the above, any condition of approval in of the Extractive Industry Licence should be consistent with the active and valid Development Approval. However, it should be noted that the Road Maintenance Plan has been lodged already and satisfies the conditions of approval of the Development Approval.

One issue with this is that the Development Approval is in force until such time as the development ceases. The Development Approval does not have a prescribed time limit. This is considered an issue because the condition sets out a contribution of \$0.20 per tonne with no opportunity to review. Normally the Shire would see an application for renewal as an opportunity to review this figure, and in other instances a set figure would also have the CPI applied when calculated each year. This is done

to ensure that the true cost of repair and maintenance is being reflected in amounts being collected to ensure there is no shortfall to be borne by ratepayers. Unfortunately, this is something that was not considered adequately at the time of the Development Approval.

However, the matter is being currently discussed between the Shire and the Applicant – who acknowledges the issue and sees the Shire's perspective and predicament.

The matter may be rectified through an agreed modification of the Development Approval. The Shire can request this; however, it must be agreed to by Austral Bricks.

It is recommended that an additional Officer Recommendation be considered by Council:

*That Council, requests that the CEO write to Austral Bricks for consideration of a proposal to amend Condition 1(h)(i) of the Development Approval issued 7 October 2016, pursuant to Clause 77 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*

## 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/index_of_permit/5495)*

*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.***

It should be noted that no native vegetation clearing is proposed.

### **Strategic:**

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

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

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

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

*Outcome 9. Responsible and effective leadership and governance.*

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

### **Policy related:**

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

The principles from the Policy are below:

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

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

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

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

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

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

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

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

Rehabilitation of this land after a pit has been decommissioned is an essential consideration. The cost and responsibility to perform this vital process lies with the licensee. Examination of the Shire records and confirmed by the applicant is that there is no record of the bond on file. This is contrary to original reportage.

This realisation has come about when the Shire and Applicant began to investigate the rehabilitation bond situation. This was being done as there is currently no methodology about how to apply the area and depths for calculations using the Schedule of Fees and Charges.

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 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:

#### *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:

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

**Environmental related**

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

*After careful review of the information provided, I appreciate your efforts to address the concerns raised and provide clarification on several key points.*

*Regarding the perceived major impacts listed in the previous Agenda report, which was subsequently pulled, including impacts to native vegetation, threatened species, and the spread of dieback, I acknowledge your clarification that no clearing of native vegetation is proposed as part of the application. Furthermore, I take note of the preparation of the "Phytophthora Dieback Hygiene Management Plan" for the site, which indicates proactive measures taken to address potential environmental risks.*

*Given the comprehensive environmental approvals and management plans already in place, I do not have any additional comments to add at this time.*

**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

- (b) 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 are limited to:

1. 06:00 – 17:00 hours from Monday to Saturday between the months of October and May;
2. 06:00 – 17:00 hours from Monday to Friday between the months of June and September;
3. 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;
4. 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).

Transport management

(ix) In accordance with Condition 2(b)(viii) above.

(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 applicant shall be responsible for the cost of maintaining and repairing damage to the roads controlled by the Shire which are used by heavy haulage traffic associated with the clay extractive industry operations at 1010 (Lot 1) Morangup Road, Morangup, to the extent that such traffic contributes to the need for such maintenance and repair based on this principle and including:

1. A Road Maintenance Contribution of \$0.20 per tonne shall be made annually for the term of this planning approval, the conclusion of which will be marked by the completion of all extraction works;
2. Payment shall be made within 30 days of the 30 June each year based on actual tonnages as supplied by the weighbridge dockets.

Noise and vibration

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

Water

(xiv) The operations are managed in accordance with "Water Quality Protection Note 15 - Extractive Industries Near Sensitive Water Resources".

- (xv) Any dewatering shall be in accordance with "Water Quality Protection Note 13 - Dewatering of Soils".

Dust

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

Bushfire management

- (xvii) 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

- (xviii) 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.
- (xix) The Applicant/Operator is to provide a written report to the Shire of Toodyay no later than 31 July each year outlining:
1. Progress of excavation
  2. Progress of rehabilitation
  3. Tonnage of material carted from the site
  4. Road maintenance contributions
  5. Community complaints and responses/actions
  6. Self-audit on the conditions of the EIL.

Site Rehabilitation

- (xx) The excavation site is to be rehabilitated in accordance with the Rehabilitation and Decommissioning 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.
- (xxi) Prior to the commencement of the development, the applicant is required to pay a 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)(xxi). 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.

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

#### Insurance

- (xxv) 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

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

3. Requests that the CEO write to Austral Bricks for consideration of a proposal to amend Condition 1(h)(i) of the Development Approval issued 7 October 2016, pursuant to Clause 77 of the Deemed Provisions of *the Planning and Development (Local Planning Schemes) Regulations 2015*.

**9.2 CORPORATE AND COMMUNITY SERVICES****9.2.1 List of Payments - May 2024**

Date of Report:	10 June 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	D Jones – Accounts Payable Officer
Responsible Officer:	N Mwale – Finance Coordinator
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. List of Payments May 2024 <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

That the accounts for 1 May 2024 to 31 May 2024, as submitted, be received.

**BACKGROUND**

This information is provided to Council on a monthly basis in accordance with provisions of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996.

A Local Government is to develop procedures for the authorisation of any payment of accounts to ensure that there is effective security for which money or other benefits may be obtained.

**COMMENTS AND DETAILS**

The schedule of payments has been compiled for the month of May 2024 and is attached.

These payments have already occurred, and Council are not making a decision as to whether payments are to be made.

**IMPLICATIONS TO CONSIDER****Consultative:**

There has been consultation with Executive Manager Corporate & Community Services.

**Strategic:**

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

*Outcome 9. Responsible and effective leadership and governance.*

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

**Policy related:**

Authorised Signatories Policy

Purchasing Policy

Delegation CS1

**Financial:**

All payments are made within the confines of Council adopted budget. All expenditure are in accordance with s6.8(1) (a) of the Local Government Act 1995.

**Legal and Statutory:**

Local Government Act 1995

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

s.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

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

**Risk related:**

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

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council endorses the schedule of accounts as presented, and listed below, for the month of May 2024:

Municipal Cheques	\$ 78,125.37
Electronic Funds Transfer Payments	\$ 631,505.27
Direct Debits	\$ 0.00
Payroll	\$ 236,347.11
Purchasing Cards	\$ 10,294.84
<b>TOTAL</b>	<b>\$ 956,272.59</b>

**9.2.2 Monthly Financial Statements - May 2024**

Date of Report:	5 June 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"> <li>1. Monthly Financial Statements as at 31 May 2024; and <a href="#">⇒</a></li> <li>2. Supplementary Information as at 31 May 2024. <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

The purpose of this report is to present to Council the Monthly Financial Report (containing the Statement of Financial Activity by nature) for the month ended 31 May 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.

