Ordinary Council Meeting

1 October 2026

Minutes

To: The President and Councillors.

Here within are the Minutes of the Ordinary Council Meeting of the Shire of Toodyay held on the above-mentioned date in the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566.



Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER

Our Vision, Purpose and Values

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

Our Vision

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

Our Purpose

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

Our Values

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

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

Community Aspirations

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

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

Disclaimer

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

Availability of Meeting Agenda and its Attachments

Information about Council Meetings is located on the website

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

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

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

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

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Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following an Ordinary Meeting of Council, where the Minutes will be confirmed subject to any amendments made by the Council.

The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Council Meeting are put together as a separate attachment to these Minutes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as separate Confidential Minuted Agenda Items.

Unconfirmed Minutes

These minutes were approved for distribution on 7 October 2026.

Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER

Confirmed Minutes

These minutes were confirmed at a meeting held on 5 November 2026.

Signed: .....

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr M McKeown, Shire President, declared the meeting open at 5:30 pm and read aloud an Acknowledgement of Country:

"*I acknowledge the Ballardong Noongar people and the Yued and Whadjuk people, the traditional custodians of the land where we meet today within the Shire of Toodyay. I pay my respect to their Elders, past and present.*"

The Shire President read through other preliminaries.

2 RECORDS OF ATTENDANCE

Members

Cr M McKeown	Shire President
Cr M Dival	Deputy Shire President
Cr R Madacsi	Councillor
Cr R Mills	Councillor
Cr S Van der Heyden	Councillor

Members attending electronically

Cr S McCormick	Councillor (*via Zoom*)

Staff

Mr A Hart	Temporary Chief Executive Officer
Ms C Delmage	Acting Executive Manager Finance and Corporate Services
Mr M Burgess	Executive Manager Infrastructure, Assets and Services
Mr R Winslow	Acting Executive Manager Planning and Regulatory Services
Ms P Kaur	Council Support Officer

Visitors

Nil.

2.1 APOLOGIES

Cr J Prater	Councillor
Mr S Ambrose	Executive Manager Economic Development and Community Services

2.2 APPROVED LEAVE OF ABSENCE

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

Name	Type	Item	Extent
Cr Madacsi	Impartiality	15.1	Is mentioned within the report.

4 PUBLIC QUESTIONS

4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Ordinary Meeting of Council held on 3 September 2026, the following questions were taken on notice:

4.1.1 Responses to Previous Public Questions Taken on Notice

B Ruthven – Question 1

There were community meetings held earlier this year and an online Ascentive survey about the Shire. How many community members:

a) Attended to those meetings and;

b) Responded to the online survey?

A total of 50 community members attended the community engagement sessions, and 69 responses were received through the online survey.

B Ruthven – Question 2

What is the percentage of ratepayers that number amounted to?

A percentage of ratepayers cannot be accurately calculated, as participants were not required to identify whether they were Shire of Toodyay ratepayers. In addition, some individuals may have participated in both the community workshops and online survey.

B Ruthven - Question 9

Council has budgeted to acquire $2,868,644 worth of additional buildings, please explain what this figure comprises?

Details	Funding	Amount
Batty Pass Land Development	Grant	2,146,944
Newcastle Park Accessible Public Toilet	Grant	110,000
Toodyay Club – Electrical Upgrade (Lighting & Aircon)	Operating	15,000
Key Worker Accommodation	Reserve	596,700
	TOTAL	**2,868,644**

B Ruthven - Question 10

What is the total value of the Shire's subdivision development of the Batty Pass Estate, near the school, including the current stage.

$2,186,944

4.2 PUBLIC QUESTION TIME

Nil.

5 APPLICATIONS FOR LEAVE OF ABSENCE

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM218/10/26

MOVED Cr M McKeown

SECONDED Cr M Dival

That Cr Van Der Heyden be granted a leave of absence for the Ordinary Council Meeting of 3 December 2026.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

6 CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council held on 3 September 2026

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM219/10/26

MOVED Cr M Dival

SECONDED Cr R Mills

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 3 September 2026 be confirmed.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

6.2 Special Meeting of Council held on 17 September 2026

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM220/10/26

MOVED Cr M Dival

SECONDED Cr S McCormick

That the Unconfirmed Minutes of the Special Council Meeting held on 17 September 2026 be confirmed.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

7 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

7.1 PETITIONS

Nil.

7.2 DEPUTATIONS

Nil.

7.3 PRESENTATIONS

Nil.

7.4 SUBMISSIONS

Nil.

8 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

9 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

- **9 September** - took part in a meeting of our Audit, Risk and Improvement Committee.
- **10 September** - attended and presided at a meeting of our Bush Fire Advisory Committee.
- **11 September** - helped out at Operation Clean Up at Duidgee and Stirling Parks by the Cadets of Toodyay District High School. Thanks to the cadets and to Doug McGhie and school staff who organised and took part in the Clean Up.
- **14 September** - together with the CEO attended and chaired a meeting of the AMP-UP Governance Group. AMP-UP, the Avon Midland Peri-Urban Partnership is a regional local government alliance, previously known as the Avon Regional Organisation of Councils. The member local governments of AMP-UP are Toodyay, Chittering, Northam, York, Goomalling and Victoria Plains. The members of the alliance work cooperatively for the benefit of our communities and currently include advocating about housing availability, emergency management, waste management and shared services.

- **17 September** - presided at a Special Meeting of Council held to consider reports from the Audit, Risk and Improvements Committee.
- **21 September** - conducted a Citizenship Ceremony where six new citizens joined our nation.
- **22 September** - together with other councillors, staff and community members met with the Western Australia Local Government Grants Commission at the Toodyay Recreation Centre. Members of the Commission explained how decisions on from State Government to Local Government from the State Government are calculated and made.
- **23 September** - together with the CEO and Shire Staff visited the Bejoording Bush Fire Station to view and discuss the water supply arrangements for supplying firefighting appliances with water.
- **24 September** - together with the CEO, met with Sabine Winton MLA, State Government Minister for the Wheatbelt, for Education, and for Early Childhood. This was an opportunity to let the Minister know of issues currently facing the Shire which will require assistance with funding from State Government. Such issues include, for example, bridge funding.
- **24 September** - together with other councillors and staff took part in the Agenda Forum for today's Ordinary Council Meeting.

10 OFFICER REPORTS

10.1 PLANNING AND REGULATORY SERVICES

10.1.1 Consideration of Development Application for an Outbuilding on Lot 57 (41) Clarkson Street, West Toodyay

Date of Report:	21 August 2026
Applicant or Proponent:	Ronell Vermeulen
File Reference:	A4748/57BEAU
Author:	JP Pratama – Town Planner
Responsible Officer:	R Winslow – Acting Executive Manager Planning and Regulatory Services
Previously Before Council:	Ni
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	1. Cover Letter; 2. Site Plan; and 3. Outbuilding Drawings.

PURPOSE OF THE REPORT

For Council to consider a variation to the deemed-to-comply provisions of Shire of Toodyay Local Planning Scheme No. 5 (The Scheme) to approve a 100m² outbuilding and attached 40m² open-sided carport at Lot 57 (41) Clarkson Street, West Toodyay (the property).



BACKGROUND

Site Location

The property is zoned Residential with a density of R2.5 by Shire of Toodyay Local Planning Scheme No. 5 and is located adjacent to Beaufort Street and Clarkson Street. The lot is 4.72 ha in size and has a gentle downward slope towards the northern and western direction.

The proposed outbuilding has a setback approximately 38.5 metres from the western boundary and adequate setback distances from the northern, southern and eastern direction. The proposed outbuilding is approximately 170 metres away from the nearest neighbouring house. **(Attachment 2)**

Proposal

The proposal does not comply with Clause 26(6)(a) of The Scheme, which limits the total area of outbuildings on an R2.5 lot to a maximum of 100m². While the proposed outbuilding itself has an area of 100m², the lot already contains an existing outbuilding of approximately 176m², resulting in a combined outbuilding area of 276m². Accordingly, a variation to Clause 26(6)(a) is required.

The variation is required to be considered against Clause 34 "Variations to general development standards and requirements" of The Scheme. Clause 34(2) provides for the local government to approve a development that does not comply with a general development standard and requirement. Clause 34(3) provides for this approval to be unconditional or subject to any conditions the local government considers appropriate.

The lot is also located within the Special Area Control 5 – Landscape Protection, which requires an assessment for Visual Impact.

Carport

The proposed carport, attached to the outbuilding, is open on all sides and therefore does not contribute to the outbuilding area calculation, as an outbuilding is defined as an enclosed non-habitable structure. **(Attachment 3)**

COMMENTS AND DETAILS

Site Visit

A site visit was undertaken on Friday 21st August 2026 to determine the nature of the proposal and the visual impact of the development under the requirements of Special Control Area 5 in the Scheme.



Compliance

Scheme Requirements

Clause 26(6) of The Scheme modifies the Residential Design Codes requirements for outbuildings on land coded R2.5 and R5. The following table assesses the proposal against the Scheme requirements.

The Scheme Requirement	Requirement	Proposed	Complies
Total area of outbuildings	Maximum 100m²	Existing outbuilding 176m² plus proposed outbuilding 100m². Combined total 276m²	No
Wall Height	Maximum 3.5m	3.3m	Yes
Roof Ridge Height	Maximum 4.5m	3.9m	Yes
Side Setback	Minimum 1.5m	Exceeds requirement	Yes
Rear Setback	Minimum 1.5m	Exceeds requirement	Yes
Secondary Street Setback	Minimum 5m	110m to Beaufort Street	Yes
Location relative to dwelling	To be located behind dwelling unless matching dwelling materials and colours	Located in front of dwelling in relation to current address and building orientation	Yes
Material, Colour, External finish	External walls not to include metallic silver	Materials consistent with existing main dwelling and does not include metallic silver	Yes

Assessment of Visual Impact – Special Control Area 5: Landscape Protection

The proposed outbuilding is partially screened from Clarkson Street by existing trees and understory vegetation, reducing its visual prominence from the public realm.

Given the large lot sizes within the locality, separation distance from neighbouring dwellings, and the outbuilding's scale and materials being consistent with the existing dwelling, the proposal is not considered to have a significant visual impact. Accordingly, it would not materially detract from the character or amenity of the area despite the variation to the policy requirements.

IMPLICATIONS TO CONSIDER

The applicant has provided justification for their proposal requesting variation to the Policy.

The applicant proposes to use the outbuilding for the storage of vehicles and caravans, providing protection from weather and environmental conditions, including extreme summer temperatures. The outbuilding has been sited to maximise access to natural daylight,

supporting the operation of the associated EV charging infrastructure, while minimising its visual bulk and prominence within the landscape. **(Attachment 1)**

Variation

Clause 34 of the Scheme enables the local government to approve development that does not comply with a general development standard or requirement where it is satisfied that:

1. Approval would be appropriate having regard to the matters for consideration under Clause 67(2) of Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Part 9.
2. The non-compliance will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality, or the future development of the locality.

In assessing the variation, regard has been had to the objectives of Local Planning Policy 13, the relevant provisions of the Residential Design Codes, the visual landscape considerations associated with Special Control Area 5, and the matters contained within Clause 67 of the Deemed Provisions.

Visual Impact – Special Control Area 5

This matter has been considered in the Comments Section above.

Residential Design Codes

The subject site is located within the Residential zone with a density coding of R2.5 and has an area of approximately 4.72ha. The site is substantially larger than a typical lot associated with the R2.5 density code and is therefore capable of accommodating the proposed development while retaining a significant amount of open space.

The proposal remains consistent with the intent and objectives of the Residential Design Codes (R-Codes), which seek to ensure development is appropriate to the size and characteristics of the site. The total building footprint, including the proposed outbuilding, occupies approximately 1.2% of the overall site area and is not considered to represent an overdevelopment of the lot.

Local Planning Policy No.13

The proposed outbuilding is unlikely to have a significant adverse impact on the locality, having regard to the substantial separation distance of approximately 170m to the nearest neighbouring dwelling and the generous setbacks from surrounding property boundaries.

The proposal remains consistent with the objectives of Local Planning Policy No. 13, which seek to achieve a balance between providing for the legitimate storage needs of residents while minimising adverse impacts on the amenity and character of the locality. Accordingly, it is recommended that Council exercise its discretion under Clause 34 of the Scheme and approve the variation to the maximum outbuilding area requirement.

Consultative:

This application was advertised in accordance with Shire's Local Planning Policy 27: Advertising of Planning Proposals. Emails with notification letters were sent to all adjoining landowners on 21st August 2026. Responses from two neighbours were received before the end period of the consultation period. All responses received were "no objection" to the proposed development.

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 5.1 - Provide responsible planning and development.

Policy related:

- Local Planning Policy 13 – Non-Habitable Structures

  Sets the acceptable development standards for this application. Council can vary these standards upon request where it is deemed that the application contains suitable elements worthy of variation or where it can be demonstrated that exceptional circumstances apply to the application. If this consent is granted, then performance criteria are used to determine the outcome of the application.

- Special Control Area 5 – Landscape Protection

  This control within the Scheme sets out criteria for the assessment and protection of visual landscapes within the Shire of Toodyay. This scheme requirement places a stronger level of responsibility on a developer to maintain visual landscapes from key vantage points and designated roads.

- Residential Design Codes

  The R-Codes provide the statutory framework for residential development. In the event of deemed-to-comply requirements cannot be achieved, the design principle pathway is available to allow for a "judgement of merit" assessment.

Financial:

Nil

Legal and Statutory:

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Toodyay Local Planning Scheme No. 5

Risk related:

There is minimal risk to Council in exercising its discretion in this regard. The proposed variation is deemed to be minor in nature and would support the ongoing domestic use of the property.

