

Special Council Meeting

1 February 2023

Minutes

To: The President and Councillors.

Here within are the Minutes of the Special 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.

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.

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Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following a Special 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 3 February 2023.


Suzie Haslehurst
CHIEF EXECUTIVE OFFICER

Confirmed Minutes

These minutes were confirmed at a meeting held on 22 February 2023.

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 R Madacsi, Shire President, declared the meeting open at 2.02pm.

The Shire President read through other preliminaries.

The Shire President read aloud an 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

Members

Cr R Madacsi	Shire President
Cr B Ruthven	Deputy Shire President
Cr C Duri	Councillor
Cr P Hart	Councillor
Cr M McKeown	Councillor
Cr S Pearce	Councillor
Cr D Wrench	Councillor

Staff

Ms S Haslehurst	Chief Executive Officer
Mr J Augustin	Manager Infrastructure and Assets
Ms T Bateman	Manager Corporate and Community Services
Mr H de Vos	Manager Development and Regulation
Mrs S Schafers	Governance Officer
Mr M Werder	Project Manager
Mrs M Rebane	Executive Assistant

Visitors

M Sinclair-Jones	P Ruthven
L Graham	G Appleby
P Haslehurst	

2.1 APOLOGIES

Cr S McCormick	Councillor
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2.2 APPROVED LEAVE OF ABSENCE

Nil

3 DISCLOSURE OF INTEREST

The Chief Executive Officer advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

4 PUBLIC QUESTIONS

4.1 PUBLIC QUESTION TIME

4.1.1 L GRAHAM

Question 1

Clarification regarding Item 3 on the Council Meeting Agenda. Was there, or was there not, any disclosures of interest?

Shire President response:

No there was no disclosure of interest.

Question 2

The *Local Government (Administration) Regulations 1996* require an employee with an interest in a matter to disclose it in a written notice before a meeting. Have you received any written declarations from any employees in relation to Item 6.1.1.?

Shire President response:

No I have not and the reason is quite simple as the CEO is not intending to be here, for that item, and that applies to the attendance of officers and councillors within the body of the meeting.

Question 3

The same regulations require at a meeting that the person presiding must bring the notice and its contents to the attention of the persons present immediately before the matter of its disclosure is discussed. Are you certain that there is nothing that you need to bring to our attention?

Shire President response:

If you are referring to a declaration of interest then no, for the reasons I gave.

Question 4

Does the Shire of Toodyay have a Code of Conduct for employees?

Shire President response:

Yes we do.

Question 5

Is the Code of Conduct for employees published on the website because I could not find it?

Shire President response:

I have to take that on notice.

Cr McKeown sought clarification in regard to the Code of Conduct for employees.

The Presiding Member advised that the question was taken on notice and further clarification cannot be made during public questioning.

Question 6

In regard to Item 6.1.1 and clause 2 of the Shires Local Planning Policy No. 8 says:

Where it is brought to the attention of Council that an unauthorised use has commenced, or that an approved use has commenced without compliance with the conditions of

approval, Council Officers shall inspect the premises in order to confirm the activities being undertaken or to confirm the conditions not being met.

When did that compulsory inspection required under that policy take place?

Manager Development and Regulation response:

I don't have the exact date, but council officers did inspect the property.

Shire President response:

The question will be taken on notice to provide the exact date..

Question 7

Clause 3 of the same policy says "Following this abovementioned inspection, landowners will be issued with.." and there is a list of matters and there is a Point (c) that says "A direction being served to cease the unauthorised use forthwith, as the unauthorised use is in breach of the Council's Local Planning Scheme." Because the landowner in this case is the Shire of Toodyay was such a direction ever issued and if it was, to whom was the direction issued?

Shire President response:

It was not issued.

Manager Development and Regulation response:

No it was not issued.

Question 8

Why was it not issued when your policy says that it will be?

Manager Development and Regulation response:

I confirm it was not issued and we felt that we were covering the matters by asking for the application to come through to the Council.

Shire President response:

To put it into context, there was a Development Application already lodged that was in the process of being attended to.

Question 9

Who is the applicant for that Development Approval for the container to be placed at Clinton Street?

Shire President response:

It was the CEO, Mrs Haslehurst.

Question 10

The letter attached to the planning application and sent to the Planning Department clearly says "as this is a matter in which I have a direct conflict" and it is signed by the CEO, Suzie Haslehurst; as the employee lodging that application had clearly declared a conflict of interest to a staff member, when were Councillors advised of the conflict? The applicant wrote to the Planning Department and advised the Planning Department that she had a conflict. When were Councillors advised of that conflict?

Shire President response:

Formally advised or not at all? Councillors were aware that the CEO was moving to the property the CEO and we certainly were aware that anything pertaining to the CEO would be a conflict of interest.

5 PUBLIC SUBMISSIONS

5.1. G APPLEBY SUBMISSION

G Appleby addressed Council regarding 6.1.1 and tabled a submission at 2.13pm.

I wish to address the matters contained in the Officer's Report as they appear to be inaccurate in some cases, and in other cases completely wrong. Five minutes is not long enough to read the whole of my submission but I will circulate the full submission to Councillors because it will clarify what I talk about now.

The first item on the agenda in the report it says councillors are told this is a straightforward application and it would normally be decided upon under delegated authority. This is not true and the reasons are contained in my full submission.

The Presiding Member asked Mr Appleby to explain why he believed it was not true.

Mr Appleby's response was as follows:

I believe it is not true because your planning regulations say that all container applications must come before Council and we could go on about delegated authority. It comes from the Council to the CEO. The CEO then subdelegates authority to the employees. In this particular instance the CEO has a conflict of interest. She cannot have delegated authority on the matter and therefore she cannot subdelegate authority to an employee.

The Presiding Member sought clarification from Mr Appleby that his submission contained a more indepth explanation about his reasonings.