The following information provides balances for key financial areas for the Shire of Toodyay's financial position for the month ending 31 May 2024.

Key Financial areasOutstanding Rates

The rate notices for charges levied for 2023/24 were raised in September 2023 after adoption of the annual budget at its Ordinary Council Meeting held 25 October 2023.

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

As at 31 May 2024, the gross amount of rates, ESL and rubbish charges outstanding (including arrears and interest) is \$1,614,913.35. This total is made up of the following:

	Current	Arrears 1	Arrears 2	Arrears 3	Deferment	Total
	\$1,141,634.19	\$269,545.98	\$100,081.08	\$101,536.75	\$ 0.00	\$1,614,913.35
Deferment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$282,785.74	\$ 282,785.74
Pre-payment	\$(401,153.38)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ (401,153.38)
Total	\$ 742,596.16	\$269,545.98	\$100,081.08	\$101,536.75	\$282,785.74	\$1,496,070.71

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of 31 May 2024 is displayed by category as follows:

Category	30/04/2024	31/05/2024
> 90 days and over	\$ 21,325.68	\$ 23,833.92
> 60 days and over	\$ 320,541.31	\$ 5,585.82
> 30 days and over	\$ 35,033.62	\$ 8,818.91
Current	\$ 137,897.06	\$ 66,382.25
<b>TOTAL</b>	<b>\$ 514,797.67</b>	<b>\$ 104,620.90</b>

From previous reporting period we recovered a total \$410,176.77 from over 60 days overdue debtors. 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:**

The Shire's surplus funds are invested in bank term deposits and checked regularly to ensure maximum investment returns in accordance with the Shire's investment policy.

Revenue was higher than anticipated on rates received, increase in fees & charges and grants received in advance.

Expenditure was lower than anticipated due to staff vacancies and materials and contracts. Invoices for goods and services will be processed next reporting period.

Capital activities lower than anticipated for this reporting period due to timing issue with construction work.

Transfers to and from reserve will be processed for the next reporting period.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council receives, for the month ending 31 May 2024 the following:

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

**9.2.3 Disability Access and Inclusion Plan Progress Report 2023/2024**

Date of Report:	29 May 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	DSB2
Author:	W Sutton – Community Development Officer
Responsible Officer:	G French – Acting Executive Manager Corporate and Community Services
Previously Before Council:	No
Author's Disclosure of Interest:	N/A
Council's Role in the matter:	Review
Attachments:	<ol style="list-style-type: none"> <li>2023/24 DAIP Reporting Guide <a href="#">⇒</a></li> <li>2023/24 DAIP Progress Report <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

A review of the Shire's Disability Access and Inclusion Plan (DAIP) has been conducted by officers and the draft 2023/24 Progress Report is presented for Council's consideration prior to submission to the Disability Services Commission.

**BACKGROUND**

In accordance with the *Disability Services Act 1993 (amended 2004)*, public authorities are required to develop and implement a DAIP that identifies barriers to access and propose solutions to ensure equitable access to services and facilities for people with disabilities. The Shire of Toodyay adopted its current DAIP 2020-2025 on 25 February 2020.

Local governments are required to report annually on their progress in implementing their Disability Access and Inclusion Plans (DAIPs). The Minister for Disability Services uses the information to produce a report detailing the progress made by public authorities across Western Australia. This report is provided to the Western Australian Parliament and made publicly available by the Department of Communities.

The Shire of Toodyay aims to improve accessibility and inclusiveness for people with disability and their carers/families through the strategies outlined in the Disability Access and Inclusion Plan (DAIP) 2020-2025.

**COMMENTS AND DETAILS**

Disability Access and Inclusion Plans are an important way of ensuring that public authorities continue to improve access and inclusion outcomes for people with disability.

The Progress Report (Attachment 1) provides information regarding the extent to which inclusion is effectively integrated into Shire operations and the influence of access and inclusion measures on the community.

The 2023/24 DAIP Progress Report must be submitted no later than 31 July 2023 addressing the Shire's progress in the following key areas;

- Outcome 1: People with disability have the same opportunities as other people to access the services of, and any events organised by, a public authority.
- Outcome 2: People with disability have the same opportunities as other people to access the buildings and other facilities of a public authority.
- Outcome 3: People with disability receive information from a public authority in a format that will enable them to access the information as readily as other people are able to access it.
- Outcome 4: People with disability receive the same level and quality of service from the staff of a public authority as other people receive from the staff of that public authority.
- Outcome 5: People with disability have the same opportunities as other people to make complaints to a public authority.
- Outcome 6: People with disability have the same opportunities as other people to participate in any public consultation by a public authority.
- Outcome 7: People with disability have the same opportunities as other people to obtain and maintain employment with a public authority.

Progress has been made in relation to footpaths, townsite and recreation areas accessibility. Officers acknowledge however, that there is further work to be done in the areas of training and awareness of those living with disability, with this work programmed for 2024/25 FY.

The progress report template has changed to a more streamlined "traffic light" format. LGAs report progress against each of the actions listed in their DAIP aligned against 1 of 15 State Disability Strategy Outcomes (Attachment 2, Appendix 1).

## IMPLICATIONS TO CONSIDER

### **Consultative:**

#### Disability Services Commission (DSC)

The DSC provides a reporting tool for completion by public authorities. The information is collated by the DSC and provided to the Minister and a summary report is provided to WA Parliament. The Community Development Officer has attended online training on the new reporting format.

#### Community members and visitors

The Shire considers feedback from the community, to improve awareness of those living with disability. Action on feedback, however, can be subject to budgetary limitations.

### **Strategic:**

#### ***Disability Access and Inclusion Plan (DAIP) 2020-2025***

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

#### ***Outcome 2: An inclusive connected community***

***O2.3: Advance opportunities, community participation and quality of life for people with disability.***

**Financial:**

The implementation of DAIP actions is considered as part of the annual budget process.

**Legal and Statutory:*****Disability Services Act 1993***

Section 29C of the *Disability Services Act 1993* requires the Disability Services Commission to provide the Minister with a report on the effectiveness of disability access and inclusion plans. Public authorities in Western Australia are requested to provide a progress report to the Commission annually with key information in order that it can meet its legislative requirements.

**Risk related:**

Whilst it isn't legislated that the Shire must submit a progress report, it is a requirement of the Disability Services Commission for an agency to meet its statutory obligations. Failure to submit a progress report could result in a reputational risk to the Shire.

**Workforce related:**

The development and administration of the Shire's DAIP is led by the Corporate and Community Services team as access and inclusion falls within this portfolio. However, responsibility for implementing the actions within the DAIP lies with relevant officers across the organisation.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. Adopts the Disability Access and Inclusion Plan Progress Report 2023/24 as attached, noting the progress made to date.
2. Requests the Chief Executive Officer submit the 2023/24 DAIP Progress Report to the Department of Communities by 31 July 2024.

