



Ordinary Council Meeting

24 July 2024

Commencing at 1:00 PM

AGENDA

Notice of Meeting.

To: The President and Councillors.

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

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

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

An Agenda Briefing was held at the same venue as above on 17 July 2024 to discuss the contents of this agenda.

Grace French

Acting Executive Manager Corporate and Community Services



Our Vision, Purpose and Values

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

Our Vision

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

Our Purpose

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

Our Values

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

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

Community Aspirations

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

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

Disclaimer

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

Availability of Meeting Agenda and its Attachments

Information about Council Meetings is located on the website

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

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

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

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



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

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

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

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

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

Nil.

4.2 PUBLIC QUESTION TIME**5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 26 June 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 26 June 2024 be confirmed.

5.2 Special Meeting of Council held on 17 July 2024**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 17 July 2024 be confirmed.

5.3 Agenda Briefing held on 17 July 2024**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 17 July 2024 be received.

6 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**6.1 PETITIONS**

A petition is to be addressed to the Shire President and is to be presented by a Councillor.

6.2 DEPUTATIONS

A deputation must be applied for, to the CEO in writing at least 5 working days prior to the Meeting.

6.3 PRESENTATIONS

A presentation can only be made with prior approval of the CEO.

6.4 SUBMISSIONS

A submission can be made ad hoc, but it is preferred that notice be given by midday on the day of the Meeting.

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Shire President may make an announcement in accordance with the *Shire of Toodyay Standing Orders Local Law 2008* (Section 4.3)

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

9.1.1 Lot 3 Telegraph Road, Toodyay - Proposed outbuilding and garage

Date of Report:	8 July 2024
File Reference:	P2024-48/A347/3TELS
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. Map; and ↗ 2. Application Plans. ↗

SUMMARY

- Applicant:** J & A Building
- Owner:** M & L McKascill.
- Proposal:** Outbuilding and garage
- Location:** Lot 3 (No. 9) Telegraph Road, Toodyay

PURPOSE OF THE REPORT

To determine an application for development approval for a proposed outbuilding and garage at Lot 3 (No. 9) Telegraph Road, Toodyay. This matter must be determined by Council as there is no delegated authority to determine applications involving variations to the Local Planning Policy – Central Toodyay Heritage Area.

BACKGROUND

Subject Site

Lot 3 (No. 9) Telegraph Road, Toodyay is a 2,426m² property and it is zoned Residential R10 under the Shire of Toodyay’s Local Planning Scheme No. 4. The site falls within the Central Toodyay Heritage Area and thus the Local Planning Policy – Central Toodyay Heritage Area applies. It is also worth noting that the dwelling on the property is a Category 3 on the Shire’s Local Heritage Survey – Connors House (fmr). For more details please refer to **Attachment 1 – Map**.

Development proposal

Garage	Outbuilding
Garage – 49m ² (7m x 7m)	Outbuilding – 63m ² - (9m x 7m)
Wall height – 2.8m	Wall height – 3m
Ridge Height – 3.738m	Ridge height – 3.938m
Roof pitch – 15 degrees	Roof pitch – 15 degrees

The garage is situated behind the building line and the outbuilding is at the rear of the property and shielded from view.

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

COMMENTS AND DETAILS

This development does involve a variation to the Local Planning Policy Central Toodyay Heritage Area This development does involve a variation to the Local Planning Policy Central Toodyay Heritage Area however impact on the street view is minimal.

IMPLICATIONS TO CONSIDER

Consultative:

This application was referred to the former Cultural Heritage Officer for the Shire of Toodyay and to Dr Robyn Taylor of the Toodyay Historical Society for comment. A summary of their comments is listed below.

The slope from the road/pavement is relatively steep, ensuring the development will be largely obscured by trees, and the roof pitch will not be an issue. The proposed colour and materials seem acceptable and should not stand out. The property is categorised as Management Category 3 in the Local Heritage Survey for the main dwelling house. The impact on the street view is minimal due to the use of darker colours like Colorbond Ironstone, and the garage is screened by trees hanging over the driveway. Therefore, the proposed structures should not be required to use the same materials as the existing house, and a 15-degree roof pitch is acceptable for both structures as they are modern additions and appear discrete from the street.

Strategic:

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

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

O5.1. Provide responsible planning and development.

Policy related:

Central Toodyay Heritage Area

This application seeks to vary the requirement for roof pitch and provides for 15 degrees in lieu of the prescribed 25 degrees for both structures.

Corrugated iron or mini orb profile walls in a galvanised, painted or Colorbond finish are appropriate for side and rear walls, outbuildings, carports and garages.

Non-habitable Structures

The proposed development is consistent with the provisions of this policy.

Financial:

Application fees have been collected in accordance with the *Planning and Development Regulations 2009*.

Should the Council choose not to approve this application, the Applicant will have the right of appeal through the State Administrative Tribunal (SAT) which may result in additional cost burdens to ratepayers.

Legal and Statutory:

Planning and Development Act 2005

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Toodyay Local Planning Scheme No. 4.

Risk related:

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

Risk Type	Risk	Likelihood	Consequence	Score
Financial Impact	The Applicant has the right of appeal through the State Administrative Tribunal of Council’s decision on this matter. This would potentially expose the Shire to increased legal costs.	Possible (3)	Moderate (3)	Moderate (9)

Workforce related:

Should the application be appealed – additional Officer time will be required to manage and participate in the SAT review process.

VOTING REQUIREMENTS

Simple Majority

<p>OFFICER’S RECOMMENDATION</p> <p>That Council, pursuant to clause 68(2)(b) of the Deemed Provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, grants development approval for application P2024-32 – Lot 3 Telegraph Road in Toodyay – Garage and Outbuilding; subject to the following conditions:</p> <ol style="list-style-type: none"> the development hereby permitted must substantially commence within two years from the date of this decision letter; the development hereby permitted taking place in accordance with the approved
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plans;

3. use of the outbuilding and garage shall be for domestic purposes only and not for human habitation; and
4. the stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.

9.1.2 Lots 13 - 15 on Survey Strata Plan 79131 Cascade Lane (44 Stirling Terrace) - Grouped Dwellings

Date of Report:	9 July 2024
Applicant or Proponent:	Cadet Holdings/TAC Super Pty Ltd
File Reference:	P2024-(42-44)/A4732/A4742/A4731
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. Location Plan; and ↔ 2. Application Drawings. ↔

PURPOSE OF THE REPORT

To determine an application for development approval for three (3) grouped dwellings at Lots 13 – 15 Cascade Lane in Toodyay which is part of strata plan SP79131. This matter is being brought to council as there is a variation to the R-Codes and the development is in a Heritage Area. An existing variation to the Central Toodyay Heritage Area Policy is also being carried over and thus must be determined by Council.