Mr Appleby confirmed that it did.

Mr Appleby continued his submission as follows:

Councillors are informed in this matter, as in most issues before Council, that the matter is quasijudicial and obviously because Councillors determine these matters in that fashion they are obviously fully aware of the meaning of it and the implication; but for those in the chamber who are not, I will just clarify what the term actually means because in many ways it is like a court of law. Because of that it imposes certain legal obligations and requirements of a quasijudicial body and I will quote it says *"they must give proper weight to submissions and conduct investigations into disputed claims of alleged infractions of rules and regulations. It must put aside partisan views to determine the matter in the same way as a court of law."*

I do not see how Council can actually make any decision today based on that because these submissions are not in the public domain at this stage. The first line of the Officer's Recommendation says that *"it is to note submissions"* and I hope the Councillors understand by that they must reflect on the gravity of that role, especially when they will try to adjudicate in a matter of this delicate nature and to ensure that submissions are given full weight.

Officer's Recommendation 1 would appear to encourage Councillors to support an unlawful and incomplete development application which breaches Shire policies, the planning code, Acts of Parliament and regulations.

In the report the Officer suggests that Councillors could choose an option to refuse the application but informs Councillors that generally Officers seek to use this as a last resort however, the alternative option (Resolution 2) does not appear in the Agenda and it is unthinkable under the circumstances that a Resolution 2, because Resolution 1 is in the agenda would have been withdrawn. I therefore assume that page 8 in the agenda was overlooked when they published it but it is obviously not important because Councillors of course do have the power to raise matters, amend resolutions, and suggest alternative motions. The Officer's Report also tells us that the shipping container was placed on the shire property without authority and proper consent and the report also tells us that the application for a shipping container is in a designated zone such as a townsite or heritage zone and it is stipulated it will not be supported unless it is for temporary building site works.

The Presiding Member informed Mr Appleby that the five minute time limit had been reached and asked Mr Appleby to summarise or give him an extension to complete his submission.

Mr Appleby continued his submission as follows:

The Officer tries to justify, ignoring regulations, laws, codes and so on, by stating there is a legal precedent for doing so and the Officer does this by quoting from various findings of tribunals. These particular quoted findings that he put in his report are merely opinions of Council for appellants in tribunal cases. In each of the three cases he quotes the appeal was lost but it is totally irrelevant because legal precedence has nothing to do with that.

I will give you the complete interpretation. Legal precedence means "that judges are bound to follow the interpretations of the law, made by judges in a higher courts, in cases of similar facts involving similar principles. It does not mean that council appellants in tribunals should be given any more weight.

Attachments

- 1 Submission from G Appleby

5.2 L GRAHAM SUBMISSION

L Graham addressed Council regarding 6.1.1 and tabled a submission at 2.22pm.

The Presiding Member suggested that after the submission that Councillors would have a short hiatus to brief themselves on the material provided by the submitters.

Mr Graham's commenced his submission as follows:

The post event justification that was providing advice that you have been given by your staff says you should approve this bizarre event just because you can but let me tell you that the last time the Shire did that it resulted in an adverse finding in the formal inquiry.

Councillors, not only should you not approve this item but you cannot lawfully approve it and I refer to the development application that I have given you and I

note that it has not provided to you in the agenda papers and has not been circulated to Councillors.

The Presiding Member asked Mr Graham to not make statements that you cannot validate. The application for Development Approval was circulated to Councillors.

Mr Graham's continued his submission as follows:

It was certainly not in the agenda papers and I am pleased to hear that. If you look at the first page. The owners name is blank. It is not redacted. It is blank. If you then go to the section below that and see the contact information you will see a highlighted statement that says *"This application will not proceed without the signature of all owners."* Those two facts alone that the owner is not identified and the owners have not signed it kill this application stone motherless dead, like monty python's parrot Madame speaker it is dead and you cannot approve it and your form says you cannot.

On the next page below the redacted applicant's signature under a mandated verification where the applicant certified that they understood a few things, including that they had accepted that their development application may not be accepted if the form is incomplete. The form is incomplete. It has not been signed by the owner. Why was it accepted is the question that Councillors should be asking.

The Presiding Member sought clarification as follows:

Was the form that you have provided to Council the redacted form that you received under FOI.

Mr Graham's reponse:

Yes.

The Presiding Member sought clarification as follows:

Has the information been redacted from the Development Application?

Mr Graham's reponse:

Yes. None of which is relevant to the case because neither the name, nor the statement have been redacted. The name of the owner is just blank.

Mr Graham's continued his submission as follows:

Pages 2, 3 and 4 of the application are completely blank with none of the mandated information being provided, and the compulsory bush fire planning is completely missing.

Page 5 is an irrelevant aerial photo of the property with none of the required planning information being provided.

There are some details in the agenda, but they could not possibly be from the application because they are not provided in the application.

At the time the application was made, the applicant was not even a tenant but even if the applicant was a tenant they could still not make a development application on a rental property. Only the owner could do that and the owner did not.

In the letter in the Agenda papers the applicant said *"we have arranged for the container to be delivered this Wednesday 14 December 2022."* What that means Madame Shire President is that the applicant formally advised the planning

department of the Shire that the applicant was, contrary to the act, the regulations, the town plan and Council's own policies, going to put a container onto the property without the approval that is legally required before that can take place.

Madame Shire President, when you are officially advised that someone is going to break the law the only course of action open to a public officer is to direct that not occur. In this case that did not happen and the application should not have been accepted for all the reasons I have mentioned before.

As a Council now you are being told that ignoring all of that and validating unlawful and improper behaviour is alright. Well it isn't Councillors, and your Code of Conduct requires you to refuse to approve and endorse unlawful acts, conflicts of interest, invalid applications and broken processes. Shire Staff are not allowed to ignore the law, regulations and Council policy and it is your job to hold them to account because the rules apply to everyone, including Shire staff.