**9.2.4 In-Principle Support - The Salvado Trail Foundation**

Date of Report:	30 May 2024
Applicant or Proponent:	The Salvado Trail Foundation
File Reference:	COMG1
Author:	W Sutton – Community Development Officer
Responsible Officer:	G French – Acting Executive Manager Corporate and Community Services
Previously Before Council:	No
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Salvado Trail - small scale unverified map. <a href="#">↗</a>

**PURPOSE OF THE REPORT**

To consider providing in-principle support to the Salvado Trail Foundation.

**BACKGROUND**

The Salvado Trail (*previously known as the Camino Salvado or Pilgrim Trail*) runs between Subiaco and New Norcia. The Trail follows the historic journey of Dom Rosendo Salvado, a Spanish Benedictine Monk, who pilgrimaged from St Joseph's Church in Subiaco to establish the settlement of New Norcia in 1847.

The Trail is approximately 175kms in length and is considered moderately challenging amongst the hiking community. A diversity of terrain along its route includes urban, rural, open grasslands (with lots of wildflowers) and forest. Typically, traversing its entire length will take 7 to 8 days. Entry and exit points provide opportunities for the journey to be completed in stages. The Pilgrim Trail was officially launched on 1<sup>st</sup> March 2016, with support from the City of Subiaco.

The Salvado Trail Foundation (STF) is a not for profit organisation with a primary objective to develop and maintain the Trail.

**Attachment 1** provides an (unverified) overview of the Trail. Further information on the STF and the Salvado Trail can be found at <https://salvadotrail.org.au>.

**COMMENTS AND DETAILS**

The STF has recently undergone a metamorphosis with the new committee looking to reinvigorate the foundation and its efforts to promote and restore the trail.

The STF vision is to bring the trail to a standard and status that is comparable with the Cape to Cape (Shire of Augusta Margaret River), so the value of the Salvado Trail can be fully realised. The proximity to Perth, the historical and spiritual backdrop, varied terrain and

vistas and wildflower opportunities are all assets that will provide avid hikers and day trippers with an unforgettable experience.

Proposed changes under the vision, and falling within confines of the WA Hiking Strategy, include making the trail more accessible (including wheelchair friendly sections), bike friendly sections, increased and improved signage, extra water points and day camp areas, clearly defined entry/exit points with improved vehicle access, upgraded mapping and where required changes to the track alignment and surface improvements.

Approximately one third of the track lies within the Shire of Toodyay. The majority of this is within Department of Biodiversity, Conservation and Attractions (DBCA) managed land. All sections of track on Shire managed land fall within road reserves. There is a small section of track that passes through private property.

The STF is seeking in-principal support from each of the LGAs the track passes through, to support future funding applications and in the interest of open communications and a cooperative relationship with key stakeholders.

The STF improvements to and marketing of the Salvado Trail has the potential to increase tourism for Toodyay, directly by attracting increased numbers of hikers and support teams to the region and indirectly through Salvado Trail marketing campaigns.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

The STF Secretary met with the Shire's Community Development and Reserves Management Officers to discuss the concept.

The STF is keen to engage with all stakeholders, including local aboriginal groups to ensure cultural heritage is maintained and promoted.

### **Strategic:**

#### **Plan for the future – Shire of Toodyay Council Plan 2023-2033**

##### **Outcome 7. A strong, diverse, and sustainable economy**

*07.1. Collaborate with government and industry to attract investment, grow, and diversify the local economy, create secure, quality jobs, and meet their corporate social responsibilities.*

##### **Outcome 8. Toodyay is a popular tourism destination**

*08.1.2 Advocate for new, improved, and diverse tourist accommodation developments and attractions.*

### **Policy related:**

Nil.

### **Financial:**

There are no financial impacts arising from the outcome of this report.

### **Legal and Statutory:**

Nil.

**Risk related:**

In-principle support may be misconstrued for financial or in-kind support. This low rated risk is mitigated through clear and concise wording and open communications with the STF and other stakeholders.

**Workforce related:**

The Community Development Officer will maintain open communication channels with the STF and assist where necessary as part of their daily work commitment.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. provides in-principle support to the Salvado Trail Foundation (STF), noting the STF will work with all stakeholders regarding any proposed development and/or promotion of the Salvado Trail within the Shire of Toodyay and any such work will be subject to all applicable building and planning processes; and
2. requests the CEO to write to the STF outlining the Shire's in-principle support and requesting open communications and notification for any proposed work to take place within the Shire of Toodyay.

**9.2.5 Community Funding Budget consideration**

Date of Report:	21 June 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG089
Author:	W Sutton – Community Development Officer
Responsible Officer:	G French – Acting Executive Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	Nil

**PURPOSE OF THE REPORT**

To consider funding applications received in the recent round of Community Funding, that will support community events and activities occurring in the 2024/25 financial year. Council is also requested to consider the financial obligations of the requests and determine the budget allocations required as part of the 2024/25 financial year budgeting process.

**BACKGROUND**

Council adopted the Community Funding Policy and the associated guidelines at its February 2022 Ordinary Council Meeting. This policy sought to formalise the annual sponsorship process, the timing of which supports responsible budget planning on an annual basis. The *Community Funding Policy* and *Community Funding Guidelines* were designed to set out the parameters for Council's support of one-off community activities and events in an equitable and accountable way.

The funding round for the 2024/25 financial year was open for a four week period, between 4 March and 3 April 2024. Groups and individuals were encouraged to apply and during this time the Community Development Officer met with interested groups and individuals to discuss their proposals and applications.

Eight applications totalling \$36,607 were received. In addition, there are three 3-year funding agreements entering their third (and last) year, worth \$45,000, combining for an overall total of \$81,607.00 for Council's consideration.

The table below is a summary of the applications received.

Applicant	Request	Funding
WA Bush Poets	Assistance to deliver annual festival (cash and in-kind)	\$ 1,540

Applicant	Request	Funding
Avon Valley Vintage Vehicle Association	Assistance to deliver community swap meet	\$ 3,000
Toodyay RSL	Canberra Scholarship	\$ 4,000
Butterly Cottages	Replacement of air-conditioners	\$10,000
NKAC	Noongar Trail signage and finalisation	\$ 5,600
MPA	Community Hall Security upgrade	\$ 8,447
Arts Toodyay	Baby Art Exhibition	\$ 3,000
Toodyay Women's Collective	"Getting to know you" pilot	\$ 1,020

## COMMENTS AND DETAILS

The Shire of Toodyay supports the collective and economic benefit and growth of the community and businesses and provides financial assistance for community initiatives through the Community Funding Program.

The Shire's round of Community Funding was advertised during March 2024 utilising the following methods;

- community newspaper;
- Shire website;
- Shire social media sites;
- direct email (to community clubs and groups); and
- word of mouth.

A panel of Officers assessed each application in accordance with Council's *Community Funding Policy and Guidelines* and provided a recommendation based on their assessment. Key consideration was given to the following areas.