BACKGROUND

The Shire's Administration has received an application for development approval for the construction of three (3) grouped dwelling units (3-bedroom / 2-bathroom configuration) at 7/44 (LOT 15 on Survey-Strata Plan 79131), 8/44 (LOT 14 on Survey-Strata Plan 79131) and 9/44 (LOT 13 on Survey-Strata Plan 79131) Stirling Terrace in Toodyay. Architectural drawings of the proposed units are attached (Refer to Attachment 2).

44 Stirling Terrace is a Survey-Strata subdivision consisting of twenty-one (21) strata lots, including an internal access lot known as 'Cascade Lane'. Units 7, 8 and 9 are located south of Cascade Lane as shown on the attached Location Plan (Refer to Attachment 1).

The site is zoned Residential R10/50 under the Shire's Local Planning Scheme No. 4 (the Scheme). Under the relevant provisions of the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes (R-Codes), is to conform with the provisions of the R-Codes.

In addition to the R-Codes, the provisions for residential development in the Shire's Local Planning Policy – Central Toodyay Heritage Area apply to the proposed grouped dwelling units.

COMMENTS AND DETAILS

R-Codes Assessment

A technical assessment of the proposal indicates compliance with the relevant *deemed-to-comply* provisions of the R-Codes, except for Clause 5.3.1 – Outdoor Living Areas.

Each grouped dwelling unit includes a permanent roof cover over slightly more than two-thirds of the required area, leaving less than the required portion without permanent cover. Despite this, the covered areas of each courtyard still provide sufficient and usable outdoor living spaces that are functional and can be used in conjunction with the primary living areas of each dwelling. The alfresco areas are designed to be constructed under the main roof, consistent with the detailing at the front of each house. In an endeavour to comply with the heritage character of the area, the applicant has provided a simple roof design with 500mm eave overhangs.

When a proposal seeks to vary a *deemed-to-comply* provision for a design element in the R-Codes, it must be assessed against the relevant "*Design Principle*" for that element. The relevant principle for Clause 5.3.1 is *Design Principle P1.1*, which endeavours to ensure that outdoor living areas provide sufficient space for entertaining, leisure, and functional use in conjunction with a dwelling's primary living space. In this particular instance, the variation is considered acceptable as the outdoor living area for each unit still meets these criteria.

Heritage and Character Considerations

The proposal was also assessed against the residential development provisions in the Shire's Central Toodyay Heritage Area local planning policy. It is considered the design with 25-degree roof pitch respects the existing character of the area and is generally consistent with the objectives of the policy which are to facilitate residential development that respects the existing character of the area to ensure that new residential buildings are sympathetic to the predominant scale, form, siting and appearance of other existing and neighbouring buildings.

Conclusion

Overall, the development proposal is consistent with the majority of the R-Codes' *deemed-to-comply* provisions and aligns with the objectives of the Shire's Central Toodyay Heritage Area local planning policy. The minor variation in outdoor living area coverage is justified based on the functionality and usability of the provided spaces, and the design respects the heritage and character of the area. Therefore, the proposal is recommended for approval, subject to conditions.

IMPLICATIONS TO CONSIDER

Consultative:

External consultation was not considered necessary because the proposal does not propose any significant amenity impacts on neighbouring landowners in terms of visual impact, streetscape, privacy, noise, intensity of use, traffic generation, and adequacy of parking.

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

Policy related:

Local Planning Policy - Central Toodyay Heritage Area

The proposal was also assessed against the residential development provisions in the Shire’s Central Toodyay Heritage Area local planning policy.

It is considered the design with 25-degree roof pitch respects the existing character of the area and is generally consistent with the objectives of the policy which are to facilitate residential development that respects the existing character of the area to ensure that new residential buildings are sympathetic to the predominant scale, form, siting and appearance of other existing and neighbouring buildings.

Financial:

There are no direct financial implications for the Shire of the recommendations of this report. The applicant has paid the required fees in accordance with the *Planning and Development Regulations 2009*.

However, should the Council choose to refuse the application, the applicants have the right of appeal through the State Administrative Tribunal which may require additional ratepayer funds to allow the decision to be defended.

Legal and Statutory:

- Shire of Toodyay Local Planning Scheme No. 4*
- Planning and Development Act 2005*
- Planning and Development (local planning schemes) Regulations 2015*
- Planning and Development Regulations 2009*
- State Planning Policy 7.3 – Residential Design Codes Volume 1*

Risk related:

Risk Type	Risk	Likelihood	Consequence	Score
Financial Impact	The Applicant has the right of appeal through the State Administrative Tribunal of Council’s decision on this matter. This would potentially expose the Shire to increased legal costs.	Possible (3)	Moderate (3)	Moderate (9)

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council approves the proposed grouped dwellings at:

- 7/44 (Lot 15 on Survey-Strata Plan 79131);
- 8/44 (Lot 14 on Survey-Strata Plan 79131); and
- 9/44 (Lot 13 on Survey-Strata Plan 79131)

Stirling Terrace in Toodyay, subject to the following conditions:

1. The development hereby permitted must substantially commence within two years from the date of this decision letter. The development hereby permitted taking place in accordance with the approved plans that formed the subject of **Attachment 2** in the Officer's Report.
2. Prior to the occupation of the development, vehicle crossovers shall be constructed to the specification and satisfaction of the local government.
3. Prior to occupation of the development, a minimum of one (1) tree per dwelling unit, in a tree planting area of 2m X 2m, must be provided to the satisfaction of the local government.
4. Prior to occupation of the development, the street setback area shall be landscaped with no more than 50 per cent of this area to consist of impervious surfaces.
5. All landscaped areas are to be maintained on an ongoing basis to the satisfaction of the local government.
6. The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.
7. Prior to occupation, the development hereby permitted shall be connected to an approved effluent disposal system.

9.1.3 Lot 1 (No. 2A) Duke Street North, Toodyay - Amendment to Development Approval - Single Dwelling.

Date of Report:	9 July 2024
File Reference:	A4542/1DUKN
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Item 9.1.3 – 22 November 2023
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. Confirmed Minutes Item 9.1.3 ⇒ 2. Plans of proposed amendments ⇒

SUMMARY

Applicant:	S. Palmer
Owner:	S. Palmer
Proposal:	Amendment to Development Approval – Single Dwelling
Location:	Lot 1 (No. 2A) Duke Street North, Toodyay

PURPOSE OF THE REPORT

To determine an application to amend a development approval for a single dwelling at Lot 1 (No. 2A) Duke Street North, Toodyay. This application is before Council as it was previously determined by Council.