In closing Madame Shire President, I just want to say that even if all the childish and paranoid nonsense being circulated about my motives is correct, and it isn't, but even if it is, none of it changes the basic and fundamental fact that a container was placed on Council property by a Council employee without approval and that is unlawful.

It was an unlawful act that was officially brought to the attention of Officeholders on the 2nd of January 2023; and since then nothing meaningful has happened. Councillors, there is no evidence that anyone in the Shire has acted appropriately in this matter and you need to reject these proposals and you need to demand that the Shire's behaviour be independently investigated. The only thing that I will say at the end is one of the documents I have attached is a twelve page document of all the policies, regulations, acts, and laws that have been breached or not complied with.

Attachments

- 1 Document for submission from Mr Graham (Ref: IAM87860); and
- 2 Copy of Development Application provided under FOI to Mr Graham - tabled to Councillors by Mr Graham at 2.23pm.

The Shire President adjourned the meeting at 2.29pm.

The CEO departed Council Chambers at 2.29pm.

The Shire President resumed the meeting at 2.41pm.

6 OFFICER REPORTS

6.1 DEVELOPMENT AND REGULATION

6.1.1 P2022-122 Lot 14 (No.19A) Clinton Street, Toodyay - Temporary Placement of 20FT Shipping Container

Date of Report:	24 January 2023
File Reference:	P2022-122
Author:	H de Vos – Manager Development and Regulation
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Quasi-Judicial
Attachments:	1. P2022-122 - Application details ↓

SUMMARY

Applicant: S Haslehurst
Owner: Shire of Toodyay
Proposal: Temporary placement of 20FT Shipping Container
Location: Lot 14 (No. 19A) Clinton Street, Toodyay

PURPOSE OF THE REPORT

Council is requested to consider an application for development approval for a 20ft shipping container to be placed on Lot 14 (No. 19A) Clinton Street in Toodyay. The shipping container is already onsite, so the application is being considered retrospectively. The Council is being asked to determine this matter despite delegated authority being available at Officer level, as it is an application from the Chief Executive Officer (CEO).

BACKGROUND

Lot 14 (No. 19A) Clinton Street in Toodyay is a 1213 m² property which is zoned Residential (R10) under the Shire of Toodyay’s *Local Planning Scheme No. 4* (LPS4 or the Scheme). The property is owned by the Shire of Toodyay, and it is within the Central Toodyay Heritage Area. The existing development onsite consists of a duplex dwelling and two outbuildings.

On 12 December 2022, the Shire of Toodyay received an application for development approval for the temporary placement of a 20ft shipping container onsite.

The applicant provides the reason for this as follows:

“As you are aware, we will be moving to the Shire owned residence at 19A Clinton Street early in the New Year. As the residence is furnished, we will need to store our furniture and

effects for approximately 4 months until tenants vacate a premises owned by us in Dawesville.

The proposed location in the driveway towards the rear of the house will ensure security for our belongings while causing the least disruption to visual amenity.

In order to give us time to fill the container prior to our current lease termination, we have arranged for the container to be delivered this Wednesday 14 December 2022. We anticipate removing the container prior to 30 April 2023.

As this is an issue in which I have a direct conflict, I understand you will be seeking approval from Council for this application."

A subsequent email from the applicant was received stating:

As discussed, our tenants have asked for an extension until the end of May, so I am seeking approval to have the sea container at Clinton Street until then.

This additional timeframe has been factored into Officer Recommendations.

Given the application was received on 12 December 2022, pursuant to Clause 75(1)(a) of Schedule 2 of the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#), this application must be determined within 90 days or by 12 March 2023.

For further details including a plan, please refer to **Attachment 1 – Application Details**.

COMMENTS AND DETAILS

The applicant is requesting approval for a shipping container which is already in situ. Therefore, it is currently unauthorised and requires Council approval.

Whilst it is not ideal, it is expected and even catered for in both the deemed provisions and the *Planning and Development Regulations 2009*.

To this degree, the local government has discretion built into the decision-making process, particularly with regards to how the Scheme is applied and Local Planning Policies. This has been backed up in legal precedent.

Planning schemes should be '*applied in a practical and common sense, and not an overly technical way, in a fashion that will best achieve their evident purpose*': **Paintessa Developments Pty Ltd and Town of East Fremantle** [2014] WASAT 81; (2014) 85 SR (WA) 312 at [21].

In **Clive Elliott Jennings & Co Pty Ltd v Western Australian Planning Commission** [2002] WASCA 276; (2002) 122 LGERA 433, Barker J said at [24]:

If [a planning authority] has adopted [a relevant policy], and it is relevant to the application, the policy will be expected to guide the exercise of discretion. However, the existence of such a 'policy' is not intended to replace the discretion of the [planning authority] in the sense that it is to be inflexibly applied regardless of the merits of the particular case before it. Notwithstanding this understanding, the relevant consideration in many applications will be why the 'policy' should not be applied; why the planning principles that find expression in the 'policy' are not relevant to the particular application. Good public administration demands no less an approach.

Indeed, as de Jersey CJ once famously observed, '*... good town planning, basic principles aside, depends on a large element of fluidity and flexibility*': **Stockland Development Pty Ltd v Townsville City Council** [2013] QCA 210; (2013) 195 LGERA 317, at [26].

In this instance we are told the following. The plans to store furniture in the metropolitan area have been temporarily delayed.

The applicant was required to find an accommodation solution in a very tough rental market and was required to move over the Christmas period.

The shipping container is and was always intended to be a temporary arrangement.

The Council is able to vary the requirements of this local planning policy as it is a situation similar to allowing a shipping container on a residential site for the purposes of a build. In this regard, Officers see no difference in impact.