- encourages community participation, connectedness, and well-being;
- assists in building community capacity;
- attracts visitors and generates economic development;
- increases understanding, protection, and appreciation of the natural and built environment; and
- contributes to the vibrancy and quality of life in Toodyay.

The table below shows a summary of the panel's recommendations for Council's consideration.

Applicant	Request	Funding
WA Bush Poets	Assistance to deliver annual festival	\$ 1,540
Avon Valley Vintage Vehicle Association	Assistance to deliver community swap meet	\$ 3,000
Toodyay RSL	Canberra Scholarship	\$ 4,000
Butterly Cottages	Replacement of air-conditioners	*\$ 0
NKAC	Noongar Trail signage and finalisation.	\$ 5,600
MPA	Community Hall Security upgrade	*\$ 7,760
Arts Toodyay	Baby Art Exhibition	\$ 3,000
Toodyay Women's Collective	"Getting to know you" pilot	\$ 1,020
Ad hoc	CEO delegation	\$ 5,000
<b>Total</b>		<b>\$30,920</b>

*\*figures in italic differ from requested amounts.*

In addition to the panel's recommendation, existing 3-year funding commitments approved by Council in 2022/23, are listed below.

Applicant	Status	Funding
Toodyay CRC	Third and final year	\$25,000
Toodyay Events Planning Inc	Third and final year	\$10,000
Toodyay Youth Care	Third and final year	\$10,000
<b>Total</b>		<b>\$45,000</b>

**IMPLICATIONS TO CONSIDER****Consultative:**

Further to the advertising methods used to announce the funding round opening, the CDO has engaged with applicants and potential applicants as required. Several potential applications were not submitted. One application was received late (after the initial assessment had taken place) and thus was not considered. It is proposed that further consultation with each applicant will take place following Council's resolution

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

Outcome 1 A safe and healthy community

Outcome 2 An inclusive, connected community

Outcome 7 A strong, diverse, and sustainable economy

Outcome 8 Toodyay is a popular tourist destination

**Policy related:**

Community Funding Policy

The Council will consider applications made under the following general headings;

- Ad hoc Community Funding;
- Community Funding – Small Grants;
- Community Funding – Large Grants; and
- Events, Tourism & Economic Development Funding.

**Financial:**

The eligible community funding requests recommended for this round total \$75,920. This value is made up of a cash component of \$75,380 and an in-kind component of \$540.00. The total cost expected for the 2024/25 financial year is similar to funds offered in previous years. Applications have been categorised as follows (figures include 3-year funding agreements).

<b>Budget</b>	<b>2024/25</b>	<b>2023/24</b>
Youth	\$19,000	\$15,000
Sporting	\$ 0	\$ 5,900
Area promotion	\$13,360	\$ 2,900
Festivals assistance	\$22,540	\$23,000
Education & Welfare	\$16,020	\$18,000
Ad hoc (CEO delegation)	\$ 5,000	\$ 5,000
<b>Totals</b>	<b>\$75,920</b>	<b>\$69,800</b>

**Legal and Statutory:**

All Council supported events will need to comply with and be assessed against any statutory policies and legislation.

**Risk related:**

Should Council resolve to support the proposed Officer recommendation, local organisations will have critical timely allocation of financial support, helping re-establish direction and confidence in their own futures. Through the Shire of Toodyay Annual Budget for community funding, community groups paired with large scale events have the opportunity of obtaining peace of mind and financial security through the community funding process as approved by Council.

Reputational risk is considered low given the process of determining funding adheres to the policy and guidelines and the significant support Council provides to a range of community activities and projects across the year.

**Workforce related:**

Infrastructure and Assets assistance may be required to support some of the requests received to prepare sites for event use, these are managed within annual budgeting and resource allocation or under Ad-hoc funding.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council

1. Approves the following funding requests to be included in the draft 2024/25 annual budget:

a) WA Bush Poets and Yarnspinners Assoc.	\$1,540
b) Avon Valley Vintage Vehicle Assoc.	\$3,000
c) Toodyay RSL	\$4,000
d) NKAC	\$5,600
e) Morangup Progress Association	\$7,760
f) Arts Toodyay	\$3,000
g) Toodyay Women's Collective	\$1,020
h) Ad hoc (CEO delegation)	\$5,000
2. Notes all activities will be delivered during the 2024/25 financial year.
3. Notes the existing 3-year funding commitments worth \$45,000.

## 9.3 EXECUTIVE SERVICES

## 9.3.1 Delegation Register Review and Policy review

Date of Report:	5 February 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN6
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	OCM131/06/23 June 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Delegation Register. (under separate cover) <a href="#">⇒</a></li> <li>2. CURRENT Application for Public Events Policy (to be revoked); <a href="#">⇒</a></li> <li>3. CURRENT Authorised Signatories Policy (to be revoked); <a href="#">⇒</a></li> <li>4. CURRENT Committee Recommendations Policy (to be revoked); <a href="#">⇒</a></li> <li>5. CURRENT Christmas Closure Policy (to be revoked); <a href="#">⇒</a></li> <li>6. CURRENT Corporate Credit Cards Policy; and <a href="#">⇒</a></li> <li>7. REVISED Transaction Cards (Financial) Policy; <a href="#">⇒</a></li> <li>8. CURRENT Corporate Documents (Admin) Policy; <a href="#">⇒</a></li> <li>9. REVISED Corporate Documents (Admin) Policy; <a href="#">⇒</a></li> <li>10. CURRENT Internal Control (Admin) Policy; <a href="#">⇒</a></li> <li>11. REVISED Internal Control (Admin) Policy; <a href="#">⇒</a></li> <li>12. Public Interest Disclosure (Governance) Policy; <a href="#">⇒</a></li> <li>13. CURRENT Purchasing (Finance) Policy; and <a href="#">⇒</a></li> <li>14. REVISED Purchasing (Finance) Policy. <a href="#">⇒</a></li> <li>15. CURRENT Legislative Compliance Policy; <a href="#">⇒</a></li> <li>16. REVISED Legislative Compliance (Admin) Policy; <a href="#">⇒</a></li> </ol>

## PURPOSE OF THE REPORT

1. To consider the review of the Register of Delegations (the Register) for the 2024-2025 financial year; and
2. To revoke the following policies:
  - (a) Application for Public Events Policy (**Attachment 2**);
  - (b) Authorised Signatories Policy (**Attachment 3**);
  - (c) Committee Recommendations (**Attachment 4**); and
  - (d) Christmas closure (**Attachment 5**).
3. To adopt the following policies:
  - (a) Transaction Cards (Financial) Policy (**Attachment 7**);
  - (b) Corporate Documents (Admin) Policy (**Attachment 8**);
  - (c) Internal Control (Admin) Policy (**Attachment 11**);
  - (d) Public Interest Disclosure (Governance) Policy (**Attachment 12**).
  - (e) Purchasing (Finance) Policy (**Attachment 14**).
  - (f) REVISED Legislative Compliance Policy (**Attachment 16**).