BACKGROUND

At the Ordinary Council Meeting on 22 November 2023, Council approved an application for development approval for a single dwelling at Lot 1 (No. 2A) Duke Street North, Toodyay. For more details, please refer to **Attachment 1 – Confirmed Minutes Item 9.1.3**.

In June 2024, the Applicant approached the Shire of Toodyay with a request to make an amendment to the approved plans.

Amendment sought.

The applicant proposes to amend the size of the dwelling as follows:

Length: 12.64m > 10.44m

Width: 10.35m > 8.07m

Area: 130.82m² > 84.25m²

Additionally, the Applicant is removing the carport from the application and will seek to add one later.

For more details, please refer to **Attachment 2 – Plans of proposed amendments**.

COMMENTS AND DETAILS

The proposed amendment has been put forward by the applicant as a way to reduce costs associated with the development. Given the small size of the block, it is considered that a reduction in size will be appropriate.

IMPLICATIONS TO CONSIDER

Consultative:

External consultation was not considered necessary because the proposal does not propose any significant amenity impacts on neighbouring landowners in terms of visual impact, streetscape, privacy, noise, intensity of use, traffic generation, and adequacy of parking.

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.

Policy related:

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

This development is exempt from the requirements as the lot size is less than 1,100m².

State Planning Policy 5.4 – Road and Rail Noise

This development falls within the area that triggers this policy. The applicant has supplied plans demonstrating that acoustic laminated glazing is to be installed to meet the Quiet House Requirements of the Policy.

State Planning Policy 7.3 – Residential Design Codes Volume 1

5.1.1 Site Area

C1.4 Subject to clause 5.1.1 C1.3 only, the following variations to the minimum and average site area set out in Table 1 may be made:

- iii. the area of any existing lot, survey strata lot or strata lot with permanent legal access to a public road, notwithstanding that the site area is less than that required in Table 1.

The lot is an existing lot and therefore meets the deemed to comply requirements.

5.3.1 Outdoor living areas

Due to the unusual shape of the block (triangle) and the railway corridor running parallel to the left side of the triangle, the most practical location for a patio is at the rear of the house.

Local Planning Policy – Central Toodyay Heritage Area

The applicant is seeking consideration for the following variations:

Section 3 – Residential Development

- 3.4.8 *This section requires that all window and door openings shall have a vertical emphasis, meaning they should be long and narrow in appearance. Where possible full-length windows and doors are to be used. To comply with energy requirements, windows will be wider. A variation is therefore sought to install wider windows where necessary.*
- 3.4.13 *Variation is sought to locate the front entry on the left-hand side of the house. For practical and safety reasons, entry will be via the carport and will allow direct access to the kitchen.*

Although the carport has now been removed from the amended plans, the door will still be oriented as per the previous approval.

Financial:

Development Application amendment fee per Planning and Development Regulations 2009.

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

Legal and Statutory:

Planning and Development Act 2005

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 77 of the Deemed provisions deals with amending or cancelling development approval. Under this Clause, a landowner can apply to the local government to extend the start period of an approved development, change or remove approval conditions, amend the development without substantial changes, or cancel the approval. Applications must follow Part 8 requirements and are treated as new applications, and they can be made during or after the start period. The local government can waive or vary requirements for minor amendments and may approve the application with or without conditions or refuse it.

Shire of Toodyay Local Planning Scheme No. 4

Risk related:

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

Risk Type	Risk	Likelihood	Consequence	Score
Financial Impact	The Applicant has the right of appeal through the State Administrative Tribunal of Council’s decision on this matter. This would potentially expose the Shire to increased legal costs.	Possible (3)	Moderate (3)	Moderate (9)

Workforce related:

If the Applicant refers this matter to the State Administrative Tribunal, significant Officer time will be required.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council, pursuant to Clause 77(4)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the amendment to the development approval application P2023-82, subject to the following conditions:

1. The development hereby permitted taking place in accordance with the approved plans (**Attachment 2**).
2. The development hereby permitted must substantially commence within two years from the date of this decision.
3. Prior to the occupation of the development, vehicle crossover(s) shall be constructed to the specification and satisfaction of the local government.
4. The stormwater shall be discharged in a manner so that there is no discharge onto the adjoining properties to the satisfaction of the local government.
5. Prior to occupation of the development, the street setback area shall be landscaped with no more than 50% of this area to consist of impervious surfaces.
6. All landscaped areas are to be maintained on an ongoing basis to the satisfaction of the local government.

9.1.4 Consideration of proposed purchase of Crown Lots abutting Lot 1 (No. 480) Julimar Road, West Toodyay

Date of Report:	9 July 2024
Applicant or Proponent:	Mr G. Fletcher
File Reference:	ICR95522/A1387/1JUL
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Advocacy
Attachments:	1. Proposed Purchase of Crown Lots (Map). ↔

PURPOSE OF THE REPORT

To consider a request by Mr Gavin Fletcher for the proposed purchase of Crown Lots abutting Lot 1 (No. 480) Julimar Road, West Toodyay. As this is Crown Land, the Shire is required to provide advice by way of a Council resolution in such matters.

BACKGROUND

The Shire of Toodyay has been approached by Mr Gavin Fletcher to consider his proposal to acquire the Crown Lots and portions of the road reserve abutting his land which is Lot 1 (No. 480) Julimar Road in West Toodyay.

These parcels can best be described as:

1. The whole of lot 501 on DP55407 (LandID 3683307). Certificate of Title LR3145/200. Reserve number 4155.
2. The whole of Lot 1 on DP 223155 (LandID 2052276). Reserve 5521
3. Portion of Baring St Road Reserve (LandID 3475775)
4. Portion of Avon Tce Road Reserve (LandID 3475774)

For more details, please refer to **Attachment 1 – Map**.

COMMENTS AND DETAILS

The Applicant in their submission to the Shire of Toodyay has stated that:

It is my longer-term goal to share the natural beauty of the river and surrounds with others by establishing and ecofriendly retreat by the river which I feel will be a welcome addition to the accommodation options available in the area. I fully appreciate if I can purchase the adjoining crown lots, there is no guarantee they would be given the same planning approval and there would be a process to follow.