This is a straightforward application and normally, applications like this would not come to Council and can be determined under delegated authority.

The options available to Council are as follows:

Council can approve the application. It is recommended that if this option is taken that conditions are included limiting the placement for six months.

Or Council can refuse the application. There is also an option for punitive measures to be taken with a fine issued, however this is not recommended. Generally Officers seek to use this as a last resort pathway.

The Officer has provided a recommendation to approve this development for six months.

IMPLICATIONS TO CONSIDER

Consultative:

This application was advertised in accordance with the Shire's adopted Local Planning Policy – Advertising of Planning Proposals. This policy is consistent with the Clause 64 of Schedule 2 of the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) which under 64(4) states that:

- 4) *For the purposes of subclause (1)(b) or (c), an application that is not a complex application is advertised by doing **any or all** of the following, **as determined by the local government** —*
 - a) *publishing in accordance with clause 87 —*
 - i. *a notice of the proposed development in the form set out in clause 86(3); and*
 - ii. *the application for development approval; and*
 - iii. *any accompanying material in relation to the application that the local government considers should be published;*
 - b) *giving notice of the proposed development to owners and occupiers of properties in the vicinity of the development who, **in the opinion of the local government**, are likely to be affected by the granting of development approval;*
 - c) *erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).*

In this instance, Shire Officers determined that a mailout was the most appropriate form of giving notice.

Letters including a redacted cover letter from the applicant and a map were sent out for a period of 14 days. This period expired on 4 January 2023.

Officers are aware that two community members have contacted elected members directly to raise concerns about this application. It is noted that the basis of these objections relates to procedural matters rather than the development itself.

A third submission was received by email seeking clarification on the purpose of the shipping container. This was clarified with the submitter over the phone.

Strategic:

Shire of Toodyay Strategic Community Plan – Toodyay 2028

- Provide accountable and transparent leadership for the community
- Consistently improve our governance practices

Policy related:

State Planning Policy 7.3 – Residential Design Codes – Volume 1

Shipping containers are regarded as outbuildings in this policy. The definition of an outbuilding is an enclosed non-habitable structure that is detached from any dwelling.

5.4.3 Outbuildings

C3 Outbuildings associated with a dwelling site address either:

- (i) the standards for small outbuildings (A. Small outbuilding); or
- (ii) the standards for large and multiple outbuildings (B. Large and multiple outbuildings).

B	Large multiple outbuildings	and	<ul style="list-style-type: none"> (i) individually or collectively does not exceed 60m² in area or 10 per cent in aggregate of the site area, whichever is the lesser; (ii) set back in accordance with Table 2a; (iii) does not exceed a wall height of 2.4m; (iv) does not exceed a ridge height of 4.2m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce the open space and outdoor living area requirements in Table 1.
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Calculations and demonstration of compliance

The 20ft shipping container is in metric units 5.9m (L), 2.3m (W) and 2.3m (H).

This gives the structure an area of 13.57m²

There is an existing shed in the property which is 6m (L) x 4m (W) = 24m²

Aggregate area = 37.57m² = aggregate of site area of 6.43% - Complies (I)

Setback for wall length of 9m or less with a wall height of 3.5m or less is 1m – Complies (II)

Wall height is 2.3m – Complies (III)

Ridge height equal to wall height of 2.3m – Complies (IV)

The shipping container is setback approximately 14m which is not within the 7.5m front setback – Complies (V)

Total site area is 583.49m² Total building footprint of half of duplex, shipping container and existing shed is 120m² + 24m² + 13.57m² = 157.57m² = 27% of area which leaves 73% open space – Complies (VI)

These calculations are based on dividing the lot into two halves to reflect the duplex context. The total lot size for Lot 14 is 1213m² and there is a similar 24m shed on the 19B side of the duplex.

As is demonstrated this meets the deemed-to-comply provisions of the R-Codes.

Local Planning Policy – Advertising of Planning Proposals.

The application was advertised in accordance with this policy.

Local Planning Policy - Use of Sea Containers & Other Similar Storage Structures

This application does not comply with the policy clause 4 which states that:

4. As sea containers and other similar structures may have an adverse effect on the visual amenity of an area, their location in Residential or Town Centre zones will not be supported unless the structure is for temporary building site works, as described in Part 2.

By virtue of the zoning – this development does not comply.

However, the policy at clause 8 states:

8. The Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical, or such variation is warranted in the circumstances of the case.

It is considered that the shipping container complies with the following design and location criteria in the policy:

- The structure is located so it has low visibility from any road and/or adjoining property, observing all setback requirements contained in Council's Local Planning Scheme No 4.
- The structure is located behind existing buildings and/or screening vegetation and not be located in front of the established or proposed building line.
- The structure is painted in a colour to blend with adjacent buildings or in an earth tone to blend with the natural landscape and vegetation.

Draft Local Planning Policy – Non-habitable Structures.

The Draft Policy has carried over the components of the existing policy and therefore this development would be non-complaint on account of the zoning.

Local Planning Policy – Central Toodyay Heritage Area

It is noted that the structure does not meet the roof pitch requirements of this policy, however this is disregarded as the structure is only a temporary placement and thus no modifications are required.

Financial:

Given the development has already occurred, the applicant has been required to pay the penalty fees in accordance with the [Planning and Development Regulations 2009 under Schedule 2\(2\)](#).

Should Council choose to refuse this application, the applicant has the right of appeal through the State Administrative Tribunal. Were this to happen, the Shire would likely have

to commit additional funds to undergo this process, and there is a potential financial implication for loss of productivity due to Officer time required in dealing with such matters.