## BACKGROUND

### Delegation Register review

Section 5.46 of the *Local Government Act 1995* requires the CEO of a local government to keep a Register of Delegations. This section also requires that the delegations contained within the Register are reviewed by the delegator (Council) at least once every financial year.

Section 5.45 of the *Local Government Act 1995* states that any decision to amend or revoke a delegation by a local government is to be by an absolute majority.

Legislation provides the Head of Power that enables local governments to firstly exist and then to act and serve their communities. Legislation contains two elements that create the ability for Local Government to act:

1. Express Powers and Duties; and
2. Power vested in a Decision-maker.

Although legislation includes an Express Power or Duty that is vested in a decision-maker, it may or may not be capable of being delegated.

Instruments of delegation are about discretion. An authorised person may make a decision about something within the framework of the delegation.

Express Power or Duty means a power or duty written specifically within legislation. It does not include actions or decisions that occur operationally, arising from policy, procedure, implementing council decisions, or any other matter not described by legislation.

### Policy review

Council's role under s.2.7 of the *Local Government Act 1995* is to determine the local government's policies. It is sensible for a local government to ensure that the policies are reviewed regularly so that the Shire continually improves its practices.

Moore Australia conducted the Financial Management Review in Nov 2023 and provided the Shire with a report. Report Section 6.2 General Policy Actions stated in the FMR Report at Risk Number 6.2.11 that:

*We noted the content of several council policies which may be operational in nature. Council policies are not necessarily intended to provide direction on how different operational functions are to be executed as these are the responsibility of the CEO.*

*Some policies where this may occur include:*

- *ADM10 Christmas Closure;*
- *ADM25 Personal Information;*
- *COM06 Applications for Public Events;*
- *FIN05 Debt Collection;*
- *FIN12 Disposal of Property;*
- *FIN18 Long Term Financial Planning;*
- *FIN23 Asset Management;*
- *GOV06 Related Party Disclosures;*
- *GOV15 Appointment of Acting CEO;*
- *REG08 Use of Surveillance Devices;*
- *INF01 Road Upgrade Criteria;*
- *HR7 Vehicle Usage;*
- *HR11 Corporate Uniforms and Personal Protective Equipment*
- *A11 Applications for Public Events*

The report asked Officers to review and update policies to consider (a) the appropriate separation of the role of the Council and the CEO; and (b) review and update of policies to articulate the strategic direction of Council and set out a high level position to follow at an operational level, particularly where legislation does not provide such guidance.

## COMMENTS AND DETAILS

### Delegation Register Review

The current Delegation Register is available on the Shire's website at <https://www.toodyay.wa.gov.au/council/council-registers/delegation-register.aspx>

The revised Register of Delegations (**Attachment 1**) has had amendments made to it during the 2024 review mostly due to legislative changes, but also to do with comparison to the WALGA delegations register model.

Section one of the Register was revised in an attempt to make it easier to understand for the public. Extra sections such as public access and public feedback mechanisms were included, as well as contact information so that if a person wished to query the content of the register they would know who to contact.

As Record keeping is mentioned in Section 1, Clause 8, each instrument of delegation was amended to refer to that section rather than have paragraphs duplicated in respect to s.5.46(3) "Register of, and records relevant to, delegations to CEO and Employees of the Local Government Act 1995."

The FMR Review identified that Delegation CS1 – Payments from Municipal Fund and Trust Fund included sub delegations to Officers who may also carry out the processing of payments within the financial system. The FMR review also proposed that Council consider rescinding the Authorised Signatories policy and addressing the requirements through the delegation. This was rectified in the review of the delegations and that particular delegation has been amended to make the exercise of authority clear. The wording was taken from the WALGA model. It is recommended that Council revoke the Authorised Signatories Policy.

The FMR Review also proposed that the Purchasing Policy be amended as well as references to contract variations. Council has delegated authority to the CEO to make payments from the Shire's Municipal or Trust Funds in accordance with Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996*. Placing a limit on the amount the CEO can authorise for payment would impact operational and Council operations, creating strategic, operational and reputational risks which are rated High. Delegations have been updated to include what was missing with regard to contract variations and extensions of contracts not awarded by public tender. Refer to the Consultation Implications section of this report.

File references were removed from the register as with the change of the record management system, the file references will be different. The delegations review area was also removed from the document. The removal of this information saves space within the document.

New delegation instruments were introduced into the register because these delegations were contained in the WALGA Model as follows:

- ES16 – Delegation to the Shire President and Chief Bush Fire Control Officer under the *Bush Fires Act 1954*; and
- ES17 – Delegation to the CEO under the *Graffiti Vandalism Act 2016*

Now that Council has adopted its risk management framework, some delegations have included the words “and risk management” so that it is part of the delegation made to the CEO.

Amendments were made to the Rate Records Delegation (CS3) because the detail was included in the WALGA Model.

It is recommended that the Register of Delegations be adopted by Council as per the Officer's Recommendation.

### **Policy Review**

Following the FMR Review, Officers considered the appropriate separation of the role of the Council and the CEO and reviewed and updated Council policies to articulate the strategic direction of Council and set out a high level position to follow at an operational level, particularly where legislation does not provide such guidance.

A total of 47 policies were reviewed, inclusive of three new policies to be brought to Council in the future. Officers identified what were clearly Shire policies and ensured that any documents that are not policies were placed into another area (e.g. directives, procedures, corporate documents, etc. Specific references to legislation in the legislation area of each Policy and version control information was also removed.

The version control information is not lost as Officers have created workbooks in excel format to maintain a record of Policies, HR Directives, CEO Directives, and Corporate Documents. These indexes serve as a record of version control for the Shire.

The Shire acknowledges that the amount of time it takes for Officers and Councillors to review policies is affected by other factors and this is why the consideration of only 10 policies are included in this report for consideration as per the information contained below.

**1. General Policy Actions stated in the FMR Report at Risk Number 6.2.11**

**(a) Application for Public Events Policy (Attachment 2);**

This policy was adopted by Council on 27 September 2023 and was reviewed following receipt of the FMR Review Report.

It is recommended the Council Policy be revoked in favour of turning it into a CEO Directive instead. The Directive can still be published on the website so that the community will be aware of the process.

The CS7 delegation has been amended to accommodate this change.

**(b) Authorised Signatories Policy (Attachment 3);**

This policy was adopted by Council on 21 December 2022 and was reviewed following receipt of the FMR Review Report.

It is recommended the Council Policy be revoked in favour of strengthening the CS1 delegation, which now makes the policy unnecessary.

**(c) Committee Recommendations (Attachment 4); and**

This policy was adopted by Council on 23 November 2022 and was reviewed following receipt of the FMR Review Report.

It is recommended the Council Policy be revoked as the information contained in the policy has already been included in the published Committee Book.

**(d) Christmas closure (Attachment 5)**

This policy was last adopted by Council on 26 October 2022 however given the recommendations from the FMR it is recommended that this policy be revoked in favour of the content of it being drafted into a new CEO directive instead.