Council is being asked to consider providing support to a proposal to acquire some Crown Lots. The purpose of one of these lots is a reserve for recreation. Understandably, if the land does change to private ownership, then the community loses one of its recreational spots.

The consensus is that it would be appropriate to have it privately owned as the land may be better enjoyed in the future.

IMPLICATIONS TO CONSIDER

Consultative:

The Shire of Toodyay is not a decision maker in this instance. The applicant is required to seek a Council position on the proposal. It will be up to the State Government (Department of Planning, Lands and Heritage) to drive any further consultation.

In saying this, internal consultation has occurred with the matter being considered by the Shire's Reserve Management Officer – Greg Warburton.

“From my standpoint it would be a good outcome for the Shire if this lot was privately owned and managed. Currently, we have an arrangement with Gavin to graze his sheep for fire mitigation purposes on a reserve adjoining his land. It's working very well with no problems thus far.”

Strategic:

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

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

O5.1. Provide responsible planning and development.

Policy related:

Risk Policy

The Shire of Toodyay may be exposed to a broad range of risks which could adversely affect its operations and impact the achievement of strategic, operational and community objectives.

Financial:

The Shire will benefit from reduced management costs of these portions of land.

Legal and Statutory:

Local Government Act 1995

Section 2.7 & 2.10

Risk related:

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

Risk Type	Risk	Likelihood	Consequence	Score
Environmental Impact	The Applicant in taking over the management of these areas of reserve will be required to maintain. Poor management of this may lead to environmental impacts.	Possible (2)	Moderate (3)	Moderate (6)

Workforce related:

The Shire will benefit from reduced workforce requirements if this land becomes privately owned.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION 1

That Council supports the request by Mr Gavin Fletcher for the proposed purchase of Crown Lots abutting Lot 1 (No. 480) Julimar Road, West Toodyay.

9.1.5 Lot 11 Chitty Road Hoddys Well - Temporary extension of Development Approval - Midland Brick

Date of Report:	18 July 2024
File Reference:	11CHI/A4273/EXT1
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	27 March 2024 – Item 9.1.1
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Quasi-Judicial
Attachments:	1. Minutes - 9.1.1 Lot 11 Chitty Road Hoddys Well ⇨

SUMMARY

Applicant: Midland Brick
Owner: SJ Farrell & ML Farrell
Proposal: Temporary extension of Development Approval and Extractive Industry Licence
Location: Lot 11 Chitty Road HODDYS WELL

PURPOSE OF THE REPORT

To consider an application for a temporary extension to the existing development approval issued to Midland Brick to allow for the operation to remain compliant whilst a formal renewal application process takes place.

BACKGROUND

Council granted a temporary extension to an existing development approval to Brikmakers (now operating as Midland Brick) as part of a renewal of existing approvals for clay extraction operations at Lot 11 Chitty Road in Hoddys Well at an Ordinary Council Meeting held on 27 March 2024.

The temporary extension was for a period of four (4) months, which was considered reasonable to allow the applicants to get a formal application for renewal to the Shire for assessment and consideration. For more details – please refer to **Attachment 1 – Minutes Item 9.1.1 27 March 2024**.

However, there was a slight delay in receiving the application which has resulted in a shortfall of time between the four-month expiry on 27 July 2024 and the determination date (after advertising) for the new application – 28 August 2024.

Therefore, the Shire has received communication from Land Insights acting as agents for Midland Brick requesting that a further extension be granted to cover for this shortfall.

COMMENTS AND DETAILS

Midland Brick is in a predicament because of this issue with the shortfall that this delay has caused. The applicant needs approvals to be in place to ensure compliance and to allow for them to continue operations.

Council is being asked to consider an application to amend the Condition of Approval 2(b)(ii) of the Development Approval granted on 27 March 2024 (Resolution: OCM125/03/24). This condition relates to the four-month duration of the approval.

This can be done in accordance with Clause 77 of the Deemed Provisions where local government may determine an application by:

- approving the application without conditions; or
- approving the application with conditions; or
- refusing the application.

In this instance it will be recommended that the application to amend the condition is approved by Council.

IMPLICATIONS TO CONSIDER

Consultative:

Given the urgency of this request, no community or stakeholder consultation has been undertaken. In this instance it is not considered necessary as there is currently an application undergoing the community consultation process. This request is only to cover off the period of time before that application can be determined.

Strategic:

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

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

O5.1. Provide responsible planning and development.

Policy related:

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:

The process for amending a development approval is outlined in Clause 77 of the deemed provisions. The provisions outline that these changes are to be made in accordance with Part 8 of the provisions, i.e. as a normal application for development approval. Hence there would be, in normal circumstances, a requirement for the payment of standard development application fees. However, subclause (3) specifies that the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval. In this instance, as it is merely an administrative function, it is being treated in this manner.

Legal and Statutory:

Planning and Development Act 2005

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 77 of the Deemed Provisions deals with amending or cancelling development approval. Subclause (1)(b) allows the local government to amend or delete any condition to which the approval is subject.

Shire of Toodyay Local Planning Scheme No. 4

Risk related:

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

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

Workforce related:

This process is administrative and of a temporary nature with minimal impact on staffing as a full renewal application will follow this at a later date.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION

That Council

Pursuant to Clause 77 of the deemed provisions for local planning schemes, approves the application to amend Condition of Approval 2(b)(ii) of the Development Approval granted on 27 March 2024 (Resolution: OCM125/03/24) by altering the condition as follows:

1. The term of the Planning Approval is for five (5) months from the 27 March 2024.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 List of Payments - June 2024

Date of Report:	8 July 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 June 2024 ↗

PURPOSE OF THE REPORT

That the accounts for 1 June 2024 to 30 June 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 June 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.

O9.1: Govern Shire finances, assets, and operations responsibly.

Policy related:

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

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

Risk related:

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

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION 1

That Council receives the list of payments as attached to this report and summarised below, for the month of June 2024:

Municipal Cheques	\$ 21,132.18
Electronic Fund Transfers	\$ 779,470.19
Payroll	\$ 238,491.41
Purchasing Cards	\$ 1,736.94
Total	\$1,040,830.72

9.2.2 Toodyay Recreation Centre Operational Management Review report

Date of Report:	10 July 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15
Author:	T Bateman – Acting CEO
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	Not applicable
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Operational Management Review Report. ↔

PURPOSE OF THE REPORT

To receive the operational management review report and consider endorsing the preferred operational model for inclusion in the 2024/2025 Annual Budget.