Legal and Statutory:

[Planning and Development Act 2005](#)

Planning and Development Regulations 2009

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Toodyay Local Planning Scheme No. 4

Risk related:

In accordance with the Shire's Risk Management Policy this development rightly or wrongly has attracted a minor risk consequence which pertains to reputational damage which is assessed as substantiated, low impact, low news item. Given the circumstances and current political climate in the Shire with regards to this development – there is an almost certain likelihood for this to occur. This gives a risk score of ten (10) – which is classified as being high.

Workforce related:

This application has generated more workforce resource use than normal and is likely to continue to do so.

VOTING REQUIREMENTS

Simple Majority

Cr McKeown objected, by way of a Point of Order, in accordance with Standing Order 8.2 pertaining to Standing Order 11.1 because the Disclosure of Interest had not been made and the regulations have not been adhered to in that if the Code of Conduct requires that a local government employee who has an interest in a matter to be discussed at a council or committee meeting attended by the local government employee disclose the nature of the interest in a written notice to the CEO before the meeting or at the meeting immediately before the matter is discussed.

The Presiding Member rejected the Point of Order in accordance with Standing Order 8.5 and stated that it was raised earlier in the submissions and I did point out that the Officer with the interest is not present at the meeting, and that is the intent of the disclosure of interest. My ruling is that it is not relevant in this case as the CEO is not present, is not participating and was in no way involved in the writing of the report being considered.

Cr McKeown requested the Presiding Member ensure that the minutes record include the following wording from the *Local Government (Administration) Regulations 1996*:

19AD. Conflicts of interest

- (1) A code of conduct must contain a requirement that a local government employee who has an interest in any matter to be discussed at a council or committee meeting attended by the local government employee disclose the nature of the interest —*
 - (a) in a written notice given to the CEO before the meeting; or*
 - (b) at the meeting immediately before the matter is discussed.*

The Presiding Member allowed for the inclusion of s.19AD(1) as above, despite there being no requirement within the *Shire of Toodyay's Standing Orders Local Law 2008* to do so.

The Presiding Member asked for a mover of the Officer's Recommendation.

Clarification was sought

Cr McKeown moved an Alternate Motion as follows:

That Council:

- 1. Rejects the development application for the placement of a shipping container at 19A Clinton Street;**
- 2. Orders the removal of the shipping container before Saturday 4 February 2023;**
- 3. Directs the Shire to issue the maximum fine of \$500 for the offence committed to regulation 42 of the *Planning and Development Regulations 2009* to the Applicant for breaching s.214 of the *Planning and Development Act 2005* within 30 days of this Council resolution; and**
- 4. Refers the matter of the sea container at 19A Clinton Street to the Department of Local Government, Sport and Cultural Industries as a breach of State and Local Government laws, regulations and codes.**
- 5. Directs the CEO to post a copy of the Code of Conducts for Employees on the Shire website as required by the *Local Government Act 1995*.**

Cr Ruthven objected to the motion.

The motion was lost for want of a seconder.

The Presiding Member asked for a mover of the Officer's Recommendation.

Cr Pearce moved the Officer's Recommendation.

Clarification was sought.

Cr Ruthven proposed to move a procedural motion for the member to no longer be heard in accordance with Standing Order 10.1(b).

The Presiding Member rejected the proposal on the grounds that the meeting was currently in the midst of seeking clarification and asking questions.

Cr McKeown moved a Procedural Motion as follows:

That the meeting proceed to the next item of business (Item 6.1.2) at 3.07pm in accordance with Standing Order 10.1(a).

The motion was put.

PROCEDURAL MOTION/COUNCIL RESOLUTION NO. SCM001/02/23

MOVED Cr M McKeown

That the meeting proceed to the next item of business (Item 6.1.2) at 3.07pm in accordance with Standing Order 10.1(a).

Voted For: Cr M McKeown

Voted Against: Crs R Madacsi, B Ruthven, C Duri, P Hart, S Pearce and D Wrench

MOTION LOST 1/6

The Presiding Member confirmed that the procedural motion had been lost.

Cr McKeown objected to Cr Pearce's motion.

Cr Hart seconded the motion.

Debate commenced.

The motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. SCM002/02/23

MOVED Cr S Pearce

SECONDED Cr P Hart

That Council

1. Notes the submissions received in relation to the application for development approval for the temporary placement a 20FT shipping container at Lot 14 (No. 19A) Clinton Street in Toodyay.
2. Pursuant to Clause 68(2)(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, approves the temporary placement of a 20FT shipping container at Lot 14 (No. 19A) Clinton Street, Toodyay, subject to the following conditions:
 - (a) Development is to be in accordance with the plans (Attachment 1);
 - (b) The shipping container must be removed from the property within six (6) months of the date of this application (12 December 2022) which is by 12 June 2023.
 - (c) If an extension to this time in Condition 2(b) is required, it must be brought to the Ordinary Council Meeting for determination by the Council on or before 24 May 2023.

Voted For: Crs R Madacsi, B Ruthven, C Duri, P Hart, S Pearce and D Wrench

Voted Against: Cr M McKeown

MOTION CARRIED 6/1



12 December 2022

Hugo de Vos
Manager Development and Regulation
Shire of Toodyay
PO Box 96
Toodyay WA 6566

Dear Hugo

Please find attached a completed Development Application for approval to place a 20' shipping container in the driveway of 19A Clinton Street, Toodyay WA 6566.

As you are aware, we will be moving to the Shire owned residence at 19A Clinton Street early in the new year. As the residence is furnished, we will need to store our furniture and effects for approximately 4 months until tenants vacate a premises owned by us in Dawesville.

The proposed location in the driveway towards the rear of the house will ensure security for our belongings while causing the least disruption to visual amenity.

In order to give us time to fill the container prior to our current lease termination, we have arranged for the container to be delivered this Wednesday 14 December 2022. We anticipate removing the container prior to 30 April 2023.

As this is an issue in which I have a direct conflict, I understand you will be seeking approval from Council for this application.

