

Special Council Meeting

9 August 2021

Commencing at 2.00pm

Agenda

Notice of Meeting.

To: The President and Councillors

A Special Council Meeting of the Shire of Toodyay will be held in the Council Chambers at the Shire of Toodyay, 15 Fiennes Street, Toodyay on the abovementioned date and time.

The Special Meeting of Council has been called by one third of the total number of Councillors in accordance with section 5.4(a)(ii) of the *Local Government Act 1995*.

The Special Meeting of Council is for the purpose of considering the revoking of Council Resolution No 100/07/16 resolved by Absolute Majority at an Ordinary Council Meeting held on 26 July 2016, and all matters related thereto.

Suzie Haslehurst
CHIEF EXECUTIVE OFFICER



Our Vision, Purpose and Values

The Shire of Toodyay works together with the community to obtain the best possible social, economic, and environmental outcomes for the people of Toodyay.

Vision: We are a vibrant rural community that respects our environment, celebrates our past and embraces a sustainable future.

Purpose: Local Government and community working together to obtain the best possible social, economic, and environmental outcomes for the people of Toodyay.

Community Values: We value highly:

- Our sense of community support and spirit;
- Our natural environment and healthy ecosystems;
- Our rural lifestyle;
- Our historic town; and
- Our local economy built on agriculture and emerging tourism, arts and cultural opportunities.

Shire Values: To progress the community's aspirations, the Shire is guided by:

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.

Commitment: We translate our plans into actions and demonstrate the persistence that produces results.

Disclaimer

Members of the public should note that in any discussion regarding any planning 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 as notice of approval from Council. No action should be taken on any item discussed at a Council Meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (*Copyright Act 1998*, as amended) and the express permission of the copyright owner(s) should be sought prior to reproduction.

Availability of Meeting Agenda and its Attachments

Information about Council Meetings is located on the website <http://www.toodyay.wa.gov.au/Council/Council-Meetings>

Agendas & Minutes are located under the heading "Council Meetings" at <http://www.toodyay.wa.gov.au/Council/Council-Meetings/Agendas-Minutes-and-Notes>

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




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ATTACHMENTS *with separate index follows Item 7.*

Shire President	Councillors	
Cr Rosemary Madacsi	Cr Ben Bell	Cr Therese Chitty
Deputy Shire President	Vacant position	Cr Phil Hart
Cr Beth Ruthven	Cr Mick McKeown	Cr Susan Pearce
	Cr Brian Rayner	

PRELIMINARIES

1. COVID-19 restrictions and safe physical distancing measures.
 2. Mobile phones should be switched off.
 3. Please familiarise yourself with the location of the exit doors in case of an emergency.
 4. The meeting will be livestreamed and the use of recording devices in the Council Chambers is not allowed.
 5. Councillors are requested to activate their microphones when addressing the meeting and deactivate them once finished speaking.
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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

2. RECORDS OF ATTENDANCE

2.1 APOLOGIES

3. DISCLOSURE OF INTERESTS

4. PUBLIC QUESTIONS (relating to the purpose of the meeting)

5. PUBLIC SUBMISSIONS (relating to the purpose of the meeting)

6. PURPOSE OF THE MEETING AND SHIRE OFFICER REPORTS

6.1 Motion to Revoke Resolution 100/07/16 – 6 (Lot 3001) Duke Street, Toodyay

Date of Report:	3 August 2021	
File Reference:	FIN 11 / BLD 6/3001 DUKE / A4178	
Author:	S Haslehurst – Chief Executive Officer	
Responsible Officer:	S Haslehurst – Chief Executive Officer	
Previously Before Council:	26 July 2016	Item 9.2.6
	22 June 2021	Item 9.3.4
Author's Disclosure of Interest:	Nil	
Council's Role in the matter:	Executive	
Attachment:	1. Notice to revoke motion	

PURPOSE OF THE REPORT

To seek Council's consideration of a valid notice of revocation motion received 2 August 2021, signed by three Councillors in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996* and Clause 15.1 of the *Shire of Toodyay Standing Orders Local Law 2008*.

The motion seeks to revoke Council Resolution No. 100/07/16.

BACKGROUND

In November 2015, Council considered land and building assets owned by the Shire and determined that the building on Lot 3001 Duke be disposed of by sale or auction and that a report be provided on the future use of the lot (i.e. sale or retention).

At a Council Forum held in July 2016, Council again considered the matter of Lot 3001* Duke Street and noted correspondence received from the Toodyay Historical Society. At the Ordinary Council Meeting held on 26 July 2016, it was resolved (resolution 100/07/16):

That Council authorise the disposal of this property subject to:

- 1. A photographic record being taken prior to proceeding;*
- 2. The building being offered for sale separate from the land; and*
- 3. Once the land is cleared and vacant it be offered for sale.*

*** It should be noted that the lot number for 6 Duke Street is now listed by Landgate as Lot 201. This was changed following the road realignment process completed in 2019.**

In October 2016, the Shire received an application from the Toodyay Historical Society (THS) to consider 6 and 8 Duke Street for inclusion on the Municipal Heritage Inventory. Following this and other public feedback, a confidential discussion paper was presented to Council at a Forum held on 14 February 2017 which contained the application from the THS, a submission from the owner of 8 Duke Street and advice from the Shire's Heritage Advisor that both places are strong contenders for inclusion on the Shire's Heritage Inventory.

The discussion paper also proposed the cost of relocating the building at 6 Duke Street was approximately \$30,000 to relocate plus \$30,000 to construct stumping for the building at the new location. Efforts were apparently made to offer the building to a community group for relocation with no success.