BACKGROUND

Clublinks Management Pty Ltd were contracted until the end of 2024 to manage the Toodyay Recreation Centre (TRC) on behalf of the Shire of Toodyay. Clublinks sought an early exit from the contract by 30 June 2024. Following this, the Shire engaged Ascentive Pty Ltd to assist with investigating potential operational models for the facility to guide the decision around future facility management.

COMMENTS AND DETAILS

A review commenced in the 2023/2024 financial year and a comprehensive report (**Attachment 1**) informed by the results of community consultation and survey feedback was prepared.

Based on community aspirations and identified needs, the recommendation pertaining to the future of the TRC must critically consider its function and role in delivering essential community services and balancing this with prudent financial management.

Options for the operational management of the facility were explored during community and Councillor workshops, identifying that:

- Community management was not generally looked on favourably by participants and was not identified as an option by the community during engagement.
- The majority of participants expressed a preference for the swimming pool to be managed and operated by the Shire.

The review resulted in an understanding that Shire management of the facility would provide a higher level of control, particularly around scheduled and reactive maintenance requirements.

Benefits identified through the review included:

- The potential for increased efficiencies across the organisation – departments already exist for payroll and finance, marketing and promotion, maintenance and external works;
- Direct relationship with users, increasing interaction between Shire and community;
- Targeted local recruitment with training and upskilling offered;
- Broader commitment from clubs in facility usage;
- Career pathways for locals;
- Flexibility in and control over service delivery; and,
- Control over impacts of planned and reactive maintenance.

Based on the results of the consultation, a preferred operational model was explored, and a budget model developed to support Shire management of the facility. The report provides a comparison between past actuals and forecasted budgets.

Preferred Management Model

Officers are recommending Council endorses the preferred management model whereby the Shire manages and maintains the TRC facilities and works closely with the community to increase activation and facilitate programs. Should Council reject the Officer's recommendation, further investigation to cost and implement alternative management options may cause delays and affect access to facilities and services for the community. Additionally, as the management model addresses the needs of the community, choosing an alternative model could severely affect future community engagement and use of the facilities.

IMPLICATIONS TO CONSIDER

Consultative:

A survey was circulated through Shire social media, direct email and hardcopy within the Shire requesting input from community regarding current and potential future usage of facilities at the recreation precinct – responses were received from 170 community members.

Ascentive facilitated a community workshop at the TRC on Thursday, 6 June 2024. Staff, Councillors and 35 community members attended the session to discuss potential management models for the aquatic, sport surfaces and pavilion facilities.

Councillors and staff were provided a verbal summary of engagement at a briefing held 7 June 2024.

Strategic:

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

Outcome 1: A safe and healthy community

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

Outcome 9: Responsible and effective leadership and governance

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

Policy related:

Risk Management Framework and Risk Management Policy.

Financial:

The Shire will continue to invest in the operational costs of the TRC and include projected operational income and expenditure in the preparation of the draft budget.

Legal and Statutory:***Local Government Act 1995******5.56 Planning for the future*****Risk related:**

The management of the TRC by the Shire will involve appropriate reporting mechanisms to be established that balance the need for commercial efficiency with accountability to the community.

The risks in management of the TRC by the Shire are substantial however they can be managed through detailed risk management processes.

The risk in Council choosing to not move forward with regard to acceptance of the preferred management model is moderate (3) but from a reputational perspective could be a high (12) risk rating. This report mitigates the risk.

Workforce related:

The Shire will undertake recruitment for qualified and experienced staff to ensure compliant operation of the aquatic facility.

Shire Officers will:

- develop a detailed inspection schedule and maintenance schedule following initial facility inspections; and
- establish formal user agreements between community groups and the Shire to clearly define roles and responsibilities when using the facilities.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. receives the Operational Management Review Report (**Attachment 1**);
2. accepts the recommendations made within the report and adopts the preferred operational model for management of the Toodyay Recreation Centre, which includes;
 - (a) Shire-managed aquatic areas, and
 - (b) Hybrid-managed dry sports facilities.
3. requests the Acting Chief Executive Officer to include the costings of the preferred hybrid operational model in the 2024/2025 Annual Budget process; and

4. requests the Acting Chief Executive Officer to develop an operational management plan to include risk management, maintenance schedules, and defined roles and responsibilities that may form part of future user agreements.

9.2.3 Monthly Financial Statements - June 2024

Date of Report:	8 July 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	<ol style="list-style-type: none"> 1. Monthly Financial Statement as at 30 June 2024; and ⇒ 2. Supplementary Information as at 30 June 2024. ⇒

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 30 June 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 30 June 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 30 June 2024, the gross amount of rates, ESL and rubbish charges outstanding (including arrears and interest) is \$1,199,931.94 This total is made up of the following:

	Current	Arrears 1	Arrears 2	Arrears 3	Deferment	Total
	\$ 792,186.44	\$238,472.41	\$ 93,200.32	\$ 99,586.75	\$ 0.00	\$1,223,445.92
Deferment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$281,133.62	\$ 281,133.62
Pre-payment	\$(304,647.60)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$(304,647.60)
Total	\$ 487,538.84	\$238,472.41	\$ 93,200.32	\$ 99,586.75	\$281,133.62	\$1,199,931.94

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of 30 June 2024 is displayed by category as follows:

Category	31/05/2024	30/06/2024
> 90 days and over	\$ 23,833.92	\$ 22,402.68
> 60 days and over	\$ 5,585.82	\$ -1,155.49
> 30 days and over	\$ 8,818.91	\$ 23,615.76
Current	\$ 66,382.25	\$ 326,533.00
TOTAL	\$ 104,620.90	\$ 371,395.95

The table above shows an increase in the outstanding sundry debtors balance due to progress claim and long service leave invoices issued.

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:

Purchasing

Transaction 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. In addition, we received FAGs grants in advance of \$1,558,214.

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

Depreciation transactions will be adjusted as per AFR (Annual Financial Reporting) instructions, and it will be completed next reporting period.

Capital activities lower than anticipated for this reporting period due to some capital projects being carried forward 2024/2025.

Transfers to and from reserves will be completed in conjunction with adjustments from instructions of our AFR in the next reporting period.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

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

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

9.3 EXECUTIVE SERVICES

9.3.1 Council Plan Actions Update

Date of Report:	3 July 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN2
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Review
Attachments:	1. Council Plan Actions List. ↗

PURPOSE OF THE REPORT

To present Council with the annual review of the actions contained in the Plan for the Future – Council Plan 2023-2033.