Workforce related:

The processing of this application, including the request to council to seek a variation to a local planning policy are within the normal workloads of the Town Planning business unit.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM221/10/26

MOVED Cr M Dival

SECONDED Cr R Madacsi

That Council in accordance Clause 68(2) of Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Deemed Provisions for local planning schemes Part 9 grants Development Approval for an outbuilding and carport at Lot 57 (41) Clarkson Street, West Toodyay subject to the following conditions:

1. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
2. The development shall be carried out generally in accordance with the approved plans.
3. All stormwater shall be directed away from the outbuilding and discharged in manner where there is no discharge onto adjoining properties to the satisfaction of the local government.
4. Use of outbuilding shall be for domestic storage purposes only and not used for human habitation at any time.
5. The development is to be screened by appropriate vegetation within 6 months of completion to minimise visual impact when viewed from surrounding properties and roads.

ADVICE NOTES

(a) A Building Permit must be obtained prior to commencement of any building works.

(b) Vegetation screening required by Condition 5 can incorporate existing and new vegetation and located in a manner that reduces the visual impact and bulk of the outbuilding when viewed from surrounding properties and roads.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.1.2 Approval of Subdivision Design - Part Lot 9508 (35) Burt Parkway Nunile

Date of Report:	1 September 2026
File Reference:	A4475
Author:	R Winslow – Acting Executive Manager Planning and Regulatory Services
Responsible Officer:	R Winslow – Acting Executive Manager Planning and Regulatory Services
Previously Before Council:	24/07/2025 OCM129/07/25
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Plan of Subdivision.

SUMMARY

Applicant: **Shire of Toodyay**

Owner: **Shire of Toodyay**

Proposal: **Creation of 19 lots**

Location: **Part Lot 9508 (35) Burt Parkway Nunile**

PURPOSE OF THE REPORT

To consider as the owner of the land the proposed plan of subdivision for Part Lot 9508 (35) Burt Parkway, Nunile.

BACKGROUND

Lot 9508 is owned by the Shire of Toodyay in freehold. The 14.1ha site is currently developed with the Shire's recreation complex on the northern section. The Shire has previously undertaken rezoning of the southern portion of Lot 9508 to allow for residential subdivision and development (Amendment No. 1 to Local Planning Scheme No. 5). The site is also located within the Foggarthorpe Structure Plan area.

As part of the amendment, a subdivision concept plan was prepared to demonstrate how the site was to be subdivided in a manner consistent with the Residential Design Codes and State Planning Policies. This concept plan also provided the surrounding community a snapshot of how the site could be developed over time.

A subdivision application for the first stage of residential lots has been prepared and lodged with the WAPC without Council review and authorisation. WAPC determination of the application is expected in October / November 2026. This provides Council an opportunity to review the application before a decision is made.

The 4.6ha development site will be subdivided and sold in stages. The first stage will see the creation of 16 single residential lots of 797m² to 1754m² and 1 grouped housing lot of

3064m². A “super lot” containing the remaining 2.2ha of development area will also be created. A final 9.5ha lot will contain the recreation complex and its expansion area. This first stage provides for all 17 residential lots to front existing constructed roads (Drummond Street, Murray Walkway and Jarratt Pass). Future stages will require construction of new roads inside the “super lot”.

In addition to the 19 lots to be created, the land required for the future Rayner Loop extension will be created as a local road reserve. This will form the boundary between the future residential development area and the recreation complex. Construction of this road link is not needed for new lot access but will be act as the northern boundary of the new residential area and to link Rayner Loop to Jarratt Pass and Burt Parkway.

The subdivision will require approval from the Western Australian Planning Commission (WAPC), after which construction of the lots, roads and infrastructure can take place, subject to the preparation and Council adoption of a business case for the development.

COMMENTS AND DETAILS

Approval of the subdivision design is requested given the subdivision will be a Shire project and affects Shire land. Council approval will allow the Shire to confirm with the WAPC the subdivision design prior to determination of the application.

The subdivision design that is attached is a refinement of the concept plan that was advertised as part of Amendment No. 1 to Local Planning Scheme No. 5. The design calls for R12.5 density lots along the Drummond Street frontage. Similarly sized lots are to front Murray Walkway, with a grouped dwelling lot located on the southwestern corner of the site. This lot will accommodate up to 10 units at R30 density.

The subdivision will utilise the existing roads to front the new residential lots rather than require road construction. Future stages will require new roads.

As part of the construction of the subdivision, Council has the opportunity to provide input into the standard of construction. Whilst road and servicing specifications are set, Council can indicate elements such as footpath construction, planting of street trees and whether crossovers and retaining walls are constructed as part of the subdivision. Each of these elements are discussed below:

Footpaths

Concrete footpaths exist abutting the subdivision site on Murray Walkway and Jarratt Pass. A concrete footpath is located along Drummond Street on the opposite side to the subdivision. The provision of a footpath on one side of the road is the standard in Toodyay and is considered sufficient for the subdivision. Council may wish to nominate a footpath for the new Raynor Loop extension road on either the north or south side of the street. The officer recommendation includes a nominal southern location abutting future properties. However, this can be modified to a northern location abutting the recreation complex expansion area.

Street Trees

Street trees can be planted in bulk as either part of the subdivision works, or individually as houses are completed. The main benefit of holding back planting is to avoid damage or destruction during house construction. It is recommended that street trees be planted after house construction with the species and specifications to be determined during landscape planning for the adjoining public open space / drainage reserve (Reserve 53674).

Crossovers

Crossover construction can occur during subdivision construction. This allows for uniform placement and design. However, early placement of crossovers can limit dwelling design and lead to costly relocations, as well as damage during house construction. It is recommended Council do not specify crossovers as part of the subdivision. Later placement and construction will be guided by Council's Vehicle Crossovers Policy.

Retaining Walls

The placement of retaining walls and leveling of lots has not been undertaken at subdivision stage for other parts of the Foggarthorpe Estate. Inclusion of retaining and leveling of lots will significantly increase the cost of the subdivision construction works. It remains available to Council to specify this provision to ensure all lots are readily developable. A key benefit of retaining at subdivision is that it allows for uniform wall construction throughout the subdivision and more readily developable lots.

IMPLICATIONS TO CONSIDER

Consultative:

The overall subdivision concept for the site was advertised to the community as part of Amendment No. 1 to Local Planning Scheme No. 5. Advertising of the current subdivision application will not be undertaken.

Strategic:

5.1 Provide responsible planning and development.

Policy related:

Nil.

Financial:

Costs associated with survey and subdivision application will be borne by the adopted 2026/27 Budget. Construction costs do not form part of the application process and will be tabled for consideration at the appropriate time.

Legal and Statutory:

Planning and Development Act 2005

Local Government Act 1995

Risk related:

There is a **Low** risk associated with the approval of the subdivision design for consideration by the WAPC. Council is making a decision as a landowner only and in the context of the larger housing and land supply project, for which other decisions will be required.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Approves the subdivision design for Stage 1 of the development of Part Lot 9508 (35) Burt Parkway, Nunile as depicted at **Attachment 1**.
2. Instructs the Chief Executive Officer to conduct a workshop with Councillors as soon as possible and prior to confirmation of tender specifications, to discuss the built form and specifications for the Stage 1 subdivision of Lot 9508 (35) Burt Parkway, Nunile.
3. Instructs the Chief Executive Officer to conduct a workshop with Councillors to discuss the final built form and a structure plan for the remainder of the residential development of Lot 9508 (35) Burt Parkway, Nunile. The timing of this workshop is to be prior to any planning and design being undertaken for the remaining development area of Lot 9508.

ALTERNATE MOTION/COUNCIL RESOLUTION NO. OCM222/10/26

MOVED Cr M Dival

SECONDED Cr R Madacsi

That Council:

1. Approves the subdivision design for Stage 1 of the development of Part Lot 9508 (35) Burt Parkway, Nunile as depicted at Attachment 1 and modified as follows:
   (a) Lot 517 (grouped dwelling lot) to be relocated to sit in the position proposed for Lot 505 and 506 (adjacent to Reserve 53674).
   (b) Lot 517 to be reconfigured to appropriately fit into the new location and with a lot area of no less than 3,000m².
   (c) Lots 505 and 506 to front Murray Parkway and be located in the area formerly occupied by Lot 517 and with lot depth of 40m and lot areas of no less than 800m² each.
2. Instructs the Chief Executive Officer to prepare a revised plan in accordance with point 1 of this resolution and lodge this with the Western Australian Planning Commission prior to determination of the subdivision application 203661.
3. Instructs the Chief Executive Officer to conduct a workshop with Councillors as soon as possible and prior to confirmation of tender specifications, to discuss the built form and specifications for the Stage 1 subdivision of Lot 9508 (35) Burt Parkway, Nunile.
4. Instructs the Chief Executive Officer to conduct a workshop with Councillors to discuss the final built form and a structure plan for the remainder of the residential development of Lot 9508 (35) Burt Parkway, Nunile. The timing of this workshop is to be prior to any planning and design being undertaken for the remaining development area of Lot 9508.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

In accordance with regulation 11(da) of the Local Government (Administration) Regulations 1996, the reason(s) for the alternative motion are as follows:

Some discussion was raised regarding possible relocation of the grouped dwelling lot (Lot 517) to a location adjacent to the POS/Drainage Reserve 53674. This alternative motion has been prepared in the event Council wishes to move Lot 517.

Officers have raised the question of changes to the subdivision design being considered by the WAPC as part of the current application. The advice received indicated that it would be more efficient for any change to be made before the application is determined. Given this, there is an opportunity for Council to make changes to the subdivision plan as submitted without there being a significant time implication on finalisation of the subdivision application.

The Executive Manager of Planning and Regulatory Services departed the meeting at 5:47pm.

10.2 FINANCE AND CORPORATE SERVICES

10.2.1 ATO BAS - GST Receivables - Request To Write Off Debt

Date of Report:	24 August 2026
Applicant or Proponent:	N/A
File Reference:	TAX5
Author:	C Delmage – Acting Executive Manager Finance and Corporate Services
Responsible Officer:	C Delmage – Acting Executive Manager Finance and Corporate Services
Previously Before Council:	18 December 2025; OCM241/12/25 10 June 2026 – Presented to ARIC 9 July 2026 – Presented to ARIC 21 August 2026 – Presented to ARIC
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Letter to ATO Re Unclaimed GST Credits 2. GST Receivables Write Off - ATO Correspondence 3. GST Receivables Write Off - WALGA Tax Correspondence 4. OCM Minutes 18 December 2025 - Report 10.6.2 Debt Write Off - Australian Taxation Office 5. ATO BAS Investigation Report

PURPOSE OF THE REPORT

For Council to approve the write off of monies owed to the Shire by the Australian Taxation Office (ATO).

BACKGROUND

At its Ordinary Meeting held 18 December 2025, Council resolved:

> '*That the CEO undertakes further detailed investigation and seeks external advice on this issue and provides a detailed report back to the ARIC meeting of 12 February 2026.*' (Attached).

Shire staff previously presented a report to ARIC at meetings held 10 June 2026, 9 July 2026 and 21 August 2026.

It is now being brought back to Council as per the original Officer Recommendation of 18 December 2026 for approval to write off the debt.

COMMENTS AND DETAILS

An investigation at the end of the 2024/2025 year, found that no reconciliation of GST had occurred since 2020. This showed a significant amount of funds with the Australian Taxation Office (ATO) owed to the Shire in the form of GST credits for purchases made by the Shire. The reconciliation showed that $633,000 was owed to the Shire by the ATO dating back to 2020.

Under ATO rules, the Shire may amend BAS returns dating back up to four years. Funds owing from before December 2021 cannot be claimed by the Shire and this equates to $195,000.

The error was not picked up by previous management when preparing the Annual Financial Statements and more importantly, was not detected by auditors undertaking previous years audits.

The reconciliation that identified the unclaimed funds was supplied to the auditors as part of the 2024/2025 audit which they accepted as part of their audit testing. The auditors were also supplied all BAS returns and amended BAS returns as supporting documentation.

An end of financial year procedure of GST receivable and payable reconciliation now occurs in addition to the standard end of month reconciliation and reporting.

Shire staff sought advice from both the ATO and WALGATAX Helpline which is managed by Moore Australia, one of Western Australia's leading audit / taxation companies. Advice from both parties was that the funds exceeding the four-year period, covering June 2021 to December 2021 could not be claimed.

IMPLICATIONS TO CONSIDER

Consultative:

Consultation occurred and advice was sought from both the Australian Taxation Office (ATO) and WALGA Tax Advice Support (Attached).

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:

Financial Governance

Financial:

At its Ordinary Meeting held 30 March 2026, Council adopted the 2025/2026 Mid-Year Financial Year Budget Review. This included an allocation of $195,000 to GL 045.402.11 Finance - Bad & Doubtful Debts.

As we are now in the 2026/2027 financial year, the 2025/2026 Annual Financial Report will include a provisional liability of $195,000. It is expected that the auditors will request that this debt be written off as part of the end of year process.

Legal and Statutory:

Section 6.12 (1) (c) of the *Local Government Act 1995* as amended, grants the power of Council to write off any amount of money*

**Absolute Majority Required*

Risk related:

To eliminate this risk, part of the Shire's end of financial year processes, includes a reconciliation of GST receivables and payables. In addition, when preparing current month BAS Reports, a review of the previous month BAS Report will also be undertaken to ensure that all funds have been claimed.