**2. Policies taken to the Audit and Risk Committee – 5 June 2024**

**(g) Transaction Cards Policy (AKA Credit Cards Policy);**

The current policy was adopted by Council on 21 December 2022 and was reviewed following receipt of the FMR Review Report (**Attachment 8**).

It is recommended that this policy be renamed to be called Transaction Cards Policy and adopted by Council (**Attachment 9**).

**(h) Corporate Documents Policy;**

The current policy was adopted by Council on 23 November 2021 and was reviewed following receipt of the FMR Review Report (**Attachment 8**).

It has since been reviewed and it is recommended that it be adopted by Council (**Attachment 9**).

**(i) Internal Control Policy;**

The CURRENT Internal Control (Admin) policy was adopted by Council on 26 Oct 2022 (**Attachment 10**).

The policy was reviewed by Shire Officers and it is recommended that the REVISED Internal Control Policy be adopted by Council (**Attachment 11**).

**(j) Public Interest Disclosure Policy;**

This is a new policy created by Shire Officers, using templates from the Office of the Australian Information Commissioner as the Shire previously did not have a policy in place, and the FMR review required that the Shire have a policy and guidelines in place.

As per OAIC procedures, the PID Guidelines are to be signed off by the CEO, and the policy is to be a policy approved by Council. Forms have already been created for use as referenced in the guidelines which will, once the policy is approved, be published onto the Shire's website.

It is recommended that this NEW Public Interest Disclosure (Governance) Policy be adopted by Council, particularly as it is part of the Audit and Risk Committee recommendation made at their 5 June 2024 ARC Meeting (**Attachment 12**).

**(k) Purchasing Policy;**

The CURRENT policy was adopted by Council on 28 June 2023 (**Attachment 13**).

The policy was reviewed by Shire Officers and it is recommended that the REVISED Purchasing (Finance) Policy be adopted by Council (**Attachment 14**).

**(l) Legislative Compliance**

The CURRENT policy was adopted by Council on 28 Sept 2022 (**Attachment 15**). The policy was reviewed by Shire Officers and presented to the Audit and Risk Committee on 5 June 2024.

The Committee recommended that the policy be workshopped with Council. This was due to some of the detail that had been in the current policy not appearing in the revised policy. The members requested it be workshopped so that the wording would be in the revised policy. The policy was revised further, with this in mind and was presented to a Council Workshop on 19 June 2024. There were only four Councillors in attendance at this workshop where the policy was not gone through line by line, but the changes to Clause 6 of the revised policy were explained to those present.

It is recommended that the REVISED Legislative Compliance (Admin) Policy be adopted by Council (**Attachment 16**).

**3. Council Forums Policy – in the draft agenda for this meeting**

This was not part of the FMR Review and although it was placed into the DRAFT June 2024 Agenda, Shire Officers and the Executive Management Group have had further internal discussion regarding the content of the policy and have pulled this out for consideration at the June 2024 Council Meeting.

Further discussion with Council will occur prior to it being brought back to a Council Meeting for a decision to be made.

**IMPLICATIONS TO CONSIDER****Consultative:**

Shire Officers, including the Executive Management Group, assisted in the administrative review of the Delegation Register that commenced on **6 February 2024** when the register was provided via the Corporate Documents teams environment to a total of 23 Officers.

It is appropriate, during the review of the delegation register for Officers to consider operational requirements, the volume of decisions under each statutory power or duty and the risks and sensitivities of the decisions.

On **11 April 2024** in the same team environment, policies were placed into the team environment for these Officers to review.

[Item 19 – determining what should be delegated in the Department of Local Government, Sport and Cultural Industries Operational Guideline.](#)

The Delegation Register was provided to Councillors via their team environment on **8 May 2024**.

The policies reviewed by the Audit and Risk Committee (ARC) through their team environment on **9 May 2024** and recommended for adoption had also been put onto the team environment for Councillors on the **9 May 2024**.

The ARC recommendations are included with this report.

### **Strategic:**

#### **Shire of Toodyay Council Plan 2023-2033**

##### **Outcome 9. Responsible and effective leadership and governance.**

9.1. Provide strong, clear, and accountable leadership.

### **Policy related:**

Purchasing Policy

Corporate Documents Policy

### **Financial:**

Nil.

### **Legal and Statutory:**

s.2.7(2)(b); s.5.2; s.5.46; and s.9.10 of the *Local Government Act 1995*.

Reforms to decision making on development of single houses

### **Risk related:**

The legislation states that the delegations must be reviewed by the Delegator (Council) at least once every financial year.

If Council choose not to review the delegations at all in June 2024, given that June 2024 is the last month of the financial year there is a moderate compliance risk that could escalate to a high (15) risk.

However, given the delays that occurred with regard to the review by EMG and other Officers within the Shire due to a variety of reasons, it is considered a relatively low risk (3) if Council were to make a decision to take more time with their review of the delegations contained in the register.

The current delegations already in place (Adopted in June 2023) would continue to be in place until Council makes a decision to adopt a set of delegations to replace the current delegations.

This report is presented to Council to mitigate risk.

**Workforce related:**

Once the Delegation Register is adopted by Council and signed off by the CEO and the Shire President, a Shire Officer updates the Returns Register, and issues Memorandums to all Shire Officers.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1 – Register of Delegations (Attachment 1)**

That Council:

1. Adopts, by absolute majority, the instruments of delegation contained in the REVISED Register of Delegations (**Attachment 1**), as follows:
  - (a) Executive Services section;
  - (b) Corporate and Community Services Section;
  - (c) Development and Regulation Section;
  - (d) Infrastructure, Assets and Services; and the
  - (e) External Agencies – Assignment of Power to Statutory Officeholders section.
2. Requests the Acting Chief Executive Officer to make any necessary minor typographical changes prior to publication.

**OFFICER'S RECOMMENDATION 2**

That Council revokes the following policies:

- (a) Application for Public Events Policy;
- (b) Authorised Signatories Policy;
- (c) Committee Recommendations; and
- (d) Christmas closure.

**AUDIT AND RISK COMMITTEE RECOMMENDATION 1**

That Council adopts the following policies and requests the Acting CEO to make any minor typographical changes prior to their publication:

- (m) Transaction Cards Policy (**Attachment 3**);
- (n) Corporate Documents Policy (**Attachment 5**);
- (o) Internal Control Policy (**Attachment 7**);
- (p) Public Interest Disclosure Policy (**Attachment 10**).
- (q) Purchasing Policy (**Attachment 12**).

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**OFFICER'S RECOMMENDATION 3**

That Council adopts the REVISED Legislative Compliance Policy (**Attachment 9**).