BACKGROUND

s.5.56 of the *Local Government Act 1995* (the Act) requires a local government to plan for the future of the district and to ensure that plans made are in accordance with any regulations made about planning for the future of the district. The Council Plan incorporates the strategic community plan and the Corporate Business Plan pursuant to r.19C and r.19DA respectively of the *Local Government (Administration) Regulations 1996*.

Regulation 19DA of the *Local Government (Administration) Regulations 1996* requires an annual review of the Corporate Business Plan. Attached for Council’s consideration is the 2024 review of the Corporate Business Plan actions.

COMMENTS AND DETAILS

The Council Plan contains 107 actions of which 51 have commenced or are completed. For various reasons, 56 actions scheduled for commencement in 2023/2024 have been delayed and will be addressed in the coming financial year subject to appropriate resourcing. The intent of this report is to provide commentary in regard to the progress of the actions contained in the Council Plan (**Attachment 1**). It is not to modify the Council Plan.

Review of the implementation of the Council Plan remains relevant and aligned with current needs and objectives. The structured approach to developing and reviewing Service Plans and Induction programs indicates a commitment to strategic alignment and continuous improvement. Enhancing the Shire’s website to better communicate will be a significant step in increasing transparency and community engagement.

Comments against the actions contained in **Attachment 1** indicate a structured approach with a mix of ongoing actions and future plans, emphasising the need for sustained efforts and resource allocation. Further dot points are provided below:

Outcome 1: A Safe and Healthy Community

Shire Officers will:

- continue to undertake a multi-stakeholder approach to enhancing the CCTV network;
- explore funding opportunities through external sources to assist with community safety and crime prevention;
- bring the Public Health Profile and Plan, including the proposed establishment of the Public Health and Well Being Advisory Group with a clear structure and estimated costs to Council Workshop in August 2024 to ensure a well-organised approach to address local health/wellbeing needs; and
- present briefs to Council to improve the usability of the pool area at the TRC and encourage more residents to use the facility, contributing to overall health and wellbeing. This includes investigating heating options as part of the building portfolio review which will include the securing of grant funding as it will be essential to implementing this improvement without straining the annual budget.

The comprehensive review of the Toodyay Recreation Centre (TRC) operational management has occurred and is subject of another report within this agenda.

Outcome 2. An inclusive, connected community.

Shire Officers are working to engage all demographics of the community to expedite the progress of actions contained in the Council Plan. Shire Officers also continue to explore opportunities to deliver more activities across the demographic.

- Collaboration is ongoing with the Noongar Kaartdijin Aboriginal Corporation (NKAC) to help maintain momentum and ensure that the Reconciliation Framework remains relevant and impactful.
- The program of festivals and events is ongoing, stimulating the local economy and community engagement whilst supporting local artists and businesses, and fostering a vibrant community culture.
- Maintenance of Community Group online listings is ongoing, enhancing visibility and support for community groups. Regular updates and promotion of this resource will encourage community engagement.

The Shire continues, through its Visitors Centre, and Toodyay Community Resource Centre to build partnerships with local businesses, community groups, and educational institutions.

Outcome 3. Our natural assets and ecosystems are being maintained and protected for future generations.

- The Local Biodiversity Strategy will be used to inform advocacy efforts with government agencies.
- Collaborative efforts with local organisations for the Avon River's health and participation in the Rural Water Council and the Avon Midland Zone are essential for leveraging broader support and resources.
- An educational campaign, promoting awareness of legal requirements will take place once local laws are amended and adopted by Council. The demand for exercise

areas for dogs will require further action, ensuring the Shire responds effectively to community needs.

Outcome 4. Climate resilience.

- Plans for educational campaigns on sustainable practices and waste reduction are in place but will be activated after current key projects are completed.
- Efforts to enhance infrastructure, such as solar panel installation, the Bejoording Bushfire Station facility and upgraded fire storage tanks, are contingent on funding and review outcomes.

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

- The Shire is engaged in a joint housing initiative and Government Regional Officer Housing (GROH) study with AROC, with the intent of addressing social housing needs within the Shire.
- A Consultant has been engaged to review the Heritage List to ensure significant places have necessary gradings and management protocols.
- Initial steps for reviewing and updating planning strategies and policies are in progress, with significant activities scheduled for the latter half of 2024.

Outcome 6. Safe, sustainable, and affordable transport options.

Several actions have been delayed due to unsuccessful recruitment and budget limitations. Addressing these constraints is crucial for progressing the planned initiatives.

Persistent advocacy is ongoing in several areas, including transport services, infrastructure projects, and safety improvements.

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

- Current business development activities are handled on an ad hoc basis, indicating a need for a more structured approach to systematically explore new business opportunities.
- Continuous engagement of local businesses in CSR initiatives ensures ongoing community support and development.

Outcome 8. Toodyay is a popular tourism destination.

- The ongoing partnership with Destination Perth Avon Valley Alliance and efforts to acquire relevant domains and social media accounts are crucial for strengthening Toodyay's online presence and tourism marketing.
- The Shire's active support for new and diverse tourist accommodations, along with the development of a Short-term Accommodation Policy, is a positive step towards catering to the needs of a growing number of tourists.
- Seeking funding for a public art program remains a valuable initiative to enhance Toodyay's appeal.
- Council's commitment to upgrading the racecourse and supporting events increases tourism and economic benefit.

Outcome 9. Responsible and effective leadership and governance.

- Regular cultural reviews help in identifying areas for improvement, fostering a positive and productive environment.

- A Risk Working Group has been established to enhance the Shire's ability to manage and mitigate risks effectively.
- The asset rationalisation review aimed at identifying consolidation opportunities for Council land and building assets is underway. This will inform the review of the Shire's current Asset Management Plans.

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

- The Shire is undertaking a collaborative approach to ensure continuity in communication efforts.
- The promotion of the Antenno app has enhanced real-time communication and engagement with community members, allowing for more interactive and responsive governance.
- A new customer relationship management module on the Shire's website will deliver a broader range of online services.

IMPLICATIONS TO CONSIDER**Consultative:**

N/A

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

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear and accountable leadership

9.1.1. Review the Council Plan (minor review in 24/25; major review in 26/27)

Policy related:

The Community Consultation and Engagement Policy strategically outlines the engagement levels the Shire will undertake, using the International Association for Public Participation (IAP) Spectrum of Public Participation.