Workforce related:

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM223/10/26

MOVED Cr S McCormick

SECONDED Cr R Madacsi

That Council, by absolute majority, resolves to write-off up to $195,000 in GST owing to the Shire from the Australian Taxation Office for the period June 2021 to December 2021.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

10.2.2 List of Payments - August 2026

Date of Report:	7 September 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN32
Author:	U Prill – Accounts Payable Officer
Responsible Officer:	C Delmage – Acting Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. List of Payments- August 2026

PURPOSE OF THE REPORT

For Council to receive the List of Payments for the month of August 2026.

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 August 2026 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:

Nil

Strategic:

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

Outcome 9. Responsible and effective leadership and governance.

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

Policy related:

Purchasing Policy and Delegation CS1.

Financial:

Expenditure is 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.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM224/10/26

MOVED Cr M Dival

SECONDED Cr R Mills

That Council receives the List of Payments as attached and summarised below, for the month of August 2026:

Description	Amount $
Municipal Cheques	$966.49
Electronic Funds Transfer Payments	$526,424.07
Payroll	$355,323.79
Credit Cards	$4,835.27
Other (Including Direct Debits)	$24,957.18
Total	**$912,506.80**

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.2.3 Monthly Financial Statements - August 2026

Date of Report:	9 September 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN32
Author:	C Delmage – Acting Executive Manager Finance and Corporate Services
Responsible Officer:	C Delmage – Acting Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	1. EOM Financial Statements - August 2026

PURPOSE OF THE REPORT

To present to Council the Monthly Financial Statements for August 2026.

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

Local governments are required to present to Council the Statement of Financial Activity to comply with Australian Accounting Standards (AAS) and the amended *Local Government (Financial Management) Regulations 1996.*

The Statement of Financial Activity, contained within the monthly financial statements, summarises the Shire's operating and capital activities and provides an indication of the Shire's financial performance as the year progresses. Officers have also provided additional supplementary information.

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.

9.2 Govern Shire finances, assets and operations responsibly.

Policy related:

Financial Governance

Financial:

Financial implications are reported in accordance with the approved material variances reporting threshold as adopted by Council; (+) or (-) $10,000 or 10%, whichever is the greater.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM225/10/26

MOVED Cr S McCormick

SECONDED Cr S Van der Heyden

That Council receives the Monthly Financial Statements for August 2026 **(Attachment 1)**.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.3 ECONOMIC DEVELOPMENT AND COMMUNITY SERVICES

Nil.

10.4 EXECUTIVE SERVICES

10.4.1 Stage One Revisit: Shire of Toodyay Health Local Law 2026 - Initiation of Local Law process

Date of Report:	9 September 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	F26/49-09
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	2 July 2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Proposed to be advertised - DRAFT Health Local Law 2027. 2. Draft Local Law approved by Council on 2 July 2026;

PURPOSE OF THE REPORT

To seek Council approval to commence the statutory local law making process under section 3.12 of the *Local Government Act 1995* for the proposed *Shire of Toodyay Health Local Law 2027* (**Attachment 1**).

BACKGROUND

At its Ordinary Council Meeting held on 2 July 2026, Council resolved to commence the statutory process to make the *Shire of Toodyay Health Local Law 2026*.

Following the close of the public submission period, and during the review of submissions received, it was identified that the version of the proposed local law made available for public inspection and comment was not the same version adopted by Council for advertising purposes.

A subsequent review of the adopted draft local law also identified several drafting and administrative matters requiring correction before the local law proceeds further through the statutory process. These matters include corrections to legislative references, inclusion of omitted provisions, improvements to drafting consistency, amendment of prescribed forms and renumbering.

While these amendments do not substantially alter the intent or operation of the proposed local law, they are considered necessary to ensure the local law is complete, legally robust and suitable for adoption.

As a result, it is proposed that Council recommence the local law making process under section 3.12 of the *Local Government Act 1995* using the amended draft local law.

The title of the proposed local law has been amended from the *Health Local Law 2026* to the *Health Local Law 2027* to reflect the anticipated completion of the statutory process and subsequent gazettal.

COMMENTS AND DETAILS

The current *Health Local Law 2017* was developed largely from provisions historically contained within the *Health (Miscellaneous Provisions) Act 1911* and associated model local laws.

Since that time, Western Australia's public health framework has undergone significant reform through the implementation of the *Public Health Act 2016*, which establishes a contemporary risk-based approach to the management of public health risks and nuisances.

As part of the Shire's broader local law review program, a new *Health Local Law 2027* has been prepared to repeal and replace the existing *Health Local Law 2017*.

The proposed local law:

- aligns with the contemporary public health regulatory framework;
- adopts a clearer and more streamlined drafting structure;
- focuses on practical public and environmental health outcomes;
- avoids unnecessary duplication of State legislation;
- provides enforcement mechanisms appropriate to local government; and
- supports the protection of public health, safety and amenity within the district.

Following the advertising process undertaken in 2026, it was identified during the review of submissions that the version made available for public inspection differed from the version adopted by Council.

Further review of the adopted version identified a number of matters requiring correction and amendment, including:

- correction of the citation;
- inclusion of the purpose provision;
- inclusion of the effect provision;
- inclusion of a repeal provision;
- correction of legislative references;
- review and amendment of prescribed forms;
- renumbering and formatting amendments; and
- other minor drafting and administrative corrections.

The amendments are primarily administrative and drafting in nature and do not represent a significant change in policy direction.

The standard modified penalty of $500 applied across the schedule aligns strictly with Western Australian local government legislation.

Under the *Local Government Act 1995*, the maximum penalty a court can issue to an offender upon conviction under these local laws is $5,000. The Act dictates that on-the-spot infringement notices cannot exceed 10% of that total court capacity. Therefore, the $500 figures represent the maximum enforceable limit available to the Council for standard infringements.

Given the discrepancy between the version advertised and the version adopted by Council, together with the subsequent amendments made to the draft local law, it is considered appropriate that the local law making process recommence to ensure compliance with section 3.12 of the *Local Government Act 1995* and to provide the community with the opportunity to comment on the amended draft.

Section 3.12(2) of the *Local Government Act 1995* requires the presiding member to give notice at the meeting of the purpose and effect of the proposed local law.

The Officer Recommendation has been drafted to satisfy this requirement if read aloud at the meeting.

IMPLICATIONS TO CONSIDER

Consultative:

Environmental Health Officer.

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:

Nil.

Financial:

Costs associated with advertising, parliamentary scrutiny and gazettal can be accommodated within existing operational budgets.

Legal and Statutory:

Section 3.5 provides the power for local governments to make local laws considered necessary for the good government of persons in the district.

Section 3.12 establishes the procedure for making local laws.

Public Health Act 2016

Provides the principal legislative framework for public health administration in Western Australia.

Health (Miscellaneous Provisions) Act 1911

Remains relevant in limited circumstances pending full implementation of the *Public Health Act 2016*.

Local Government (Functions and General) Regulations 1996

Provides requirements relating to notices, forms and modified penalties applicable to local laws.

Risk related:

The Risk is low however failure to recommence the statutory process may create uncertainty regarding compliance with the local law making requirements because the version advertised for public comment was not the same version adopted by Council.

The review identified drafting omissions and administrative deficiencies that should be corrected before the local law proceeds towards adoption. Recommencing the process ensures these matters are addressed appropriately.

Re-advertising the amended draft demonstrates transparency, accountability and a commitment to best practice governance. The amendments do not substantially alter the policy intent of the local law. Community members will be provided with a further opportunity to review and comment on the amended draft. This report mitigates these risks.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICERS RECOMMENDATION/COUNCIL RESOLUTION NO. OCM226/10/26

MOVED Cr M Dival

SECONDED Cr S Van der Heyden

That Council, pursuant to section 3.12(3)(a) of the *Local Government Act 1995*, gives local public notice of its intention to make the *Shire of Toodyay Health Local Law 2027* subject to amendments being made to the modified penalties table so that the lines of these penalties read as follows:

PAGE NO.	CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY $
9	3.14(1)	Failing to licence morgue	500
18	4.17(2), (3) and (4)	Failing to comply with conditions of approval	500
31	5.20(a), (b), (c), (d) (e) and (f)	Failing to comply with conditions of keeping and permitting poultry to be kept	500
34	5.23(a) and (b)	Failing to comply with conditions of keeping or permitting to be kept pigeons or doves	500

and invites submissions in relation to the proposed local law for a period of not less than six weeks from the date of publication of the notice, the purpose and effect of which are:

Purpose

To protect, promote and improve public and environmental health within the district by regulating public health risks and nuisances, sanitation and housing standards, accommodation premises, public buildings and events, vectors and pests, offensive trades and associated activities.

Effect

People living in, working in or visiting the district are required to comply with requirements intended to minimise public health risks and nuisances, and the local government is empowered to administer and enforce those requirements through notices, directions and penalties where necessary.be inserted after the words “make the *Shire of Toodyay Health Local Law 2027*.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.4.2 Stage Three: Making the Local Government Property Local Law 2026 - Final Process

Date of Report:	14 September 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	F26/49-04 (D26/2234)
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	02/04/2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Schedule of Submissions; 2. To be made - Local Government Property Local Law (track changed).

PURPOSE OF THE REPORT

That Council, pursuant to section 3.12(4) of the *Local Government Act 1995*:

1. considers the submissions made that were received during the public consultation period for the proposed *Local Government Property Local Law 2026; and*
2. Notes that the submissions have been considered and, where appropriate, minor drafting amendments have been made that do not alter the intent or effect of the local law (and are not significantly different from what was proposed);
3. Resolves, pursuant to section 3.12 of the *Local Government Act 1995*, to make the *Local Government Property Local Law 2026* as attached (**Attachment 2**); and
4. Authorises the Chief Executive Officer to arrange for the local law to be signed off with the common seal by the Shire President and the CEO then cause notice of the making of the *Local Government Property Local Law 2026* to be published in the Government Gazette in accordance with statutory requirements.

BACKGROUND

Under section 3.12 of the *Local Government Act 1995*, Council resolved to advertise the proposed *Local Government Property Local Law 2026.*

During the advertising period, two submissions were received (**Attachment 2**). These submissions have been reviewed and are included for Council's information.

COMMENTS AND DETAILS

Council is requested to consider submissions received during the public advertising period, note the matters raised, and make the local law with minor drafting amendments only.

All submissions have been carefully reviewed. Minor amendments have been made to improve drafting clarity, consistency and enforceability, without altering the intent, scope or operation of the local law.

These amendments are considered minor and do not require re-advertising under section 3.12 of the *Local Government Act 1995*.

IMPLICATIONS TO CONSIDER

Consultative:

Public advertising (Stage Two of the Local Law Process) was undertaken in accordance with statutory requirements.

Strategic:

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

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

5.1. Provide responsible planning and development.

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Section 3.12 of the *Local Government Act 1995*

Risk related:

Minor amendments to a local law correct drafting errors; resolve inconsistencies; and improve clarity and enforceability without altering intent, scope or operation.

Such amendments are not considered “significantly different” and do not require re-advertising.

Failure to update this local law may result in regulatory gaps; reduced enforcement capability; and inconsistency with current legislation. This report mitigates these risks.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM227/10/26

MOVED Cr R Mills

SECONDED Cr M Dival

That Council:

1. Notes the submissions made that were received during the public consultation period for the proposed *Local Government Property Local Law 2026;*
2. Determines that the submissions have been duly considered (Attachment 1);
3. Notes that, where appropriate, minor drafting amendments have been made to the *Local Government Property Local Law 2026* as presented (Attachment 2) that do not alter the intent or effect of the local law (and are not significantly different from the proposed *Local Government Property Local Law 2026* that was advertised); and
4. Makes the *Local Government Property Local Law 2026* pursuant to section 3.12 of the *Local Government Act 1995* as attached (Attachment 2); and
5. Authorises the Chief Executive Officer to:
   (a) Affix the Common Seal of the Shire to the *Local Government Property Local Law 2026*;
   (b) Arrange publication of the local law in the Government Gazette in accordance with section 3.12(5)(a) of the *Local Government Act 1995*;
   (c) Notify the Director General of the Department of Local Government, Industry Regulation and Safety and any other relevant Department or Minister in accordance with section 3.12(5)(b) *Local Government Act 1995*; and
   (d) Give public notice of the local law in accordance with section 3.12(6) of the *Local Government Act 1995*.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

10.4.3 Stage Three: Making the Fencing Local Law 2026 - Final process

Date of Report:	14 September 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	F26/49-07
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	Nov 2023 – Local Law Review
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Submissions - Fencing Local Law; 2. To be made - Fencing Local Law 2026 (track changes included)

PURPOSE OF THE REPORT

That Council, pursuant to section 3.12(4) of the *Local Government Act 1995*:

1. considers the submissions made that were received during the public consultation period for the proposed *Fencing Local Law 2026; and*
2. Notes that the submissions have been considered and, where appropriate, minor drafting amendments have been made that do not alter the intent or effect of the local law (and are not significantly different from what was proposed);
3. Resolves, pursuant to section 3.12 of the *Local Government Act 1995*, to make the *Fencing Local Law 2026* as attached (**Attachment 2**); and
4. Authorises the Chief Executive Officer to arrange for the local law to be signed off with the common seal by the Shire President and the CEO then cause notice of the making of the *Fencing Local Law 2026* to be published in the Government Gazette in accordance with statutory requirements.

BACKGROUND

Under section 3.12 of the *Local Government Act 1995*, Council resolved to advertise the proposed *Fencing Local Law 2026.*

The local law was advertised in accordance with statutory requirements, and submissions were invited.

COMMENTS AND DETAILS

Two submissions were received during the advertising period for the proposed *Fencing Local Law 2026* (**Attachment 1**).