**9.3.2 Proposed Division of Bullwinkel - Submission**

Date of Report:	21 June 2024
Applicant or Proponent:	Mr A Henshaw
File Reference:	ICR96156
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:	Advocacy
Attachments:	<ol style="list-style-type: none"> <li>1. Bulwinkel information; and <a href="#">⇒</a></li> <li>2. Beard information. <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

To consider making an official representation to the Australian Electoral Commission to support the name Beard, instead of the name Bulwinkel in the Proposed Federal electoral division.

**BACKGROUND**

On 31 May 2024 the Redistribution Committee for Western Australia published its report proposing names and boundaries for the state's federal electoral divisions.

The Chair of the Committee and Electoral Commissioner, Tom Rogers, said the Western Australian redistribution was required to enable an increase from 15 to 16 federal electoral divisions.

"Under the proposal, the boundaries of all of Western Australia's existing electoral divisions would change and the additional Division of Bullwinkel would be created," Mr Rogers said.

"Ongoing population growth in parts of Western Australia has led the Redistribution Committee to propose a number of substantial changes to the state's electoral division boundaries."

Written objections must be lodged no later than 6pm AWST on Friday 28 June 2024. The best way to submit feedback is online but it can also be submitted via:

Email – FedRedistribution-WA@aec.gov.au

Post – Australian Electoral Commission (Attn: WA Redistribution Secretariat), Locked Bag 4007, Canberra ACT 2601

Fax - 02 6125 9971

In person – Level 1, 15-17 William Street, Perth.

All input received by the deadline will be available for public inspection on the redistributions website and at Level 1, 15-17 William Street, Perth (business hours only) from Monday 1 July 2024. Further comments will then be accepted until 6pm AWST on Friday 12 July 2024.

## COMMENTS AND DETAILS

The Shire received an email on 18 June 2024 from a member of the public requesting that the Shire of Toodyay Council make an official representation to the Australian Electoral Commission to support the name Beard, instead of the name Bulwinkel in the Proposed Federal election division.

The submission received reads as follows:

*Whilst the exploits and life of Vivian Bullwinkel are, indeed, amazing given her serendipitous escape from the massacre at Banka Island in 1942 it should, nevertheless, be acknowledged that she was a born and bred Eastern States lady who, essentially, spent most of her life living and working in the Eastern States only coming to Perth, on marriage, at the age of 62 in 1977.*

*On the other hand, Sister Alma Beard, one those nurses killed at the Banka Island massacre, aged 29, was born and brought up in Toodyay - one of the proposed constituent entities of the proposed new Division - and spent her entire life, until posted overseas in World War 2, in Perth and the immediate surrounding area. <https://honouravenueskingspark.com.au/present/hap-database/1843-sr-alma-beard>*

*I sincerely believe that the name of the proposed new Division would be much more appropriately dedicated to Alma Beard who gave her life for this country.*

*I also believe that the people in the outer areas of the proposed Division; the Shires of Toodyay, Northam, York, and Beverley would welcome the change of the Division's name to Beard and would ask that Council support this change and make an official representation to the Australian Electoral Commission and also to encourage those Shires mentioned to do likewise.*

Information from the AEC regarding their consultation on the proposed federal electoral division is attached relating to Bulwinkel. Information is also attached relating to Beard.

Any submissions can be lodged by any member of the public and must be lodged with the AEC no later with than **6pm AWST on Friday 28 June 2024**.

Council may choose to request the Acting CEO put forward a submission on the proposal and may decide to advocate for a change of name to Beard. However, it is recommended that Council consider how electoral divisions were created at the first election in 1901 and what they were named after (refer to this link: <https://peo.gov.au/understand-our-parliament/your-questions-on-notice/questions/how-were-electoral-divisions-created-at-the-first-election-in-1901-what-were-they-named-after#:~:text=Usually%2C%20they%20are%20named%20after,Strait%20Islander%20word%20or%20names>.) stated as follows:

*Australia's first federal election was held on 29 and 30 March 1901, after Australia's federation on 1 January. There were no federal laws about how elections were run, including how the states would be divided into electorates or what they would be called. Section 29 of Australia's Constitution gave the state parliaments the power to determine their electorates before the federal parliament could meet to decide otherwise. While New South Wales, Victoria, Queensland and Western Australia passed laws to create electorates, Tasmania and South Australia didn't pass such*

*legislation. Therefore, members of the House of Representatives from South Australia and Tasmania represented their entire state in the first Parliament. Some of the original electorates were named by the states after the geographical area they covered, e.g. Perth in Western Australia and North Sydney in New South Wales. Some were named after historical figures, like Flinders in Victoria and Kennedy in Queensland.*

*Today, the Australian Electoral Commission is responsible for determining electoral boundaries and naming electorates. There are guidelines around how electorates are named. Usually, they are named after notable deceased Australians, including Prime Ministers, or using Aboriginal and Torres Strait Islander words or names.*

The guidelines for naming federal electoral divisions at this link: <https://www.aec.gov.au/electorates/redistributions/guidelines.htm> state that divisions should be named after deceased Australians who have rendered outstanding service to their country. They also state that when new divisions are created the names of former Prime Ministers should be considered and that every effort should be made to retain the names of original federation divisions..

It is recommended that Council requests the CEO to make a submission on behalf of Council against the naming of the division to Bulwinkel, whilst advocating for the division to be called Beard.

## IMPLICATIONS TO CONSIDER

### **Consultative:**

Councillors were apprised of the email request at a workshop held on 19 June 2024.

### **Strategic:**

Nil

### **Policy related:**

Nil

### **Financial:**

Nil

### **Legal and Statutory:**

Nil

### **Risk related:**

The risk in whether Council decides to advocate for the division option to change from Bulwinkel to Beard is low however this report mitigates the risk.

### **Workforce related:**

A Shire Officer will upload an extract of the Council Meeting Minutes containing the resolution made by Council as an objection to the federal election division proposal.

## VOTING REQUIREMENTS

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council requests the Acting CEO make a submission on behalf of Council to the Western Australian Electoral Commission by 28 June 2024, against the naming of the division to Bulwinkel, whilst advocating for the division to be called Beard.

**9.4 INFRASTRUCTURE AND ASSETS**

Nil.

## 9.5 COMMITTEE REPORTS

### 9.5.1 ARC recommendations from meeting held on 5 June 2024.

Date of Report:	13 June 2024
Applicant or Proponent:	Shire of Toodyay
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"> <li>1. ARC Minutes 5 June 2024; <a href="#">↗</a></li> <li>2. Correspondence from the Office of the Auditor General; <a href="#">↗</a></li> <li>3. Management letter for the 2022/2023 financial year; <a href="#">↗</a></li> <li>4. Annual Report 2022/2023 incorporating the Auditor's opinion and the Audited Annual Financial Statements. (under separate cover) <a href="#">↗</a></li> </ol>

### PURPOSE OF THE REPORT

To receive the minutes of the Audit and Risk Committee (ARC) Meeting held on 5 June 2024 (Refer to **Attachment 1**) and to consider recommendations made by the committee.