Please don't hesitate to contact me on  if you have any queries.

Yours sincerely





Department of Planning,
Lands and Heritage

Shipping Container 19A Clinton Street Toodyay



1: 360



0.0 Kilometers

Date produced: 12-Dec-2022

<p>Legend</p> <p><input type="checkbox"/> Cadastre</p>	<p>Landgate information contained in this printed map is for personal and non-commercial use and is to be used as a guide only. Use for commercial advantage or monetary compensation is strictly prohibited. The Western Australia Land Information Authority (Landgate) takes no responsibility as to the reliability, currency, or accuracy of Landgate data contained on this website or any output derived from that data.</p>	<p>Notes</p>
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

6.2 CORPORATE AND COMMUNITY SERVICES

6.2.1 Adoption of the Revised 2022/2023 Annual Budget

Date of Report:	3 January 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	T Bateman – Manager Corporate and Community Services
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	SCM 10/08/2022 151/08/22
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Notification of Minister's decision not to approve application ↓ 2. SAT Determination [2022] WASAT 113 - Shire of Toodyay Differential Rates ↓ 3. Revised 2022/2023 Annual Budget ↓

PURPOSE OF THE REPORT

To consider and adopt the 2022/2023 Revised Statutory Annual Budget.

BACKGROUND

The 2022/2023 Annual Budget was adopted at a Special Council Meeting held 10 August 2022. The budget was adopted prior to receiving Ministerial approval for a newly introduced Mining Tenement Differential Rate. Approval was not granted, the rate was subsequently quashed by the State Administrative Tribunal (SAT), and as a result, Officers are presenting a revised budget to address the reduction in rates revenue.

Below is a summary of the process followed prior to receiving the SAT orders;

25 May 2022 - Introduction of Differential Mining Rates

At its Ordinary Council Meeting held 25 May 2022, Council resolved to introduce a Mining Tenement Differential Rate to contribute to the costs incurred by the Shire as a result of mining activities (OCM081/05/22). Officers estimated an additional \$200,000 would be required to maintain the Shire's road infrastructure due to increased heavy mining vehicle traffic and recommended these funds be collected through a differential rate.

8 June 2022 - Advertising of Differential Rates

It is a requirement of section 6.36(3) of the *Local Government Act 1995* that differential rates be advertised prior to adoption by Council to provide ratepayers an opportunity to make

submissions for consideration during the budget adoption process. The Statement of Objects and Reasons included the proposed UV Mining rate.

13 July 2022 - Approval of Differential Rates

Following the 21-day advertising period seeking feedback on the proposed differential rates, Officers brought a report back to Council to consider the submissions received. All submissions related to the proposed UV Mining rate. One submission proposed that instead of applying a UV Mining rate to recover costs incurred as a result of the mining industry, the Shire invoice operators separately for actual costs, acknowledging the additional cost to Council. Officers considered this a less efficient way of recovering costs and an additional burden on Shire resources.

Section 6.33(3) of the *Local Government Act 1995* states that in imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it. The UV Mining rate fell into this category. Consequently, Officers applied for Ministerial approval on 15 July 2022 with the expectation of receiving a response by 4 August 2022 prior to budget adoption.

10 Aug 2022 – Adoption of 2022/23 Annual Budget

The target date for adoption of the 2022/23 Annual Budget was initially 20 July 2022. Due to the requirement to seek ministerial approval for the rates, a process which had not been factored into the timeline, budget adoption was delayed and set for 10 August 2022.

The budget was presented to Council including the revenue to be raised from the proposed differential rate. As of 5 August 2022, the Shire had not received a response from the Minister regarding the application for approval. In the report, Officers commented that should Ministerial approval not be provided for the differential rate, a report would be brought back to Council to approve a budget amendment. Officers considered the rate fair and equitable in line with the other rating categories and were therefore not expecting the minister to refuse the application. Additionally, it was considered prudent to press on with the budget adoption to ensure timely cashflow and commencement of projects.

31 Aug 2022 – Statutory deadline for adoption of annual budget

Local governments are required to adopt their annual budget between 1 June and 31 August each year or seek Ministerial approval for any deviation from this requirement. Council adopted its annual budget on 10 August 2022. Had Council waited to receive a response from the Minister, it would have been in breach of the requirement to adopt its budget within the statutory timeframe.

5 Sept 2022 – Notification of Minister's delegate's decision not to approve

Correspondence was received detailing the Minister's decision and further steps required to be taken by the Shire, including applying to SAT and seeking legal advice (**Attachment 1**). Officers later queried whether either of these elements were necessary considering the rates had not been imposed and sought advice on instead rescinding the relevant motions and presenting a revised budget. Reasons why this was an unacceptable solution are detailed in the SAT Orders (**Attachment 2**).

28 Sept 2022 - Request for SAT Resolution

The SAT may quash a local government rate under section 6.82 of the Act if it is of the opinion that the rate has been improperly made or imposed. This may occur where a local government has:

- imposed a differential rate that was more than twice the lowest without seeking Ministerial approval in the first instance
- imposed minimum payments on more than 50 percent of properties without seeking Ministerial approval in the first instance.

At the Special Council Meeting held 28 September 2022, Council requested the CEO to lodge an application with the State Administrative Tribunal to resolve the Mining differential rate as a result of legal advice received and further discussions with SAT officers and DLGSC.

21 Dec 2022 - SAT determination made

On 21 December 2022, the SAT issued the final orders as follows;

1. *The general rate imposed by the Shire of Toodyay upon rateable land within its district to be rated on unimproved value for the 2022-23 financial year pursuant to 6.32(1) of the Local Government Act 1995 (WA) is quashed pursuant to s 6.82 of that Act.*

The Shire was notified of the orders by its solicitor on 3 January 2023.