Council is requested to consider submissions received during the public advertising period, note the matters raised, and make the local law with minor drafting amendments only.

All submissions have been carefully reviewed. Minor amendments have been made to improve drafting clarity, consistency and enforceability, without altering the intent, scope or operation of the local law.

These amendments are considered minor and do not require re-advertising under section 3.12 of the *Local Government Act 1995*.

IMPLICATIONS TO CONSIDER

Consultative:

Public advertising (Stage Two of the Local Law Process) was undertaken in accordance with statutory requirements. There were two submissions made, the first from a Morangup Resident and the second, from the Department of Local Government, Industry Regulation and Safety (LGIRS).

Strategic:

Shire of Toodyay Council Plan 2023-2033

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

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

Outcome 9. Responsible and effective leadership and governance.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Section 3.12 of the *Local Government Act 1995*

Section 3.12(4) – Consideration of submissions and making of local law

Section 3.12(4) of the *Local Government Act 1995* provides that, after the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

Accordingly, Council may proceed to make the local law under section 3.12(4).

Section 3.12(5)(a) – Publication in the Government Gazette

Section 3.12(5)(a) requires that, after making a local law, the local government must publish the local law in the Government Gazette.

Section 3.12(5)(b)(i) – Notification to the Departmental CEO (LGIRS)

Section 3.12(5)(b)(i) requires that, after making a local law, the local government must give a copy of the local law to the Departmental CEO (Director General of the Department of Local Government, Industry Regulation and Safety).

Section 3.12(5)(b)(ii) – Notification to other relevant Departments

Where a department of the Public Service other than LGIRS assists in the administration of an Act under which the local law is made, section 3.12(5)(b)(ii) requires that a copy of the local law also be provided to the CEO of that department.

Section 3.12(6) – Public notice after gazettal

Section 3.12(6) requires that, after publication in the Gazette, the local government must give public notice stating:

- the title of the local law;
- a summary of its purpose and effect (including commencement date); and
- where the local law may be inspected or obtained.

Risk related:

Minor amendments to a local law correct drafting errors; resolve inconsistencies; and improve clarity and enforceability without altering intent, scope or operation.

Such amendments are not considered "significantly different" and do not require re-advertising.

Failure to update this local law may result in regulatory gaps; reduced enforcement capability; and inconsistency with current legislation. This report mitigates these risks.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM228/10/26

MOVED Cr S McCormick

SECONDED Cr M Dival

That Council:

1. Notes the submissions made that were received during the public consultation period for the proposed *Fencing Local Law 2026;*
2. Determines that the submissions have been duly considered (Attachment 1);
3. Notes that, where appropriate, minor drafting amendments have been made to the *Fencing Local Law 2026* as presented (Attachment 2) that do not alter the intent or effect of the local law (and are not significantly different from the proposed *Fencing Local Law 2026* that was advertised); and
4. Makes the *Fencing Local Law 2026* pursuant to section 3.12 of the *Local Government Act 1995* as attached (Attachment 2); and
5. Authorises the Temporary Chief Executive Officer to:
   (a) affix the Common Seal of the Shire to the *Fencing Local Law 2026*;
   (b) arrange publication of the local law in the Government Gazette in accordance with section 3.12(5)(a) of the *Local Government Act 1995*;

(c) notify the Director General of the Department of Local Government, Industry Regulation and Safety and any other relevant Department or Minister in accordance with section 3.12(5)(b) of the *Local Government Act 1995*; and

(d) give public notice of the local law in accordance with section 3.12(6) of the *Local Government Act 1995*.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

10.4.4 Joint Standing Committee on Delegated Legislation Review of the Cat Local Law 2026

Date of Report:	8 September 2026
Applicant or Proponent:	N/A
File Reference:	F26/49-02
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	4 June 2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Committee Decision - Cat Local Law; (confidential) *Section 5.23* *(4) (h) information that is the subject of a direction given under section 5.23AA(2) ----- The Departmental CEO, or a person authorised by the Departmental CEO, may, in relation to any particular information, direct a local government for the purposes of section 5.23(4)(h) that a meeting may be closed to members of the public to the extent necessary to ensure that the information is dealt with at the meeting on a confidential basis. S.5.23AA(3) A direction under subsection (1) or (2) may be expressed to apply to a particular meeting or to meetings of a particular class. (under separate cover)* 2. Proposed Shire of Toodyay Cat Local Law Amendment Local Law 2027. 3. Adverts for Cat Local Law.

Reasons for Attachment 1 being confidential

The letter, addressed to the Shire President, stated:

This correspondence including any attachments is confidential and privileged. Your local government may only discuss the content of this letter and any attachments with the Western Australian Local Government Association, the department responsible for local government, and the Shire's legal advisors, to the extent necessary to obtain information the Committee seeks. Each person to whom you distribute this material must be made aware of its confidential and privileged status.

PURPOSE OF THE REPORT

To receive confidential correspondence from the Joint Standing Committee on Delegated Legislation and to provide the requested undertakings and commence preparation of an amendment local law.

BACKGROUND

The Joint Standing Committee on Delegated Legislation has completed its preliminary review of the Cat Local Law 2026 and has requested undertakings from Council to amend identified provisions within 12 months. The Committee has also issued Notices of Motion to Disallow the Cat Local Law 2026 pending receipt of Council's undertakings.

The matters raised are predominantly technical drafting, citation, penalty and statutory power issues. Officers recommend Council provide the requested undertakings and commence preparation of amendment local laws.

COMMENTS AND DETAILS

The Cat Local Law was formally made at an Ordinary Council Meeting held on 4 June 2026 and gazetted on Monday 22 June 2026 (Government Gazette No. 70).

In respect to the **Cat Local Law** the Committee identified:

- incorrect statutory reference in clause 4.1
- capitalisation inconsistency in clause 4.5
- incorrect clause references in clause 5.1
- unlawful modified penalties in Schedule 4 exceeding permitted limits under the Cat Act.

The recommended amendments are administrative and do not alter the policy intent of the local law.

It is recommended that providing the requested undertakings is the most appropriate course of action to avoid ongoing disallowance proceedings.

Section 3.12(2) Requirement

The person presiding is to give notice that:

The **purpose** of the proposed Cat Local Law Amendment Local Law 2027 is to amend the Shire of Toodyay Cat Local Law 2026 to address drafting issues, correct statutory references and amend modified penalties.

The **effect** is to improve the operation and legal compliance of the Cat Local Law while maintaining its existing policy intent.

IMPLICATIONS TO CONSIDER

Consultative:

No external consultation required at this stage.

The amendment local law will require public advertising in accordance with section 3.12 of the *Local Government Act 1995.*

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:

Nil.

Financial:

Minor officer time and gazettal costs associated with amendment local laws.

Legal and Statutory:

- Local Government Act 1995 s3.12
- Cat Act 2011
- Interpretation Act 1984

Risk related:

Failing to provide Council undertakings significantly increases the risk of disallowance. This outcome would stall critical regulatory amendments, invalidate enforcement actions, and present unresolved compliance or legal liabilities.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1/COUNCIL RESOLUTION NO. OCM229/10/26

MOVED Cr M Dival

SECONDED Cr R Madacsi

The Council of the Shire of Toodyay resolves to undertake to the Joint Standing Committee on Delegated Legislation that the Council will:

1. Within 12 months amend the Local Law as follows:

   (a) In clause 4.1, amend the definition of 'premises', so that it states:

   premises, in addition to the meaning given to it in section 3(1) of the Act, means the premises described in the *application* to be licensed as a Cat Management Facility;

   (b) In clause 4.5 lower case the words 'Local Planning Scheme'.

   (c) Amend clause 5.1 in the following manner:

   infringement notice means the notice referred to in clause 5.4; and

   notice of withdrawal means the notice referred to in clause 5.5.

(d) Amend the modified penalties in Schedule 4, Column, Items 1, 2, 3, 4 and 5 so that Item 1 is $500, Item 2 is $200, Item 3 is $200, Item 4 is $500 and Item 5 is $200.

2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking point 1 of the resolution.

3. Ensure that a copy of these undertakings accompanies the Local Law wherever the Shire makes it publicly available, whether in hard copy or electronic form.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

OFFICER'S RECOMMENDATION 2/COUNCIL RESOLUTION NO. OCM230/10/26

MOVED Cr R Mills

SECONDED Cr R Madacsi

That Council:

1. Notes the **confidential** correspondence (**Attachment 1**) received from the Joint Standing Committee on Delegated Legislation dated 8 September 2026.

2. Authorises the Shire President to sign the undertaking correspondence to the Committee.

3. Gives notice of the purpose and effect of the *Cat Local Law Amendment Local Law 2027* (**Attachment 2**) under section 3.12(2) as follows:

   (a) The **purpose** of this local law is to amend the *Shire of Toodyay Cat Local Law 2026.*

   (b) The **effect** of this local law is to correct drafting errors, amend provisions identified by the Joint Standing Committee on Delegated Legislation and ensure compliance with the *Cat Act 2011.*

4. Adopts *Cat Local Law Amendment Local Law 2027 (***Attachment 2**) for advertising under section 3.12(3) subject to an amendment to the numbering of Part 2 prior to advertising.

5. That Council authorises the CEO to undertake the statutory advertising process in accordance with section 3.12(3) of the *Local Government Act 1995* for the *Cat Local Law Amendment Local Law 2027* (**Attachment 3**).

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.4.5 Joint Standing Committee on Delegated Legislation Review of the Dog Local Law 2026

Date of Report:	24 September 2026
Applicant or Proponent:	N/A
File Reference:	F26/49-01
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	4 June 2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Committee Decision - Dog Local Law; and (confidential) *Section 5.23* *(4) (h) information that is the subject of a direction given under section 5.23AA(2) ----- The Departmental CEO, or a person authorised by the Departmental CEO, may, in relation to any particular information, direct a local government for the purposes of section 5.23(4)(h) that a meeting may be closed to members of the public to the extent necessary to ensure that the information is dealt with at the meeting on a confidential basis.* *S.5.23AA(3) A direction under subsection (1) or (2) may be expressed to apply to a particular meeting or to meetings of a particular class. (under separate cover)* 2. Proposed Shire of Toodyay Dog Local Law Amendment Local Law 2027; and 3. Adverts for Dog Local Law; and 4. Council Notice - Dog Areas

Reasons for Attachment 1 being confidential

The correspondence, addressed to the Shire President, stated:

This correspondence including any attachments is confidential and privileged. Your local government may only discuss the content of this letter and any attachments with the Western Australian Local Government Association, the department responsible for local government, and the Shire's legal advisors, to the extent necessary to obtain information the Committee seeks. Each person to whom you distribute this material must be made aware of its confidential and privileged status.

PURPOSE OF THE REPORT

To receive confidential correspondence (Confidential **Attachment 1**) from the Joint Standing Committee on Delegated Legislation and to provide the requested undertakings and commence preparation of an amendment local law.

BACKGROUND

The Joint Standing Committee on Delegated Legislation has completed its preliminary review of the Dog Local Law 2026 and has requested undertakings from Council to amend identified provisions within 12 months. The Committee has also issued a Notice of Motion to Disallow the Dog Local Law 2026 pending receipt of Council's undertakings.

The matters raised are predominantly technical drafting, citation, penalty and statutory power issues. Officers recommend Council provide the requested undertakings and commence preparation of amendment local laws.

COMMENTS AND DETAILS

The *Dog Local Law 2026* was formally made at an Ordinary Council Meeting held on 4 June 2026 and gazetted on Monday 22 June 2026 (*Government Gazette* No. 70).

In respect to the **Dog Local Law** the Committee identified:

- incorrect definitions and statutory references
- amendment required to confinement provisions for gates
- incorrect references in clauses 4.3 and Schedule 2
- amendment of review rights provisions
- deletion of substantive Part 6 provisions relating to dog prohibited and exercise areas
- insertion of information-only clause regarding specified dog areas
- insertion of a general penalty clause
- amendment of modified penalties and offence references.

The most significant issue concerns Part 6, where the Committee considers local governments no longer have power to create offences regarding dog prohibited places and exercise areas through local laws and instead these matters must be dealt with through Council notices under the Dog Act.

It is recommended that providing the requested undertakings is the most appropriate course of action to avoid ongoing disallowance proceedings.

Section 3.12(2) Requirement

The person presiding is to give notice that:

The **purpose** of the proposed *Dog Local Law Amendment Local Law 2027* is to amend the Shire of Toodyay *Dog Local Law 2026* to address drafting issues, amend penalties and improve statutory compliance.

The **effect** is to improve the operation and legal compliance of the Dog Local Law while maintaining its existing policy intent.

IMPLICATIONS TO CONSIDER

Consultative:

No external consultation required at this stage.

The amendment local law will require public advertising in accordance with section 3.12 of the *Local Government Act 1995.*

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:

Nil.

Financial:

Minor officer time and gazettal costs associated with amendment local laws.

Legal and Statutory:

- *Local Government Act 1995 s3.12*
- *Dog Act 1976*
- *Interpretation Act 1984*

Risk related:

The failure of the Council to deliver necessary undertakings poses a significant regulatory and legal risk. Specifically, a resulting disallowance would halt ongoing amendments and complicate the enforcement of current provisions, resulting in sustained non-compliance and heightened exposure to litigation.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1/COUNCIL RESOLUTION NO. OCM231/10/26

MOVED Cr M Dival

SECONDED Cr S Van der Heyden

The Council will:

1. Within 12 months amend the Local Law as follows:
   (a) In clause 1.3, amend the definition of 'District' so that it states:
   District has the meaning given to it in section 3(1) of the Act
   (b) In clause 1.3 amend the definition of 'kennel establishment' so that it states:

kennel establishment means an approved kennel establishment in section 27 of the Act;

(c) Amend subclause 4.1(1)(c) so that it states:

(1) An occupier of premises on which a dog is kept must—

(c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined), and is fitted with a proper latch or other means of fastening it;

(d) In subclause 4.3(1)(a) amend 'Part 4' to 'Part 5'.