Financial:

Several actions are scheduled for future years (2025/26), such as the development of management plans for conservation reserves and the Water Management Strategy. These plans are foundational for long-term environmental sustainability but will require sustained attention and resources to realise. Several actions are planned for future years, indicating a need for ongoing commitment and resources to achieve long-term environmental sustainability goals.

Active pursuit of grants and funding, particularly for green initiatives and emergency preparedness, is a recurring theme. Strong efforts in securing funding and advocating for green initiatives and emergency preparedness.

Ongoing efforts to review and implement financial and asset management plans ensure sustainable and responsible governance of the Shire's resources.

Legal and Statutory:

Local Government Act 1995

Local Government (Administration) Regulations 1996

Risk related:

The fact that the update has occurred will meet the Shire's obligations however it is seen as a reputational risk if Councillors choose to, as a majority, not receive the update.

Workforce related:

Service Area Plans have been prepared linking actions identified in the Council Plan to ensure that the Shire meets its obligations.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. receives the annual review of the Council Plan 2023-2033 actions (**Attachment 1**).
2. notes that the mix of ongoing actions and future plans, will require sustained efforts and resource allocation.

9.3.2 Bendigo Bank Building Lease extension

Date of Report:	11 July 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG007/A3912/Property No.203157/Lot 267 Plan/Diagram/DP# D64252
Author:	T Bateman – Acting CEO 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. Asset Report August 2015. ↔

PURPOSE OF THE REPORT

To seek Council approval for a variation, by way of extension and inclusion of additional terms, to the existing lease for the Bendigo Bank building (the Building) occupied by the Toodyay & Districts Community Financial Services Limited (TFS) located at Lot 267 Stirling Terrace, Toodyay.

BACKGROUND

The Bendigo Bank have a current lease in place which is set to expire in February 2025. The lease was initially signed soon after the Shire purchased the property in 1999 for the purpose of securing a facility for banking services for the community.

Recently, representatives from the Bendigo Bank informed the Shire of their intention to commence a major refurbishment project and further requested financial assistance from the Shire for various elements of the project, such as asbestos removal and amenity upgrades.

The estimated costs for the proposed upgrades are significant for both parties and, prior to committing to the project, the TFS are seeking extension of the lease for two consecutive ten-year terms to provide security for the substantial investment. The lease stipulates that maintenance of the building, other than general maintenance performed by the Lessee, is the responsibility of the Lessor, being the Shire.

COMMENTS AND DETAILS

The Bendigo Bank provides a vital banking service to the Community as well as providing an essential Department of Transport licensing service.

In addition to the aforementioned services, community contributions from the TFS sit around \$2M to date, including a commitment of \$350K to RSL Toodyay for their purpose-built facility,

and \$30K to Toodyay District High School over 2 years to support their literacy and numeracy programmes.

TFS has also committed \$10K to Staying in Place Toodyay and continue to explore other ways to support the community that essentially align with actions in the Shire's current Plan for the Future. Without the commitment from TFS, a substantial source of funding made available for community purposes may be at risk.

The Shire recognises the positive impacts of having the Bendigo Bank in town, made possible by the TFS, and are keen on securing the banking and licensing services well into the future.

In accordance with the requirements of the *Local Government Act 1995* and associated regulations, there are several options available for Council's consideration, which involve:

- 1) extending the existing lease and deciding whether or not to provide a financial contribution to improvements; or
- 2) not extending the lease with the intention of selling the building; or
- 3) entering an arrangement to offset capital costs via a reduction in rent, subject to seeking a market valuation; or
- 4) entering into a lease extension to provide the TFS with security for investment with a future intention to sell the property. The process of selling the building has been investigated in the past according to reports previously presented to Council (**see Attachment 1**). It is unclear however, why the matter failed to progress. Officers are aware of concerns around parking availability in the CBD, and are proposing that, should sale of the property advance, a caveat be placed on the property to retain parking for community use which would also provide access to the river foreshore.

Council can choose to retain the commercial property and offer the Bendigo Bank a new lease for a period of ten years with an additional ten-year term. During this period, budgetary allocations will be required in the Shire's annual budget to manage the maintenance of the building. This option is considered reasonable, given the importance of the building in the main street, and the fact that the Bendigo Bank provides essential services to the community. Retaining Shire ownership of the building ensures its availability for banking services into the future. However, based on past years, maintenance has been ad hoc and requests from the TFS for financial support are generally unscheduled and can be difficult to budget for.

Officers are proposing that the Shire grants the request for lease extension in the interim, subject to further conditions, to allow the TFS to commence the refurbishment project, and potentially avoid cost increases which may result in delaying acceptance of quotes already sought. Additionally, Officers are proposing the Shire enters into discussions with the TFS regarding the future tenure of the building and potentially pursues the option to sell. As this process can be lengthy, it is not seen as a barrier to entering a new lease for the premises.

IMPLICATIONS TO CONSIDER

Consultative:

Ongoing consultation with Toodyay & Districts Community Financial Services Limited regarding various options has been explored, with a focus on supporting future upgrades and ensuring continuity of services currently provided to the Toodyay community.

Strategic:**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:

Disposal of property

Purchasing Policy

Financial:

Officers will include a budget allocation of up to \$5,000 to seek a market valuation, necessary not only to meet the requirements of extending the lease to inform the rent review, but also to support any future intention to explore sale of the property.

Depending on the outcome of conversations with TFS and considering any potential sale process will not be completed prior to budget adoption, Officers are proposing to bring a report back to Council to consider budgetary implications and if required, seek a budget amendment.

Should the sale progress, it's intended that the proceeds from sale be transferred to the Asset Development reserve. The current condition of the building, and request for financial support from TFS for works that could essentially be considered the responsibility of the Shire, are recognised, and it's likely that these factors will bear weight on the outcome of any potential sale. Any future outcomes set to impact the annual budget will require a formal decision of Council.

Legal and Statutory:***Local Government Act 1995******s.3.58. Disposing of property***

(1) *In this section —*

dispose *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*

property *includes the whole or any part of the interest of a local government in property but does not include money.*

(2) *Except as stated in this section, a local government can only dispose of property to —*

(a) *the highest bidder at public auction; or*

(b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

(a) *it gives local public notice of the proposed disposition —*

(i) *describing the property concerned; and*

(ii) *giving details of the proposed disposition; and*

(iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

and

(b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

(4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*

(a) *the names of all other parties concerned; and*

(b) *the consideration to be received by the local government for the disposition; and*

(c) *the market value of the disposition —*

(i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*

(ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

Risk related:

Local Governments are responsible for ensuring provision of services to the community. The Asset Report August 2015 (**Attachment 1**) states that the building was purchased by the Shire, for the purpose of ensuring that there was a banking service in the Toodyay townsite.