Whilst the decision was expected to be received earlier, the Senior Member said that there were some areas that had not been directly addressed by the Tribunal in the past and more consideration and time was needed before the Orders were made (see sections 61 to 63 for example).

Further detail and commentary on the process and submissions from each party can be found in in **Attachment 2**.

COMMENTS AND DETAILS

As a result of the above process and the SAT orders received, Officers are presenting an amended budget for Council's consideration. To address the orders, the UV Mining differential rate has been removed and the relevant properties that sat in this category will be rated as *UV General (incl. Mining)* as in previous years.

This path is based on the following advice from the DLGSC;

"... If the State Administrative Tribunal quash the Shire's 2022-23 UV Mining differential rate, or all the Shire's UV differential rates, then the Council will need to adopt compliant rates in the dollar and minimum charges for those properties where the rates were quashed.

If the UV Mining rate is quashed, the Council could resolve to rate the former UV Mining properties at the same rate in the dollar and minimum charge as UV General. However, please note that you cannot have separate UV differential rates with the same rate in the dollar.

Consequently, from property numbers in the budget, there would not be any non-compliance in relation to 6.35(3), as the calculation is made on the total of properties with the same rate in the dollar. In summary, the differential rates you are proposing are: -

General Rate – Unimproved Value (UV)

	Rate in \$	Minimum Charge
<i>UV General (incl. Mining)</i>	<i>0.014170</i>	<i>1,351.00</i>
<i>UV Rural</i>	<i>0.008298</i>	<i>1,351.00</i>

Additionally, from the information you have provided, they would not need Minister approval.”

Officers sought further advice on the process and queried the need to advertise the revised rates. The reply from Alan Carmichael, A/Manager Financial Policy & Accounting Support (DLGSC) confirmed the following;

“If the Shire is proposing to adopt differential rates with objects and reasons consistent with those previously advertised, then advertising in accordance with section 6.36 (1) of the Local Government Act 1995 is not considered necessary.”

Based on the above, Officers are proposing the following adjustments to the *General Rate – Unimproved Value (UV)* noting no change to the minimum rate;

Category	2022/23 Rate in \$	Minimum Rate (\$)
UV General (including Mining properties)	0.014170	1,351.00
UV Rural	0.008298	1,351.00

Reference to the UV Mining category has been removed from the Revised Statutory Budget (**Attachment 3**)– see *Note 2 Rates and Service Charges*.

UV Mining	0.885755	1,351.00
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In accordance with legislative requirements, there will be no UV categories more than twice the lowest category and all UV Mining rates will be charged the minimum, the same as last year. There will be less than 50% of the Unimproved Value (UV) properties on the minimum.

There will be no changes to the UV General and UV Rural categories compared to the original 2022/2023 Adopted Budget.

The intended roads maintenance expenditure budget that was proposed to be funded from the additional Mining Differential Rates will be reduced by \$152,715 matching the reduction in the rates revenue from the quashed Mining Differential Rates. Officers have been working with Chalice Mining on a Road Maintenance Agreement which will address the road maintenance requirements.

The draft Roads Maintenance Agreement has been prepared and will be reviewed prior to signing. All conditions have been discussed and generally agreed with Chalice personnel. The first Chalice initiated maintenance grade was completed in December.

Once the Officer Recommendation is approved by Council, the revised Rate Notices for the Mining Tenements will be issued for the 35 mining properties.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Local Government, Sports and Cultural Industries

Tim Houweling – Cornerstone Legal

State Administrative Tribunal Office

Mr Julian Misso – State Solicitors Office

Relevant ratepayers

Strategic:

Differential rates represent a strategic approach to rating. Rates are a major revenue source for Council used to achieve the objectives of the Strategic Community Plan and Corporate Business Plan. The purpose of levying rates is to meet the Shire's budget requirements to deliver services and projects each financial year.

Shire of Toodyay Strategic Community Plan 2028

Built environment: Our buildings, roads and transport:

O 1: Ensure safe and sustainable transport options.

Governance: The way the Shire leads and operates:

O 1: Provide accountable and transparent leadership for the community.

Policy related:

Long Term Financial Planning

Significant Accounting Policy

Dealing with Mining Proposals

Financial:

The proposed amendments will have a nil impact on the Revised Annual Budget 2022/2023.

Officers are proposing the following adjustments only;

Reduction in Rates Revenue - \$152,715

Reduction in Road Maintenance cost - -\$152,715

Legal and Statutory:

Sections 6.33 and 6.34 of the *Local Government Act 1995* allow local governments to impose differential rates and minimum payments. Section 6.36 requires local governments to give notice of certain rates before imposing them. Council was requested to endorse for advertising, the proposed rates in accordance with Section 6.36 of the Act.

Section 6.33 (3) states: "In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it".

Section 6.35 (6) of the *Local Government Act 1995* states that a differential minimum payment may be imposed.

Section 6.82 (1) of the *Local Government Act 1995* states that 'Where there is a question of general interest as to whether a rate or service charge was imposed in accordance with this Act, the local government or any person may refer the question to the State Administrative Tribunal to have it resolved'.

Risk related:

There are significant financial and operational risks associated with setting rates for the budget adoption process. Compliance with statutory provisions helps to mitigate these risks. The application of differential rates ensures the needs and responsibilities of various areas are addressed.

Workforce related:

There are no adverse workforce implications as a result of the officer’s recommendation.