(e) In clause 4.3(3), delete the word 'Item' and insert 'clause' instead.

(f) Amend clause 5.9 so that it states:

5.9 Reviews and objections

(1) Applications for a review of the approval of a kennel establishment are contained in Part 14 of the *Planning and Development Act 2005*.

(2) Objections and review of the issue of a licence to operate are within the provisions of Division 1 of Part 9 of the Local Government Act 1995 and regulation 33 of the *Local Government (Functions and General) Regulations 1996*.

(g) Amend Part 6 by deleting the entire substantive content of Part 6 but retain the Heading. Insert the following provision as a new clause 6.1:

6.1 Specified Dog Areas

(1) For the purposes of section 31 and 32 of the *Dog Act 1976*, Council shall specify a public place, or a class of public place, that is under the care, control or management of the Shire of Toodyay to be —

(a) places where dogs are prohibited, whether at all times or at specified times; and

(b) places that are designated as dog exercise areas.

(2) The areas specified under subclause (1) are not set out in these local laws but are specified in a Council notice and adopted by Council absolute majority.

(h) Delete the entire line for Offence 6.1 in Schedule 3.

(i) In the Citation clause at 1.1(3) delete the following words: 'determine dog exercise and prohibited areas' and 'identifies dog exercise and prohibited areas'.

(j) Amend the bracketed Heading in Schedule 2 from clause 5.1(2) to 5.2(1).

(k) Amend Schedule 3, Column 1 so that the reference to Offence 5.7 is amended to 5.2.

(l) Amend the footer to clause 7.2 by deleting '$200' and insert instead '$2,000.

(m) Amend clause 8.1 titled 'Offences' so that it states:

8.1 Offences

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) A person who commits a breach of any provisions of this local law shall on conviction, be liable to a penalty not exceeding $5,000 and if the offence is a continuing one to a further penalty not exceeding $500 for every day or part of a day during which the offence has continued.

(n) For dog modified penalties in Schedule 3:

(i) Amend Offence 3.4(1)(b) by reducing the modified penalty from $2,000 to $500 once clause 8.1 is amended. The modified penalties for Offences 3.4(1)(a) and 3.4(1)(a) & (b) to be retained at $500.

(ii) Amend Offence 4.1 so that the modified penalty is reduced from $1,000 to $100.

(iii) Amend Schedule 3, Offence newly numbered as 5.2 by reducing the modified penalty from $1,000 to $500 once clause 8.1 is amended.

(iv) Delete the entire line for Offence 6.1.

(o) For dangerous dogs modified penalties in Schedule 3:

(i) Reduce the modified penalty for Dangerous dog Offence 4.1 from $2,000 to $200.

2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.

3. Ensure that a copy of these undertakings accompanies the Local Law wherever the Shire makes it publicly available, whether in hard copy or electronic form.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills, and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

OFFICER'S RECOMMENDATION 2/COUNCIL RESOLUTION NO. OCM232/10/26

MOVED Cr S Van der Heyden

SECONDED Cr R Madacsi

That Council:

1. Notes the **confidential** correspondence (**Attachment 1**) received from the Joint Standing Committee on Delegated Legislation dated 8 September 2026.

2. Authorises the Shire President to sign the undertaking correspondence to the Committee.

3. Gives notice of the purpose and effect of the Dog Local Law Amendment Local Law 2027 (**Attachment 2**) under section 3.12(2) as follows:

(a) The **purpose** of this local law is to amend the Shire of Toodyay Dog Local Law 2026; and

(b) The **effect** of this local law is to correct drafting errors, amend provisions identified by the Joint Standing Committee on Delegated Legislation and ensure compliance with the *Dog Act 1976*.

4. Adopts *Dog Local Law Amendment Local Law 2027* (**Attachment 2**) for advertising under section 3.12(3).

5. Authorises the CEO to undertake the statutory advertising process in accordance with section 3.12(3) of the *Local Government Act 1995* for the *Dog Local Law Amendment Local Law 2027* (**Attachment 3**).

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

The Executive Manager of Infrastructure, Asset and Services exited Council Chambers at 6:31 pm.

The Executive Manager of Infrastructure, Asset and Services returned to Council Chambers at 6:32 pm.

OFFICER'S RECOMMENDATION 3 – COUNCIL NOTICE – SPECIFIED DOG AREAS

That Council, by absolute majority, pursuant to sections 31 and 32 of the *Dog Act 1976*, adopts the Council Notice titled "Specified Dog Areas" (**Attachment 4**), with the notice to take effect upon commencement of the *Shire of Toodyay Dog Local Law Amendment Local Law 2027,* and authorises the Chief Executive Officer to publish the Notice and arrange any necessary signage changes.

MOTION/COUNCIL RESOLUTION NO. OCM233/10/26

MOVED Cr M McKeown

SECONDED Cr M Dival

That Council proceed to the next item of business.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.4.6 2027 Meeting Schedule

Date of Report:	25 August 2026
Applicant or Proponent:	N/A
File Reference:	MAN11
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	No.
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Proposed 2027 Council and Committee Meeting Schedule.

PURPOSE OF THE REPORT

To consider and approve the Shire of Toodyay Council and Committee Meeting Schedule for 2027 and approve additional Councillor Workshop dates.

BACKGROUND

At least once each year, the Shire is required to provide public notice of the dates, times and locations of Ordinary Council Meetings and Committee Meetings to be held in the following 12 months. The proposed 2027 schedule has been prepared to provide an orderly meeting cycle and ensure compliance with legislative requirements.

Council annually considers and adopts a schedule of meetings for the forthcoming year. The proposed 2027 schedule largely retains the existing meeting cycle approved by Council, with some minor amendments to committee arrangements and the inclusion of several additional workshop dates.

COMMENTS AND DETAILS

The proposed meeting schedule for 2027 provides for:

- Ordinary Council Meetings on the first Thursday of each month (except January);
- Committee meetings on the second Thursday of designated months as detailed in Attachment 1;
- Councillor Workshops on the third Thursday of each month (except December); and
- Agenda Forums on the fourth Thursday of each month (except December).

The proposed schedule changes the timing of meetings of the Local Emergency Management Committee (LEMC) from a daytime meeting to a 6.00pm meeting. This amendment is recommended following occasions during the current term where meetings were unable to proceed due to a lack of quorum, with agency representatives advising of difficulties attending during normal business hours. Holding meetings outside normal

business hours is intended to improve attendance and assist the committee in achieving a quorum and undertaking its statutory functions.

In addition, officers have identified several unallocated Thursdays within the 2027 meeting calendar. It is recommended that the following dates be approved as reserve Councillor Workshop dates that may be utilised at the discretion of the Chief Executive Officer should additional workshops be required during the year:

- 29 April 2027;
- 29 July 2027;
- 30 September 2027; and
- 9 December 2027.

The inclusion of these dates provides flexibility for strategic discussions, budget workshops, project briefings and other matters requiring Councillor consideration without disrupting the adopted meeting cycle.

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9: Responsible and Effective Leadership and Governance

Provide strong, clear and accountable leadership

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995

Local Government (Administration) Regulations 1996

Risk related:

The adoption of an annual meeting schedule assists in ensuring statutory compliance and effective governance arrangements. The proposed change to LEMC meeting times is intended to reduce the risk of meetings being inquorate.

Workforce related:

Following Council approval, officers will publish the schedule and update Councillor and staff calendars as required.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM234/10/26

MOVED Cr M Dival

SECONDED Cr R Madacsi

That Council:

Approves the 2027 Council and Committee Meeting Schedule as contained in **Attachment 1**; and

2. Approves the following additional Councillor Workshop dates, to be utilised at the discretion of the Chief Executive Officer, in consultation with the Shire President, as required:

   (a) 29 April 2027;

   (b) 29 July 2027;

   (c) 30 September 2027; and

   (d) 9 December 2027.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.4.7 Toodyay Golf Club Lease Agreement

Date of Report:	24 July 2026
Applicant or Proponent:	Toodyay Golf Club
File Reference:	LEG011
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	No
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Proposed Lease Agreement for Golf Club

PURPOSE OF THE REPORT

To seek Council approval to enter into a new lease agreement between the Shire of Toodyay and the Toodyay Golf Club Inc. for the occupation, management and operation of the Toodyay Golf Course, clubhouse and associated facilities.

BACKGROUND

The Toodyay Golf Club occupies and operates the Toodyay Golf Course and associated facilities situated on Shire-managed land.

As part of a review of community facility leases undertaken by the Shire, it was identified that the previous lease agreement between the Shire and the Toodyay Golf Club expired on 30 June 2024 following the exercise of the final available extension period. The Club has remained in occupation of the premises whilst a review of community facility leases and occupation agreements has been undertaken.

The golf course remains an important community sporting and recreational facility, and the Club continues to provide management, maintenance and operation of the facility on behalf of the broader community.

To ensure the continued occupation and use of the premises is appropriately documented, a new lease agreement has been prepared to provide a framework that clearly defines the responsibilities of both the Shire and the Club and supports the continued operation of the golf course as a community sporting and recreational facility.

COMMENTS AND DETAILS

Since expiry of the previous lease, the Club has continued to occupy and operate the facility pending completion of the Shire's review of community facility leases. The proposed lease formalises the ongoing occupation arrangements and provides a contemporary governance framework for the future management and operation of the facility.

You could include the following paragraph in your Council report:

Prior to finalising the proposed lease, I met with representatives of the Golf Club and undertook a detailed review of the lease agreement on a clause-by-clause basis. During this meeting, all amendments to the lease were discussed and explained, and the club representatives indicated that they were satisfied with the proposed changes. The meeting occurred following the preparation of an updated lease area plan to correct an earlier mapping issue. I subsequently advised the Community Development team of the outcome of the meeting to ensure they were informed of the club's position and the progress of the lease negotiations. This consultation provided an opportunity to address questions directly and confirm that the club was supportive of the amended lease terms prior to the matter being presented to Council.

The proposed lease is considered an exempt disposition under regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996*, as the arrangement relates to the occupation and operation of a community sporting facility by a community sporting organisation.

The proposed lease applies to:

- the golf course;
- clubhouse;
- sheds;
- irrigation infrastructure;
- associated improvements; and
- associated facilities within the lease area.

The lease provides:

- a five-year lease term commencing 1 October 2026;
- annual rental of $550.00 inclusive of GST;
- responsibility for utilities and operational costs to remain with the Club;
- responsibility for routine course maintenance to remain with the Club;
- responsibility for major structural matters to remain with the Shire;
- public liability insurance requirements;
- reporting obligations;
- provisions governing public access;
- termination and default provisions; and
- dispute resolution arrangements.

The lease has been modernised to reflect contemporary governance, risk management, insurance and asset management expectations while recognising the important role the Club plays in maintaining and operating the facility.

The lease provides certainty for both parties and supports the continued use of the facility by members, visitors and the wider community.

Although the lease commencement date is proposed as 1 October 2026, as mentioned, the parties have continued under holding-over arrangements pending completion of the lease review process. The retrospective commencement date ensures continuity of occupation and regularises the Club's ongoing use of the premises.

The lease is a disposition of property and is considered an exempt disposition under Regulation 30(2)(b), which excludes the transaction from the application of section 3.58.

IMPLICATIONS TO CONSIDER

Consultative:

The lease was prepared following discussions with representatives of the Toodyay Golf Club. The Club will be provided with an opportunity to review the lease and discuss any matters requiring clarification prior to execution.

Strategic:

The proposal supports Council's objective of maintaining and supporting community recreation facilities and encouraging participation in community sporting activities.

The Toodyay Golf Club Inc. is a community sporting organisation, and the proposed lease is considered to satisfy the exempt disposition provisions of regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996.*

Policy related:

Nil.

Financial:

Annual rental income of $550.00 (GST inclusive) will be received by the Shire.

The nominal rental recognises the Club's role in maintaining and operating the facility for community sporting and recreational purposes, reducing the operational and maintenance burden otherwise borne by the Shire.

The Club remains responsible for operational costs associated with its occupation and use of the premises, including electricity, water consumption, internet, telecommunications and other utility costs.

The Shire remains responsible for ownership-related costs and major structural repairs as set out within the lease agreement.

Legal and Statutory:

Local Government Act 1995

- section 2.7 – role of Council
- section 3.58 – disposal of property
- section 9.49A – execution of documents

Local Government (Functions and General) Regulations 1996

• regulation 30(2)(b) - exempt disposition of property

The proposed lease does not transfer ownership of the land. Ownership of the golf course, clubhouse and associated facilities remains with the Shire.

Notwithstanding the retention of ownership, the granting of a lease constitutes a disposal of property for the purposes of section 3.58 of the *Local Government Act 1995*. The Act defines "dispose" to include leasing land or property. Accordingly, section 3.58 is relevant to Council's consideration of the proposed lease.

The proposed lessee, Toodyay Golf Club Inc., is a community sporting organisation that operates on a not-for-profit basis for recreational purposes. As such, the disposal is considered to be an exempt disposition under regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996.*

As an exempt disposition, the lease is not subject to the public advertising requirements that would otherwise apply to a disposal of property under section 3.58 of the *Local Government Act 1995.*

The lease agreement has been prepared to formalise the Club's occupation and management of the golf course and associated facilities and will be executed under the Common Seal of the Shire in accordance with section 9.49A of the *Local Government Act 1995.*

Risk related:

Failure to formalise occupation arrangements exposes the Shire to governance, insurance and asset management risks.