### BACKGROUND

The ARC meeting considered the following reports:

1. 2022/2023 Annual Report;
2. Update on the Datascape Migration Project;
3. Risk Management;
4. Records Management Project 2023/2024;
5. Policy Review; and
6. 10 year Assurance Cycles Plan.

### COMMENTS AND DETAILS

During the Audit and Risk Committee Meeting, two of the reports were passed over due to there not having been enough time to review one of the attachments, whilst the other had not been ready to table at the meeting due to lack of resources.

The committee made recommendations in regard to the policy review, which are contained in a separate Officer's report); as well as for the Records Management Project and the 2022/2023 Annual Report.

The Committee requested amendments be made to the Annual Report when they made their recommendation to Council. Therefore, a revised Audit and Risk Committee recommendation has been made with regard to acceptance of the Annual Report.

It is recommended that Council resolve the recommendations made by the Committee.

## 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 Audit and Risk Committee plays a key role in overseeing the local government's responsibilities in relation to financial reporting, risk management and legislative compliance.

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

### **Workforce related:**

Nil.

## VOTING REQUIREMENTS

Absolute Majority

### **OFFICER'S RECOMMENDATION 1**

That Council receives the minutes of the meeting of the Audit and Risk Committee held on 5 June 2024 (**Attachment 1**).

**REVISED AUDIT AND RISK COMMITTEE RECOMMENDATION 2**

That Council:

1. receives the correspondence from the Office of the Auditor General (**Attachment 2**).;
2. receives the Management letter for the 2022/2023 financial year (**Attachment 3**).;
3. receives the Audited Annual Financial Statements, and Independent Auditor's Opinion for the year ended 30 June 2023;
4. acknowledges the audit for the year ended 30 June 2023 was a clean audit with a qualification in respect to the comparative information for the year ended 30 June 2022 contained in a statement of comprehensive income. Further, it should be noted that the statement of financial position for the YE 30/06/2022 had been amended and audited with the 30 June 2023 accounts which resulted in the Auditors being satisfied that they appeared to be free of material misstatements.
5. receives and Accepts the Annual Report (**Attachment 4**) for the year ended 30 June 2023 that will incorporate the audited annual financial statements and the independent Auditor's opinion; and
6. requests the Chief Executive Officer to make any necessary minor typographical changes prior to publication of the Annual Report;
7. sets Wednesday 7 August 2024 at 6.00pm in the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay 6566 as the date, time and place for the next Elector's General Meeting; and
8. requests the Chief Executive Officer to give local public notice of the availability of the Annual Report and convene the Elector's General Meeting to be held on the abovementioned date and time at Point 7.

**AUDIT AND RISK COMMITTEE RECOMMENDATION 3**

That Council notes the completed projects and requests the CEO to provide an update on the outstanding GIS and Cemetery Records in Datascape to the Audit & Risk Committee in June 2025.

**9.5.2 Receipt of the LEMC Minutes**

Date of Report:	13 June 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIR27
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. LEMC Minutes dated 12 June 2024. <a href="#">↗</a>

**PURPOSE OF THE REPORT**

To receive the minutes of the Local Emergency Management Committee (LEMC) Meeting (Refer to **Attachment 1**).

**BACKGROUND**

The LEMC met on 12 June 2024.

**COMMENTS AND DETAILS**

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

**IMPLICATIONS TO CONSIDER****Consultative:**

Nil.

**Strategic:**

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

***Outcome 9 Responsible and effective leadership and governance.***

***09.1 Provide strong, clear and accountable leadership.***

**Policy related:**

Nil.

**Financial:**

Nil.

**Legal and Statutory:**

Nil.

**Risk related:**

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

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council receives the minutes of the meeting of the Local Emergency Management Committee held on 12 June 2024. (**Attachment 1**).

**9.5.3 WAC recommendations from meeting held on 12 June 2024.**

Date of Report:	13 June 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC6
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. WAC Minutes from Meeting held on 12 June 2024. <a href="#">↗</a>

**PURPOSE OF THE REPORT**

To receive the minutes of the Works Advisory Committee (WAC) Meeting held on 12 June 2024 (Refer to **Attachment 1**) and to consider a recommendation made by the committee.

**BACKGROUND**

The WAC meeting considered the election of Presiding Member and the appointment of community members.

**COMMENTS AND DETAILS**

During the Works Advisory Committee Meeting, discussions around membership on the committee were held.

The committee made a recommendation and it is recommended that Council resolve that recommendation.

**IMPLICATIONS TO CONSIDER****Consultative:**

Nil.

**Strategic:**

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

***Outcome 9 Responsible and effective leadership and governance.***

***09.1 Provide strong, clear and accountable leadership.***

**Policy related:**

Nil.

**Financial:**

Nil.

**Legal and Statutory:**

Nil.

**Risk related:**

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

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council receives the minutes of the meeting of the Works Advisory Committee held on 12 June 2024. (**Attachment 1**).

**OFFICER'S RECOMMENDATION 2**

That Council appoints Aldo Lamas, and Dustin Bennett as community members on the Works Advisory Committee.

**10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****10.1 Notice of Motion – Cr Madacsi**

Date of Report:	14 June 2024
Applicant or Proponent:	Cr Madacsi
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. <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To consider a notice of motion provided by Councillor Madacsi.

**BACKGROUND**

On 14 June 2024 Councillor Madacsi provided the Acting Chief Executive Officer notification of a notice of motion for the June 2024 Ordinary Meeting of Council as follows:

**NOTICE OF MOTION**

That Council requests the Shire President.

1. To provide a written weekly brief to councillors no later than ten days after the meeting occurs and which includes the following information.
  - a. the discussion that occurs in the Shire President/CEO briefing meetings,
  - b. any operational matter or other matters that will or has the potential to impact the shire or presents a risk to the organisation or community.
2. To provide timely and complete responses to councillor queries to him.

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**

It is recommended that the notice of motion be considered.

**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:**

Nil.

**Financial:**

Nil

**Legal and Statutory:**

*Local Government Act 1995*

**Risk related:**

The risks are minor but as this matter has the potential to cause reputation damage to the Shire the risk is High (10). This report mitigates the risk.

**Workforce related:**

The outcomes of this report can be managed within existing resources.

**VOTING REQUIREMENTS**

Simple Majority

**NOTICE OF MOTION – CR MADACSI**

That Council requests the Shire President:

1. To provide a written weekly brief to councillors no later than ten days after the meeting occurs and which includes the following information;
  - (a) the discussion that occurs in the Shire President/CEO briefing meetings; and
  - (b) any operational matter or other matters that the Shire President is concerned will, or has the potential, to impact the Shire or presents a risk to the organisation or community.
2. To provide timely and complete responses to councillor queries directed to him.

**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	24 July 2024
Agenda Briefing	17 July 2024
Audit & Risk Committee Meeting	31 July 2024
Environment Advisory Committee Meeting	10 July 2024

**16 CLOSURE OF MEETING**