Significant and costly maintenance is required for the aging building. Disposing of the property absolves the Shire of future maintenance costs in addition to larger ad hoc requests for capital improvements however the risk in disposing the building, is that it could in future, be on-sold and not utilised as a bank. Council could also lose valuable parking space in the CBD however, a caveat could be placed over the parking area if Council were to make a decision to sell the property in the future.

Given this property serves as the only banking service in Toodyay, it is a major concern (4) and therefore represents a high (16) risk (refer to the Shire's Risk Matrix tables) however, as the TFS appear committed to continuing the service by requesting to renew the lease for up to twenty years, and are proposing significant investment in the building, this risk is mitigated.

Workforce related:

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

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. requests the Acting CEO to enter into a new lease with Toodyay & Districts Community Financial Services Limited for the building known as the Bendigo Bank,

located at Lot 267 Stirling Terrace, subject to the inclusion of the following essential terms;

- (a) the lease will be for a period of ten years with a further term of ten years,
 - (b) the rent payable will be based upon an up-to-date market valuation to be sought; and
 - (c) the inclusion of the 'first right of refusal' provision;
2. requests the Acting CEO to liaise with representatives from the Toodyay & Districts Community Financial Services Limited regarding future tenure of the property; and
 3. requests the Acting CEO to report back to Council on the outcome of discussions with Toodyay & Districts Community Financial Services Limited no later than 31 December 2024.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Concept Design of Bridge 4085 Toodyay West Road

Date of Report:	24 July 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	BR 4085
Author:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. MRWA Bridge Alignment Options; ⇒ 2. B4085 Toodyay West Road Speed Limit Diagrams; ⇒ 3. Precast Concrete Bridge Option; ⇒ 4. Unibridge Steel bridge deck option; and ⇒ 5. MRWA correspondence 29 April 2024. ⇒

PURPOSE OF THE REPORT

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

BACKGROUND

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

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

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

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

- 2021/22 Waterways Investigation has been undertaken.

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

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

The terms and conditions of Federal bridge replacement funding has changed substantially on 1 July 2024 with the amalgamation of two previous funding programs. This is discussed further in the next section of the report.

Council had previously considered this matter in a report to the Ordinary Council Meeting of 22 May 2024 Item 9.4.2 at which Council resolved as follows:

That the meeting proceed to the next item of business (Agenda Item 9.4.3 Toodyay racecourse Precinct – Site Works Update) at 1.46 pm in accordance with Standing Order 10.1 (a).

Further clarification of funding availability has been sought and is included in this report for Council to reconsider the matter.

COMMENTS AND DETAILS

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

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

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

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

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

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

This is a significant development as MRWA have foretold a change to the Federal funding program to commence 1 July 2024. The program is the Safer Local Roads and Infrastructure Program which combines two funding programs into one. The new requirement for bridge

replacement on roads which the local government responsibility will be 80% from the Federal fund and the local authority will have to fund the remaining 20%. MRWA will continue to fund the detail design of the bridges.

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

The Guidelines for the Federal Safer Local Roads and Infrastructure Program have been published dated June 2024 and confirms the previous advice that the funding is based on 80% from the program and 20% from the local authority.

The other detail that is now apparent is that the 80% Federal component is capped at a total of five million dollars per project. This is a significant detail as the Shire of Toodyay will have to find as much as three million dollars to cover the total cost of the bridge replacement.

The remaining 20% of the cost will have to come from either the Shire of Toodyay entering into a loan agreement or obtains funding from another program. The MRWA have indicated that they will not support the WA Local Government Grants Commission Fund being allocated for bridge replacement projects as the fund is intended for bridge maintenance projects across WA. One bridge replacement project would absorb most of the fund allocation for one year and hence is not considered fair to other local authorities across WA who submit for maintenance funding on bridges.

Consultation was carried out with the Roads to Recovery Infrastructure Investment Program which has a bridge component for local government bridges intended for replacement, refurbishment or widening/Strengthening. The component for WA local government bridges over the five years from 2024/25 to 2028/29 ranges from \$4.4M to \$6.8M per year.

The Shire of Toodyay could make application to this fund for a portion of the 20% component of the bridge replacement cost with the rest coming from direct grants, municipal funds, a loan, or a combination of these options.

As noted by the MRWA, any road realignment for reconstruction would be an additional cost to the Shire of Toodyay, which is not funded by any of the bridge programs.

IMPLICATIONS TO CONSIDER

Consultative:

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

Strategic:

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

Outcome 5.1 Provide Responsible Planning and Development

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

Policy related:

ADM 18 Risk Management

FIN 18 Long term Financial Planning

Financial:

The Shire of Toodyay will not have the capacity to fund 20% of the bridge reconstruction cost from municipal funds. The Shire of Toodyay will have to enter a loan for the 20% component or obtain funds from another funding program. The financial exposure could be up to three million dollars if another funding grant is not obtained.

Legal and Statutory:

Local Government Act 1995 as amended.

Risk related:

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

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council

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

9.5 COMMITTEE REPORTS

Nil.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

12 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**12.1 Avon Earthworks adjacent to Toodyay Recreation Centre**

The following question on notice was received from Councillor Madacsi.

Question

What was the cost of the site works to the TRC Stage 2 site that was undertaken this month?

- (a) How was this funded?
- (b) If from fire mitigation funding, was this project included in the funding application?
- (c) If not, what works were not undertaken to accommodate the TRC site works?

Response

The total cost of these Non-Crown mitigation works was \$106,500.

The project was not mitigation funding but was included in the 2023/2024 Annual Budget and was 50/50 funded by the Federal Government's Disaster Ready Fund.

The project was included in the funding application for bush fire mitigation activities designed to reduce the impact of bush fire to the Toodyay Recreation Centre and adjacent properties in the River Hills Estate.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the response to the question regarding Avon Earthworks adjacent to Toodyay Recreation Centre raised by Councillor Madacsi be received and noted.

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13.1 MEMBERS

Nil.

13.2 EMPLOYEES

Nil.

14 CONFIDENTIAL BUSINESS

Nil.

15 NEXT MEETINGS

Audit & Risk Committee Meeting	31 July 2024
Bushfire Advisory Committee Meeting	7 August 2024
Heritage Advisory Committee Meeting	14 August 2024
Agenda Briefing	21 August 2024
Ordinary Council Meeting	28 August 2024

16 CLOSURE OF MEETING