The proposed lease has been reviewed against the requirements of section 3.58 of the *Local Government Act 1995* and the exempt disposition provisions of regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996.*

The proposed lease mitigates these risks by:

- formalising occupancy arrangements;
- clarifying maintenance responsibilities;
- specifying insurance requirements;
- establishing reporting obligations;
- providing default and termination mechanisms; and
- clearly identifying responsibilities of both parties.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM235/10/26

MOVED Cr S McCormick

SECONDED Cr M Dival

That Council:

1. approves the grant of a lease to Toodyay Golf Club Inc., being an exempt disposition under regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996;* and
2. approves the lease agreement between the Shire of Toodyay and Toodyay Golf Club Inc. for the occupation and management of the Toodyay Golf Course, clubhouse, sheds and associated facilities substantially in the form presented to Council;

3. grants a lease for a term of five (5) years commencing on 1 October 2026 and expiring on 30 September 2031 at an annual rental of $550.00 (GST inclusive);

4. authorises the Shire President and Chief Executive Officer to execute the lease agreement under the Common Seal of the Shire pursuant to section 9.49A of the *Local Government Act 1995;* and

5. authorises the Chief Executive Officer to make minor administrative or drafting amendments to the lease agreement, provided those amendments do not materially alter the intent or effect of the agreement.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.4.8 Dadour Provisions

Date of Report:	18 September 2026
Applicant or Proponent:	N/A
File Reference:	MAN2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Advocacy
Attachments:	1. Public Notice - Reform;

PURPOSE OF THE REPORT

To inform Council of the Western Australian Government's proposed removal of the Dadour Provisions from the Local Government Act 1995 and to determine Council's position regarding the proposed legislative amendment.

BACKGROUND

A news story is available from the Government of Western Australia's website on 17 September 2026 concerning: Four-year election cycles and measures to support local government amalgamations to improve long-term sector sustainability (**Attachment 1**).

The Dadour Provisions are contained within Schedule 2.1 of the Local Government Act 1995 and provide electors with the ability to request a poll where a proposal is made to amalgamate local government districts. The provisions are named after former City of Nedlands Mayor Dr John Dadour and were introduced to ensure local communities have an opportunity to directly express their views on significant boundary and amalgamation proposals.

Where sufficient eligible electors request a poll, and participation thresholds are met, the Minister is required to reject an amalgamation recommendation if the majority of participating electors vote against the proposal. These provisions have historically been regarded as an important mechanism supporting local democratic participation in decisions affecting local government boundaries.

On 17 September 2026, the Minister for Local Government announced a range of reforms aimed at improving the sustainability and effectiveness of the local government sector, including the proposed removal of the Dadour Provisions to facilitate voluntary local government amalgamations and boundary changes.

There is a Western Australian parliamentary transcript that details an exchange regarding local government amalgamations and the controversial Dadour poll provisions. Premier Colin Barnett argued that these provisions—which allow a small minority of local voters to

veto broader regional council mergers—are undemocratic and hinder necessary structural reform. For more details, visit this link here.

No formal public statement has been issued directly by the Western Australian Local Government Association (WALGA) addressing the recently announced repeal of the Dadour provisions.

While the WA State Government formally announced the removal of the "Dadour poll" provision on **September 17, 2026** as part of its next phase of local government reforms, WALGA has not published an official media release or standalone public position on the matter. [1]

However, individual member councils have already begun responding to the announcement. For example, the **Shire of Waroona** unanimously voted to oppose the scrapping of the provisions and formally requested that WALGA adopt an official sector-wide policy position opposing the State Government's plan.

Historically, when the state government has targeted the Dadour provisions, WALGA has engaged in extensive internal consultation with its 139 member councils before releasing a unified public response. This is proven by an article in 2013 here.

COMMENTS AND DETAILS

The State Government has indicated that the removal of the Dadour Provisions will reduce barriers to voluntary amalgamations and remove circumstances where a relatively small proportion of electors may effectively prevent structural reform initiatives. The reforms form part of a broader package directed toward strengthening local government sustainability and reducing administrative impediments to change.

Supporters of the Dadour Provisions argue that they provide an important democratic safeguard by enabling local communities to have a direct say in significant decisions affecting their local government identity, representation and governance arrangements. The provisions are often cited as contributing to the preservation of local self-determination and accountability.

Historically, the provisions became prominent during local government reform discussions in 2013-2014 when concerns regarding forced amalgamations were raised across the sector. The existence of the provisions was viewed by many local governments as an important protection against structural change proceeding without clear community support.

The proposed repeal raises broader questions regarding the balance between improving sector sustainability and maintaining direct community involvement in significant governance decisions. While the current State Government has stated there are no plans for compulsory amalgamations, removal of the provisions would eliminate the legislative mechanism currently available to electors to formally challenge future amalgamation proposals through a poll process.

Council may wish to consider whether the existing provisions continue to serve an important democratic purpose and whether advocacy to retain them should be supported through sector organisations such as WALGA.

IMPLICATIONS TO CONSIDER

Consultative:

The proposed legislative amendment may affect the ability of local communities to participate directly in future amalgamation and boundary change decisions.

Strategic:

The matter aligns with Council's commitment to good governance, community engagement and advocating on behalf of the interests of the Toodyay community.

Policy related:

Nil.

Financial:

Nil.

General Function:

Advocacy and representation of community interests.

Legal and Statutory:

Relevant provisions are contained within Schedule 2.1 Clauses 8 and 10 of the *Local Government Act 1995*. Proposed legislative reforms may amend or remove these provisions.

Risk related:

There is a potential governance and reputational risk if communities perceive that opportunities for direct participation in major local government structural decisions have been reduced.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Notes the State Government's proposed removal of the Dadour Provisions from the *Local Government Act 1995.*
2. Expresses support for the retention of provisions that enable electors to participate directly in decisions regarding local government amalgamations and significant boundary changes.
3. Requests that the Western Australian Local Government Association (WALGA) advocate for the preservation of meaningful community consultation and democratic participation mechanisms in any future local government structural reform process.
4. Authorises the Chief Executive Officer to communicate Council's position to the Minister for Local Government, WALGA and relevant regional local government bodies.

ALTERNATE MOTION/COUNCIL RESOLUTION NO. OCM236/10/26

MOVED Cr R Mills

SECONDED Cr R Madacsi

That Council:

1. Notes the State Government's proposed removal of the Dadour Provisions from Schedule 2.1 of the *Local Government Act 1995*.
2. Requests the Chief Executive Officer to convene a Workshop to thoroughly analyse the proposed legislative changes and assess their strategic, governance, and community impacts.
3. Invites input from the local community by seeking public feedback and comments on the proposed repeal of elector poll rights, ensuring that local perspectives inform Council's final stance.
4. Requests the Chief Executive Officer to seek formal feedback, advice, and policy guidance from the Western Australian Local Government Association (WALGA) regarding sector-wide advocacy and responses from member councils.
5. Requests the Chief Executive Officer to present a comprehensive report incorporating the workshop outcomes, community feedback, and WALGA advice to a future Ordinary Council Meeting for Council's consideration and final determination.

Voted For: Crs M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Cr M McKeown

MOTION CARRIED 5/1

In accordance with regulation 11DA of the Local Government (Administration) Regulations 1996, the reason(s) for the alternative motion are as follows:

Councillors considered that it was premature to adopt a formal position on the proposed considered that further assessment of the proposed legislative changes, together with community feedback and advice from WALGA, was necessary before determining its position on the proposed repeal of the Dadour Provisions. Accordingly, Council resolved to undertake additional consultation and analysis and receive a further report prior to making a final determination.

10.4.9 Review of Behavioural Complaint Management Framework

Date of Report:	18 September 2026
Applicant or Proponent:	N/A
File Reference:	PCY9
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	Not Council however discussed by Councillors at a workshop held on 17 September 2026.
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Complaints of Alleged Breach of Code of Conduct for Council Members, Committee Members and Candidates Policy; and 2. A Guide to the Breach Complaints Process. 3. REVISED Complaint Form.

PURPOSE OF THE REPORT

To consider revoking the Shire's Complaints of Alleged Breach of Code of Conduct for Council Members, Committee Members and Candidates Policy and relying on the statutory framework established under the *Local Government Act 1995*, the *Local Government (Model Code of Conduct) Regulations 2021* and the *Local Government (Local Government Inspector) Regulations 2025* for the management of behavioural complaints.

BACKGROUND

Shire Officers previously undertook a review of the Shire's behavioural complaint management framework following the commencement of local government reforms on 1 January 2026. These reforms introduced significant changes to the management of behavioural, conduct and specified breach complaints under Part 8A of the *Local Government Act 1995*.

As part of that review, Shire Officers prepared a revised policy and considered options available to Council under the amended legislative framework. The review was originally intended to be presented to Council for consideration at the October 2026 Ordinary Council Meeting.

On 17 September 2026, Shire Officers presented a discussion paper to Councillors at a Council Workshop for discussion purposes only. During discussions, Councillors requested that Shire Officers investigate the implications of revoking the current policy and relying upon the legislative framework established by Parliament rather than maintaining a separate local policy. Councillors also indicated they did not support the establishment of a Behaviour Complaints Committee and preferred that behavioural complaints be managed in accordance with the legislative process.

Following the workshop, Shire Officers undertook further review of the legislation and guidance material published by the Local Government Inspector, including a Guide to the Breach Process (**Attachment 2**), which has been provided for Council's information.

This report has been prepared in response to the matters raised during the workshop.

COMMENTS AND DETAILS

Legislative Framework

The management of behavioural complaints is governed by Part 8A of the *Local Government Act 1995* and the *Local Government (Model Code of Conduct) Regulations 2021*. The legislation now prescribes in considerable detail how behavioural complaints are to be received, assessed, considered and determined.

Section 5.105 of the *Local Government Act 1995* provides that a complaint alleging a behavioural breach must be dealt with under the local government's Code of Conduct unless the complaint is referred to the Local Government Inspector in prescribed circumstances.

Clauses 11 to 15 of the *Local Government (Model Code of Conduct) Regulations 2021* establish the minimum complaint management process, including:

- requirements for lodging complaints;
- timeframes for making complaints;
- approval of complaint forms;
- authorisation of complaint recipients;
- referral requirements;
- procedural fairness obligations;
- determination of complaints;
- behavioural management plans; and
- notification of outcomes.

Clause 14B of the Regulations further provides that the local government's functions under clauses 12 and 13 are to be performed by Council unless Council resolves by absolute majority to authorise either a committee comprising council members or an eligible independent person to perform those functions.

The guidance material prepared by the Local Government Inspector confirms that behavioural complaints are ordinarily managed by the relevant local government under the legislative framework applicable to behavioural breaches.

Is a Local Policy Required?

Shire Officers have reviewed the legislative requirements and have not identified any statutory requirement for Council to maintain a separate behavioural complaints policy.

Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* states:

"The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division."

Shire Officers consider that this provision enables a local government to adopt supplementary procedures if it wishes to do so but does not require a separate policy to be maintained.

The legislation itself establishes the mandatory requirements for managing behavioural complaints.

Effect of Revoking the Policy

Should Council revoke the current policy:

- behavioural complaints can continue to be lodged with the Shire;
- Council will remain subject to all legislative obligations relating to behavioural complaints;
- Council must continue to approve a complaint form for the purposes of clause 11(2)(a) of the Regulations;
- Council must continue to authorise one or more persons to receive complaints and withdrawals of complaints under clause 11(3) of the Regulations;
- complainants and respondents will continue to receive procedural fairness as required by legislation;
- Council will continue to determine behavioural complaints unless it resolves otherwise under clause 14B of the Regulations; and
- all complaints must continue to be managed in accordance with the statutory framework.

Revocation of the policy would not remove Council's responsibility to deal with behavioural complaints nor affect the validity of the legislative complaint process.

Behaviour Complaints Committee

As part of the earlier review process, Shire Officers investigated the possible establishment of a Behaviour Complaints Committee under clause 14B of the Regulations.

The legislative framework permits Council to establish such a committee. However, it does not require Council to do so.

Following workshop discussions, Councillors indicated a preference that behavioural complaints continue to be determined by Council rather than by a committee established for that purpose.

Accordingly, no recommendation is made to establish a Behaviour Complaints Committee.

Advantages of Revoking the Policy

Shire Officers consider that revocation of the policy may provide the following advantages:

- removal of duplication between Council policy and legislation;
- reduced risk of future inconsistencies between policy provisions and legislative requirements;
- reduced administrative burden associated with future legislative amendments;
- greater reliance on the statutory framework established by Parliament; and
- improved clarity regarding Council's legislative obligations.

Administrative Arrangements Required by Legislation

Even if Council revokes the policy, certain legislative requirements remain.

The *Local Government (Model Code of Conduct) Regulations 2021* require:

- the local government to approve a complaint form for behavioural complaints;
- the local government to authorise one or more persons to receive complaints and withdrawals of complaints; and

- behavioural complaints to be dealt with in accordance with the statutory framework established by the Regulations.

Accordingly, if Council resolves to revoke the policy, Shire Officers recommend that Council separately approve a behavioural complaint form and authorise specified officers as complaint recipients for the purposes of clause 11 of the Regulations.

Attachment 3 has been prepared for this purpose. The form has been reviewed to align with the requirements of clause 11 of the *Local Government (Model Code of Conduct) Regulations 2021* and the current legislative framework for behavioural complaints. Approval of the form will ensure complainants continue to have access to a Council-approved complaint mechanism notwithstanding the revocation of the policy.