No further progress was made due to a number of factors, including plans for widening Duke Street. However, the property was the subject of discussions at several Council Forums held between 2017 and 2019 with the common theme of disposal by sale. There is no record of either 6 or 8 Duke Street being formally considered for inclusion on the Municipal Heritage Inventory.

In June 2021, Council resolved to sell 6 Duke Street as part of an asset rationalisation strategy. Given the previous resolution number 100/07/16, the property was advertised with the building to be sold separately. However, part 3 of the 2016 resolution precludes the land being sold until it is cleared. Feedback from the auctioneer engaged to auction the property is that the property is more likely to sell as a package.

To give effect to Council's resolution 133/06/21 and allow the property to be sold as a package, resolution 100/07/16 is required to be revoked.

COMMENTS AND DETAILS

It is clear the Council has considered the information and advice provided to it over a number of years regarding the heritage value of this property both formally during Council meetings and informally via Council forums and discussion papers. Whether the heritage value of the property in question is significant is subjective, however Council resolutions on the matter indicate a consistent desire to dispose of the property based on the cost to maintain the property on an on-going basis and in light of other fiscal restraints.

It is acknowledged that the property is within the Toodyay Central Heritage Area and that the building has some heritage value. It is not listed on the State Heritage Register nor currently on the Shire's Municipal Heritage Inventory (MHI). However, whether the property is listed on the MHI or not is irrelevant.

The Shire is required to provide certain disclosures to prospective purchasers. The property is listed on the Shire's asbestos register which has been disclosed to the selling agent. He has also been informed that the property is located within the Toodyay Central Heritage Area. The onus is on potential purchasers to make enquiries regarding any restrictions this may impose. Officers have already fielded several such enquiries.

It should be noted that the provisions of *Town Planning Scheme No 4* and *Local Planning Policy 20* will need to be considered if and when a development application is received from whomever purchases the property.

The matter of the sale of 6 Duke Street was investigated as part of the recent Authorised Inquiry. The following statements from the Inquiry report in relation to this matter are relevant:

- *It is noted in the report from the Heritage Society there was some heritage significance to the building but it was not heritage listed or listed on the Municipal Inventory. The building had been relocated previously. As the asset is of little historical value the council was free to dispose of the asset as it saw fit in line with current council policies.*
- *The fact that the premises in question is within a heritage precinct, is irrelevant in terms of disposing of the premises. The Shire identified it as an asset to be disposed of in accordance with its asset rationalisation strategy.*
- *Local Planning Policy 20 is a guideline for development within the central Toodyay heritage area.*
- *The Council has neglected to contact adjacent landowners and have only considered current tenants in this case. Thus, the Council have failed to adhere to their own Disposal of Property policy. (This was the only formal Finding in relation to this matter)*

Officers have written to stakeholders to notify them that a public auction will be held on Saturday 21 August 2021 to dispose of 6 Duke Street Toodyay and two other properties. Stakeholders have been encouraged to participate in the auction if they have a genuine interest in purchasing the property.

In order to proceed with the disposal of 6 Duke Street via public auction, it will be necessary to revoke Council Resolution No. 100/07/16 which has not, to date, been implemented by Shire Officers according to Shire records.

IMPLICATIONS TO CONSIDER

Consultative:

On 2 August 2021 a Council workshop was held to discuss several matters, including the 6 Duke Street property sale. There were six Councillors present at the workshop.

Strategic:

This report relates to the following focus areas, objectives and strategies contained in the Shire's **Strategic Community Plan**.

- **Governance: The way the Shire leads and operates**
 - O3: *Ensure rigorous organisational systems*
 - S 3.1 *Maintain long term financial and resourcing plans.*
- **Built environment: Our buildings, roads and transport.**
 - O2: *Ensure our built environment meets community needs.*
 - S 2.1 *Encourage diverse housing and development options*
 - O3: *Improve processes to support the built environment*
 - S 3.2 *Implement asset management rationalisation and consolidation*

The **Shire of Toodyay Local Planning Scheme No. 4** also applies.

Policy related:

F.12 Disposal of Property

LPP.20 Central Toodyay Heritage Area Planning

A.18 Risk Management

Financial:

The revoking of the resolution means that the property can be disposed of as a package and is more likely to attract a purchaser. Proceeds from the sale of the property will be transferred to the Asset Development Reserve for the purpose of maintaining and upgrading Shire assets. The sale will also generate annual rates revenue and reduce the Shire's building maintenance obligations.

Legal and Statutory:

Local Government Act 1995 s.5.25 (1)(e) refers to the regulations about the circumstances and manner in which a decision made at a Council meeting may be revoked.

Regulation 10 of the *Local Government (Administration) Regulations 1996* makes provision for the revocation of a Council or Committee decision.

Shire of Toodyay Standing Orders Local Law 2008 - Clause 9.2(2) and Part 15 guide Council's actions in relation to revoking or changing decisions.

Risk related:

There is a financial risk to the Shire should the disposal of 6 Duke Street not proceed. Council will need to allocate on-going funds to maintain a building that has been determined as surplus to the Shire's needs.

There is a reputational risk in relation to the perceived heritage significance of the property should the sale proceed. As discussed above, information and advice has been provided to Council over a number of years with a consistent theme of disposal by sale demonstrated.

Workforce

This matter has been on-going for a number of years and has consumed a significant amount of Council and officer time.

VOTING REQUIREMENTS

Absolute Majority

CR PEARCE, CR MADACSI, CR HART NOTICE OF MOTION

That Council Resolution No. 100/07/16 is revoked in accordance with *Shire of Toodyay Standing Order 15.1* and Regulation 10 of the *Local Government (Administration) Regulations 1996*.

7. CLOSURE OF MEETING