Potential Risks

Potential risks associated with revocation include:

- the absence of a locally adopted document summarising the complaint process; and
- reliance upon legislation and guidance material for procedural information.

Shire Officers consider these risks to be low given the comprehensive legislative framework now in place and the availability of guidance material published by the Local Government Inspector.

IMPLICATIONS TO CONSIDER

Consultative:

Council Workshop discussion held 17 September 2026.

Strategic:

Shire of Toodyay Council Plan 2023–2033

Outcome 9 – Responsible and Effective Leadership and Governance

9.1 Provide strong, clear and accountable leadership

Reliance on the legislative framework supports accountable and transparent governance practices.

Policy related:

If adopted, Council Policy GOV4 - Complaints of Alleged Breach of Code of Conduct for Council Members, Committee Members and Candidates will be revoked.

Financial:

No direct financial implications have been identified.

Legal and Statutory:

Relevant legislation includes:

- *Local Government Act 1995*;
- *Local Government (Model Code of Conduct) Regulations 2021*; and
- *Local Government (Local Government Inspector) Regulations 2025*.

Shire Officers have not identified any legislative impediment to the revocation of the current policy.

Risk related:

Low. The legislative framework governing behavioural complaints would remain in effect regardless of whether the policy is retained.

Workforce related:

No material workforce impacts have been identified.

The proposed approach provides greater clarity regarding officer responsibilities and administrative processes

Conclusion

The reforms introduced on 1 January 2026 established a comprehensive legislative framework governing behavioural complaints involving council members, committee members and candidates. The legislation now prescribes the complaint lodgement, assessment, determination and notification processes in significant detail.

Following review of the legislation and relevant guidance material, Shire Officers have not identified any legislative requirement for Council to maintain a separate behavioural complaints policy.

Shire Officers consider that behavioural complaints can continue to be managed effectively and lawfully through the processes established under the *Local Government Act 1995* and associated regulations.

Revocation of the current policy would not remove Council's statutory obligations nor prevent behavioural complaints from being received and determined. Rather, it would result in Council relying directly upon the legislative framework prescribed by Parliament.

While Shire Officers consider the policy itself is no longer required, Council must continue to meet the administrative requirements prescribed by clause 11 of the *Local Government (Model Code of Conduct) Regulations 2021*, including approval of a complaint form and written authorisation of persons to receive complaints and withdrawals of complaints. Attachment 3 and the proposed authorisations contained in the recommendation address those ongoing statutory requirements.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council by Absolute Majority:

1. Revokes Council Policy GOV4 - Complaints of Alleged Breach of Code of Conduct for Council Members, Committee Members and Candidates.
2. Notes that behavioural complaints will continue to be dealt with in accordance with the *Local Government Act 1995*, the *Local Government (Model Code of Conduct) Regulations 2021* and the *Local Government (Local Government Inspector) Regulations 2025*.
3. Approves the Behavioural Complaint Form contained in **Attachment 3** for the purposes of clause 11(2)(a) of the *Local Government (Model Code of Conduct) Regulations 2021*.
4. Authorises the Chief Executive Officer, Governance Coordinator and Executive Assistant Governance as persons authorised to receive complaints and

withdrawals of complaints under clause 11(3) of the *Local Government (Model Code of Conduct) Regulations 2021*.

5. Notes that behavioural complaints will be determined by Council in accordance with the legislative framework and that Council does not propose, at this stage, to establish a Behaviour Complaints Committee.

ALTERNATE MOTION/COUNCIL RESOLUTION NO. OCM237/10/26

MOVED Cr R Mills

SECONDED Cr R Madacsi

That Council:

1. Declines to revoke Council Policy GOV4 (*Complaints of Alleged Breach of Code of Conduct for Council Members, Committee Members and Candidates*).
2. Resolves pursuant to Clause 15(2) of Schedule 1 of the *Local Government (Model Code of Conduct) Regulations 2021* to retain and maintain a supplementary local complaints policy to govern procedural matters not prescribed by the state framework.
3. Directs the Chief Executive Officer to conduct an operational review of Policy GOV4 and present an updated policy back to Council at the December 2026 OCM that:
   (a) Prescribes explicit procedural fairness timelines and respondent rights, including a minimum 14-day written response period prior to complaint determination;
   (b) Establishes standard evidentiary thresholds and rules regarding supplementary written evidence and oral submissions;
   (c) Formalises clear intake triage protocols to decline out-of-time complaints (>1 month) or frivolous/vexatious complaints; and
   (d) Incorporates clear guidelines for engaging independent external consultants/investigators to assess complaints involving elected members, mitigating the risk and perception of political bias.
4. Approves the Behavioural Complaint Form contained in Attachment 3 for the purposes of Clause 11(2)(a) of the Regulations, subject to Administration incorporating the following statutory compliance elements prior to public release:
   (a) A prominent warning notice detailing the $10,000 statutory penalty for breaching confidentiality under Section 8A.36 of the Act;
   (b) A prominent warning notice detailing the $10,000 statutory penalty for knowingly providing false or misleading information under Section 8A.38 of the Act;
   (c) A clear statement that complaints must be submitted within 1 month of the alleged breach pursuant to Clause 11(2)(c); and
   (d) An administrative intake checkbox verifying whether the complaint requires mandatory referral to the Local Government Inspector under Regulation 3A (where a respondent has two or more prior breach findings since 1 January 2026).
5. Authorises the Chief Executive Officer, Governance Coordinator, and Executive Assistant Governance as persons authorised to receive complaints and withdrawals of complaints under Clause 11(3) of the Local Government (Model Code of Conduct) Regulations 2021.

6. Re-affirms that behavioural complaints will continue to be detexrmined directly by Council, supported by independent assessment where appropriate, without establishing a Behaviour Complaints Committee.

Voted For: Crs R Madacsi and R Mills

Voted Against: Crs M McKeown, M Dival, S McCormick and S Van der Heyden

MOTION LOST 2/4

MOTION /COUNCIL RESOLUTION NO. OCM238/10/26

MOVED Cr S Van der Heyden

SECONDED Cr R Madacsi

That Council proceed to the next item of business.

Voted For: Crs R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Crs M McKeown and M Dival

MOTION CARRIED 4/2

10.5 INFRASTRUCTURE, ASSETS AND SERVICES

Nil.

10.6 COMMITTEE REPORTS

10.6.1 Bush Fire Control Officers Recommendations

Date of Report:	11 September 2026
Applicant or Proponent:	N/A
File Reference:	FIR1
Author:	S Roberts – Community Emergency Services Manager
Responsible Officer:	M Burgess – Executive Manager Infrastructure, Assets and Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. CESM FCO report 2026 (confidential) *Section 5.23* *(3) (a) matter required to be confidential under a written law, excluding this act and local laws;* *(4) (b) information relating to the personal affairs of an individual; (under separate cover)*

PURPOSE OF THE REPORT

To consider the nominations for the roles of Bush Fire Control Officers and recommendations to Council for Bush Fire Control Officers and appointment of Chief Bush Fire Control Officer and Deputy Bush Fire Control Officer(s) pursuant to Section 38(1) of the Bushfires Act 1954.

BACKGROUND

As per Section 9 of the Shire of Toodyay Bush Fire Service Standard Operating Procedures requires that nominations, recommendations and resolutions to appoint Bush Fire Control Officers is conducted annually.

As per the aforementioned document, the Shire of Toodyay compiled a report on Bush Fire Control Officer nominations received and circulated to the membership via email on 01 July 2026, for consideration and review for the purpose. This report is attached **Attachment 1.**

COMMENTS AND DETAILS

Thirteen applications have been received for Volunteer Bush Fire Control Officers the Bush Fire Advisory Committee may wish to consider a structure of a Chief Bush Fire Control Officer and two Deputy Chief Bush Fire Control Officers with the remaining eleven nominations for Volunteer Bush Fire Control Officers made up of all Brigade Captains and senior volunteer fire fighters.

The Shire also requires a number of staff members to be appointed Fire Control Officers to perform the function of their employment. As these appointments relate to the management of Shire staff, delegation to the CEO exists under the Shire's Delegation Register (ES8) in

accordance to Section 38 of the Bushfires Act 1954 *"local government may appoint Bush Fire Control Officers"* The BFAC is not required to make recommendation of such staff, unless in the situation that the committee wishes to make recommendation to a role of Chief or Deputy Chief.

These positions are as follows:

1. Community Emergency Services Manager
2. Emergency Management Officer
3. Reserves Management Officer
4. Ranger 1
5. Ranger 2

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Nil.

Policy related:

Section 9 of the Shire of Toodyay Bush Fire Service Standard Operating Procedures.

Financial:

Nil.

Legal and Statutory:

Section 38(1) of the *Bushfires Act 1954.*

Risk related:

Nil.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/BFAC RESOLUTION NO. BFAC005/09/26/ COUNCIL RESOLUTION NO. OCM239/10/26

MOVED Cr M Dival

SECONDED Cr R Mills

That Council appoint Nick Griggs to the role of Chief Bush Fire Control Officer.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

OFFICER'S RECOMMENDATION/BFAC RESOLUTION NO. BFAC006/09/26/COUNCIL RESOLUTION NO. OCM240/10/26

MOVED Cr S McCormick

SECONDED Cr M Dival

That Council appoint:

1. Peter Brennan to the role of Deputy Chief Bush Fire Control Officer 1; and
2. Craig Stewart to the role of Deputy Chief Bush Fire Control Officer 2.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

OFFICER'S RECOMMENDATION/ BFAC RESOLUTION NO.BFAC007/09/26/ COUNCIL RESOLUTION NO. OCM241/10/26

MOVED Cr M Dival

SECONDED Cr S Van der Heyden

That Council appoint:

1. Charlie Wroth to the role of Bush Fire Control Officer.
2. Ian MacGregor to the role of Bush Fire Control Officer.
3. Jeff Venn to the role of Bush Fire Control Officer.
4. Gary Forsyth to the role of Bush Fire Control Officer.
5. Kevan French to the role of Bush Fire Control Officer.
6. Christoper McDonald to the role of Bush Fire Control Officer.
7. William Hort to the role of Bush Fire Control Officer.
8. Wes Sutton to the role of Bush Fire Control Officer.
9. Lawrence Haywood to the role of Bush Fire Control Officer.
10. William Fletcher to the role of Bush Fire Control Officer.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

10.6.2 ARIC Recommendation - Review and Update of ARIC Charter

Date of Report:	14 September 2026
Applicant or Proponent:	N/A
File Reference:	COC2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	5 February 2026 and 4 June 2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Proposed ARIC Charter (including track changes) using the current adopted version of the ARIC Charter; 2. Workshopped ARIC Charter. 3. Department Correspondence; and 4. ARIC Charter (including track changes) proposed by the Committee;

PURPOSE OF THE REPORT

To present a revised Audit, Risk and Improvement Committee (ARIC) Charter for consideration.

BACKGROUND

The Audit, Risk and Improvement Committee Charter was last reviewed on 5 February 2026 and adopted by Council on 5 February 2026.

Further to that review the ARIC considered the matter of the charter in June 2026, and recommended the version adopted in February 2026 be returned to the version adopted by Council on 27 March 2025.

A review was undertaken on 12 August 2026. Several amendments have been identified to ensure that the document reflects the current legislative framework governing Audit, Risk and Improvement Committees established under the *Local Government Act 1995* and associated regulations.

The proposed amendments do not alter the fundamental role of the Committee, but clarify and strengthen the Charter's alignment with contemporary legislative requirements relating to committee membership, functions, reporting responsibilities and meeting procedures

COMMENTS AND DETAILS

A review of the Audit, Risk and Improvement Committee Charter was undertaken against the current provisions of the:

- *Local Government Act 1995*;
- *Local Government (Audit) Regulations 1996*; and
- *Local Government (Administration) Regulations 1996*.

The review identified that the existing Charter was substantially compliant with the current legislative framework. Accordingly, a full rewrite of the Charter was not considered necessary. The amendments proposed are primarily directed at improving legislative alignment, updating outdated references and ensuring the Charter accurately reflects the current statutory role and responsibilities of an Audit, Risk and Improvement Committee (ARIC).

References throughout the Charter have been updated to consistently use the term **Audit, Risk and Improvement Committee (ARIC)**, reflecting the terminology adopted under the current legislative framework.

Clause 6.1(a) has been amended to remove the statement that a majority of Committee members must be councillors. Section 7.1A(2) of the *Local Government Act 1995* does not contain such a requirement and instead deals with restrictions relating to employee membership and representation of employees on the Committee. The amendment ensures that the Charter accurately reflects the current legislative requirements.

Clauses 6.2.1(a) and 6.2.1(b) have been amended to align with sections 7.1A(3) and 7.1A(4) of the *Local Government Act 1995*. The previous reference to an "independent Presiding Member" and "independent Deputy Presiding Member" has been replaced with wording that reflects the legislation, which requires that the Presiding Member and Deputy Presiding Member must not be councillors of the local government or of any other local government.

The remuneration provisions contained within clause 6.2.5 have been amended to align with Council's **Local Government Payments and Gifts to Members Policy** adopted on 2 July 2026. Removal of specific payment rates from the Charter ensures consistency between governance documents, reduces the risk of conflicting provisions and allows remuneration arrangements to be amended through Council policy without the need for consequential amendments to the Charter.

Clause 6.5 has been amended to align with Regulation 14C of the *Local Government (Administration) Regulations 1996*. The previous reference to a "calendar year" has been replaced with wording consistent with the legislative definition of a "relevant period", being the 12-month period ending on the day of the proposed meeting. This amendment ensures consistency between the Charter and the current legislative requirements governing attendance at meetings by electronic means.

The principal amendments contained within the revised Charter also include:

- clarification of the statutory functions of an Audit, Risk and Improvement Committee under Regulation 16 of the *Local Government (Audit) Regulations 1996*;
- inclusion of membership provisions reflecting the requirements of section 7.1A of the *Local Government Act 1995*;
- clarification of membership, Presiding Member and Deputy Presiding Member provisions to reflect the current legislative framework;
- inclusion of provisions enabling Council to participate in a shared Audit, Risk and Improvement Committee arrangement where permitted by legislation;
- clarification of the Committee's responsibilities in relation to CEO reviews undertaken pursuant to Regulation 17 of the *Local Government (Audit) Regulations 1996*;

- strengthening of provisions relating to the review of audit findings, compliance audits and implementation of resulting actions;
- clarification of the Committee's role in reviewing the Compliance Audit Return prior to consideration by Council; and
- updating legislative references and meeting provisions to reflect current legislation and contemporary governance practices.

The proposed amendments are largely administrative and legislative in nature and do not materially alter the role, authority or reporting relationship of the Committee. The amendments are intended to ensure the Charter remains current, legally accurate and consistent with the legislative framework governing Audit, Risk and Improvement Committees in Western Australia.

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Maintaining a contemporary Audit, Risk and Improvement Committee Charter supports Council's governance, risk management, compliance and accountability framework.

Policy related:

Adoption of the revised Charter will ensure the Shire's corporate document remains current and aligned with legislative requirements.

Financial:

Nil.

Legal and Statutory:

The Charter has been reviewed having regard to the requirements of the *Local Government Act 1995*, the *Local Government (Audit) Regulations 1996* and the *Local Government (Administration) Regulations 1996.*

s.7.1A. Establishment of audit, risk and improvement committee

(1) A local government must establish a committee of its council under section 5.8 to be called the audit, risk and improvement committee.

(2) The following provisions apply in respect of the membership of the audit, risk and improvement committee —

(a) an employee of the local government is not to be a member;

(b) no member is to be nominated by, or is to be appointed to represent, any employee of the local government;

(c) section 5.10(1)(b) does not apply.

(3) The presiding member of the audit, risk and improvement committee cannot be a council member of the local government or of any other local government.

(4) Any deputy presiding member of the audit, risk and improvement committee cannot be a council member of the local government or of any other local government.

7.1C. Delegation to audit, risk and improvement committee

(1) The only powers and duties that the local government may delegate to the audit, risk and improvement committee under section 5.16 are as follows —

(a) any of its powers and duties under this Part;

(b) any prescribed power or duty.

(2) The provision that may be made by regulations for the purposes of subsection (1)(b) is not limited by the other subject matter of this Part.

(3) The local government's power to delegate to the audit, risk and improvement committee is not limited by section 5.17.

16. Functions of audit, risk and improvement committee

An audit, risk and improvement committee has the following functions —

(a) to receive and review reports on, and recommend to the council actions to be taken in relation to —

(i) audits under Part 7 of the Act; and

(ii) compliance audits; and

(iii) reviews under regulation 17;

(b) to otherwise receive and review reports on the appropriateness and effectiveness of, and recommend to the council improvements to, the local government's systems and procedures in relation to —

(i) financial management; and

(ii) legislative compliance; and

(iii) risk management;

(c) to receive and review reports on, and recommend to the council improvements to, the implementation of any actions that the local government —

(i) is required to take under section 7.12A(3); and

(ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and

(iii) has otherwise decided to take in response to a report or recommendation referred to in paragraph (a) or (b); and

(iv) has stated it has done or proposes to do in written advice prepared under section 8.6(1)(a) or 8.23(4)(a);

(d) any other function conferred on the audit, risk and improvement committee under these regulations or another written law.

Risk related:

Adoption of the revised Charter presents a low level of risk and will improve alignment with the current requirements of the *Local Government Act 1995, Local Government (Audit) Regulations 1996 and Local Government (Administration) Regulations 1996*.

Failure to adopt the revised Charter may result in the Charter becoming progressively inconsistent with the current legislative framework and may create uncertainty regarding the Committee's statutory functions and responsibilities.

Workforce related:

Nil.

Conclusion

The proposed amendments are largely administrative and legislative in nature and are intended to ensure the Charter accurately reflects the current statutory framework applicable to Audit, Risk and Improvement Committees. The Committee is therefore requested to recommend adoption of the revised Charter to Council.

Further Information following ARIC meeting held on 13 August 2026

The Chair of the Audit, Risk and Improvement Committee corresponded with the Temporary Chief Executive Officer regarding a revised Charter that had been developed by the Committee. In an email dated 29 June 2026, the Chair advised:

"Please find attached the revised Audit, Risk and Improvement Committee Charter, which ARIC members have been reviewing and providing input into over the past two months. As you are aware, Council resolved earlier this month that the Charter is to be included on the agenda for the ARIC meeting next week."

Advice was sought from the Department of Local Government (**Attachment 3**) regarding the content of the proposed alternate Charter contained in Attachment 2 that was presented to the July 2026 Audit, Risk and Improvement Committee meeting at which the following recommendation was made:

ARIC Resolution No.ARIC001/07/26

Moved *Mrs. N Mills*

Seconded *Ms K Barrack*

That the Audit, Risk and Improvement Committee:

1. *Notes that the draft revised Audit, Risk and Improvement Committee Charter has been reviewed by the Committee and was formally provided to the Chief Executive Officer on 29 June 2026.*
2. *Notes that the purpose of revising the Charter is to ensure full alignment with the 2026 Western Australian local government reforms and to correct existing statutory anomalies or compliance gaps within the current operative Charter.*
3. *Requests that the Chief Executive Officer review the draft revised Charter in accordance with Clause 12.2 of the current Charter, ensuring legislative and regulatory compliance.*
4. *Requests that any suggested compliance amendments or regulatory updates be returned in tracked-changes format to support clarity and transparency.*
5. *Requests that the reviewed draft Charter be returned to the August 2026 Audit, Risk and Improvement Committee meeting for final consideration, to support timely progression of a compliant Charter to Council under Clause 12.3.*

Voted For:N Mills, K Barrack, M McKeown, J Prater and S Van der Heyden

Voted Against: Nil

Motion carried 5/0

Two separate Charter versions were put before the Committee.

Attachment 1 represented amendments to the Charter that had been adopted by Council in March 2025.

Attachment 2 reflected the revised Charter developed by the Committee and provided by the Chair to the temporary CEO.

Attachment 4 reflected the track changed charter developed by the Committee, but reviewed by the Chief Executive Officer in accordance with the July recommendation by the Committee.

To ensure that Council consideration is based on a common understanding of the relevant charter versions, the above information clarifies the status and purpose of each document.

VOTING REQUIREMENTS

Simple Majority

ARIC RECOMMENDATION NO.ARIC072/09/26/ COUNCIL RESOLUTION NO. OCM242/10/26

MOVED Cr M Dival

SECONDED Cr R Mills

That Council:

1. Notes the factual inaccuracies in the Officer's Report regarding the review history of the ARIC Charter, and formally clarifies that the Charter was not reviewed on 5 February 2026, in June 2026, nor on 12 August 2026 as claimed, but rather that ARIC completed its mandated review and provided the revised Charter to the Temporary Chief Executive Officer on 29 June 2026;
2. Recommends that Council adopts the revised Audit, Risk and Improvement Committee Charter attached to this report (**Attachment 4**) with track changes accepted.
3. Recommends that Council authorise the Temporary Chief Executive Officer to make any typographical amendments prior to publication

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

13 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil.

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

14.1 MEMBERS

Nil.

14.2 EMPLOYEES

Nil.

15 CONFIDENTIAL BUSINESS

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM243/10/26

MOVED Cr R Madacsi

SECONDED Cr M Dival

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 5.23 of the Local Government Act 1995:

15.1 Review of Resolution No. OCM066/04/26

This matter is considered to be confidential under Section 5.23 - (4) (f) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information the making public of which would be likely to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;

15.2 Contract Variation - Waste Services Agreement with Broderick Waste Solutions Pty Ltd

This matter is considered to be confidential under Section 5.23 - (3) (a) and (4) (d) (iii) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with matter required to be confidential under a written law, excluding this act and local laws; and information contained in a tender received by the local government for a contract to the extent that —
(iii) the making public of the information would be likely to have an adverse effect on the tenderer's business interests;

15.3 Appointment of Senior Employee - Executive Manager Planning and Regulatory Services

This matter is considered to be confidential under - of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with an employee

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

In accordance with Standing Orders 5.2 (3) the Presiding Member directed everyone to leave except the Members; the CEO and any employee specified by the Presiding Member.

All members of the public departed the Council Chambers at 7:32 pm.

The Executive Manager of Infrastructure, Asset and Services departed the meeting at 7:34 pm.

Cr Dival exited Council Chambers at 7:34 pm.

Cr Dival returned to Council Chambers at 7:34 pm.

Cr Madacsi exited Council Chambers at 7:42 pm.

15.1 Review of Resolution No. OCM066/04/26

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council by Absolute Majority:

1. Notes the legal advice previously received regarding Resolution No. OCM066/04/26.
2. Revokes Resolution No. OCM066/04/26 in its entirety.
3. Notes that, following revocation of Resolution No. OCM066/04/26, no further action will be taken in relation to that behavioural complaint matter.

ALTERNATE MOTION/COUNCIL RESOLUTION NO. OCM244/10/26

MOVED Cr M McKeown

SECONDED Cr M Dival

That Council:

1. Notes the legal advice received regarding Resolution No. OCM069/04/26.
2. Notes that the legal advice does not identify a basis to revoke Council's finding that a behavioural breach occurred.
3. Revokes Resolution No OCM066/04/26 in part by:
   (i) Deleting in Item 1 of the resolution the words "and the Action Plan, contained in the recommendation made in the Report on Findings as received, be implemented (Confidential Attachment 6)"; and
   (ii) Deleting Item 2 of Resolution No OCM066/04/26 in part.
4. Resolves that consultation with the respondent be undertaken in relation to the proposed Action Plan presented to Council at the April 2026 Ordinary Council Meeting prior to Council determining under clause 12(4) of the Code whether to take no further action or to prepare or to implement a plan to address the behaviour of the person to whom the complaint relates.

Voted For: Crs M McKeown, M Dival, S McCormick and S Van der Heyden

Voted Against: Cr R Mills

MOTION CARRIED 4/1

In accordance with regulation 11DA of the Local Government (Administration) Regulations 1996, the reason(s) for the alternative motion are as follows:

- *The legal advice was not that Resolution OCM069/04/26 was unlawful. The legal advice supports Council's finding that a behavioural breach occurred but identified that there needs to be consultation prior to implementation of the Action Plan.*
- *Once consultation had been undertaken with the respondent, the matter could then be brought back to Council for a final determination under clause 12(4) of the Code as to whether to take no further action or to prepare or to implement a plan to address the behaviour of the person to whom the complaint relates.*
- *The consultation can be done by an employee of the local government or by Council at a formal Council Meeting through an Employee's report as per the legislation which states the following:*

14B. Performance of local government's functions under cl. 12 and 13

(5) Nothing in this clause prevents an employee of the local government from providing, in relation to the performance of a function, any advice or other assistance to the council, a committee authorised under subclause (2) or a person authorised under subclause (3).

If Council proceeded in the terms set out above, then the original error of law resulting from the failure to undertake consultation would be rectified and a valid decision under clause 12(4) subsequently made.

Cr Madacsi returned to Council Chambers at 7:57 pm.

15.2 Contract Variation - Waste Services Agreement with Broderick Waste Solutions Pty Ltd

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM245/10/26

MOVED Cr M Dival

SECONDED Cr S Van der Heyden

That Council:

1. Approves a variation to the waste services contract with Broderick Waste for the management and operation of the Toodyay Waste Transfer Station from $6,050 per fortnight GST exclusive to $8,100 per fortnight GST exclusive effective 1 September 2026;
2. Notes the change of cartage site from Shire of Northam to Gingin and the reduction in associated tipping rates;
3. Requests the increased contract cost and decreased tipping fees be included as part of the Shire's mid-year budget review; and
4. Authorises the Temporary Chief Executive Officer to execute all necessary documentation to give effect to the variation.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

15.3 Appointment of Senior Employee - Executive Manager Planning and Regulatory Services

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM246/10/26

MOVED Cr S McCormick

SECONDED Cr M Dival

That Council:

1. Accepts the Temporary Chief Executive Officer's recommendation to employ the preferred candidate as outlined in **Attachment 1** as Executive Manager of Planning and Regulatory Services for a contract period of 4 years from a current date to be determined by the Chief Executive Officer;
2. Notes that the Temporary Chief Executive Officer will negotiate the terms of the contract with the preferred candidate which are aligned to the conditions advertised and within budget allocations for this role; and
3. Keeps the name of the preferred candidate confidential until the employment contract has been signed.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

MOTION/COUNCIL RESOLUTION NO. OCM247/10/26

MOVED Cr M McKeown

SECONDED Cr S Van der Heyden

That Council Chambers are reopened at 8:23pm.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0

The Council Chambers were re-opened at 8:23 pm.

16 NEXT MEETINGS

Meeting	Date	Time
Ordinary Council Meeting	5 November 2026	5.30 pm
Audit & Risk Committee Meeting	8 October 2026	10.30 am
Infrastructure & Works Committee Meeting	8 October 2026	5.30 pm
Bushfire Advisory Committee Meeting	10 December 2026	5.30 pm
Local Emergency Management Committee Meeting	10 December 2026	10.30 am

17 CLOSURE OF MEETING

The Shire President declared the meeting closed at 8:29 pm.