VOTING REQUIREMENTS

Absolute Majority

Cr Pearce moved the Officer’s Recommendation.
 Clarification was sought.
The CEO returned to the Council Chambers at 3.40pm.
The CEO departed Council Chambers at 3.41pm.
 Further clarification was sought.
 Cr McKeown objected to the motion.
 Cr Hart seconded the motion.
 Debate commenced.
 The motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. SCM003/02/23

MOVED Cr S Pearce

SECONDED Cr P Hart

That Council:

1. Receives the SAT Determination [2022] WASAT 113 - Shire of Toodyay Differential Rates as attached to this report at **Attachment 2**.
2. Adopts the 2022/2023 Revised Statutory Annual Budget pursuant to the provisions of Section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*, as attached to this report at **Attachment 3** incorporating the following differential and minimum rates to Shire of Toodyay properties in the UV categories;

Category	2022/23 Rate in \$	Minimum Rate (\$)
UV General (including Mining properties)	0.014170	1,351.00
UV Rural	0.008298	1,351.00

3. Requests the CEO to issue Rate Notices to the 35 Mining Properties for the 2022/2023 financial year.
4. Requests the CEO to forward a copy of the Revised 2022/2023 Annual Budget to the Department of Local Government, Sports and Cultural Industries by 28 February 2023.

Voted For: Crs R Madacsi, B Ruthven, C Duri, P Hart, S Pearce and D Wrench

Voted Against: Cr M McKeown

MOTION CARRIED 6/1 BY ABSOLUTE MAJORITY



Department of
**Local Government, Sport
and Cultural Industries**

Our ref E22093333
Enquiries Subha Gunalan
Phone 08 6552 1731
Email Lg.accounting@dlgsc.wa.gov.au

Suzie Haslehurst
Chief Executive Officer
Shire of Toodyay
PO Box 96
TOODYAY WA 6566

s.haslehurst@toodyay.wa.gov.au

Dear Ms Haslehurst

SHIRE OF TOODYAY – 2022/23 ANNUAL BUDGET AND NON-COMPLIANT DIFFERENTIAL RATE

I refer to recent discussions between the Department of Local Government, Sport and Cultural Industries (DLGSC) and the Shire of Toodyay.

As advised, DLGSC has identified an issue with the Shire of Toodyay's (Shire) 2022-23 Annual Budget.

The Shire adopted their 2022-23 Budget at a Special Council Meeting on 10 August 2022 and in the process adopted a UV Mining general differential rate of 0.885755 which is more than double the lowest differential general rate for UV Rural of 0.8298, without the approval of the Minister pursuant to section 6.33(3) of the *Local Government Act 1995* (the Act). The Department considers the UV mining differential rate to be non-compliant with the Act.

In accordance with section 6.82 of the Act, where there is a question of general interest as to whether a rate was imposed in accordance with the Act, it may be referred to the State Administrative Tribunal (SAT) to have it resolved. If SAT determine that a rate has been improperly made or imposed, they may make an order quashing the rate.

Following the quashing of a rate by SAT under section 6.82 of the Act, the following actions are required by a local government:

- Impose a new general rate (per section 6.32(3)(b) of the Act); and
- Prepare and adopt a budget in a form and manner similar to the annual budget (per section 6.3(a) of the Act).

The Shire has standing to make an application to SAT under section 6.82 of the Act.

Gordon Stephenson House, 140 William Street
PO Box 8349 Perth Business Centre, WA 6849
Telephone (08) 6552 7300
Email info@dlgsc.wa.gov.au
Web www.dlgsc.wa.gov.au

- 2 -

As previously recommended, the Shire should seek its own legal advice on this matter.

We request a response by 16 September 2022 on the planned approach to address the above matters.

Should you wish to discuss these matters, please contact Subha Gunalan or Alan Carmichael on 6552 1731 or 6552 1430 respectively.

Yours sincerely



Tim Fraser
Executive Director Local Government

5 September 2022

[2022] WASAT 113

JURISDICTION : STATE ADMINISTRATIVE TRIBUNAL

ACT : LOCAL GOVERNMENT ACT 1995 (WA)

CITATION : SHIRE OF TOODYAY [2022] WASAT 113

MEMBER : DR S WILLEY, SENIOR MEMBER

HEARD : 7 DECEMBER 2022

DELIVERED : 21 DECEMBER 2022

FILE NO/S : DR 170 of 2022

BETWEEN : SHIRE OF TOODYAY
Applicant

THE DIRECTOR GENERAL OF THE
DEPARTMENT OF LOCAL GOVERNMENT,
SPORT AND CULTURAL INDUSTRIES
Intervenor

Catchwords:

Local government - Rates - Differential rates - General rates - Ministerial approval
- Annual budget - Referral of general question - Rates not imposed in accordance
with Act - Quashing of rates

Legislation:

*Local Government (Financial Management) Regulations 1996 (WA), reg 23,
reg 52A, Pt 5*

*Local Government Act 1995 (WA), s 5.56, s 6.1, s 6.2, s 6.2(1), s 6.2(2),
s 6.2(3), s 6.26, s 6.28, s 6.82(2), s 6.3, s 6.32, s 6.32(1), s 6.32(1)(a),
s 6.32(1)(b), s 6.32(1)(c), s 6.32(2), s 6.32(2)(b), s 6.32(3), s 6.32(3)(b), s 6.33,
s 6.33(3), s 6.34, s 6.82, s 6.82(1), s 6.82(3), Pt 6, Div 1, Div 2, Div 6*

[2022] WASAT 113

Planning and Development Act 2005 (WA)
State Administrative Tribunal Act 2004 (WA), s 27(2), s 37(3)

Result:

Rates quashed

Category: A

Representation:

Counsel:

Applicant : T Houweling
Intervenor : J Misso

Solicitors:

Applicant : Cornerstone Legal
Intervenor : State Solicitor's Office

Case(s) referred to in decision(s):

City of Kalgoorlie-Boulder [2017] WASAT 56
Citygate Properties Pty Ltd and City of Bunbury [2009] WASAT 142
Forrest & Forrest Pty Ltd v Wilson [2017] HCA 30; (2017) 262 CLR 510
Project Blue Sky Inc v Australian Broadcasting Authority [1998] HCA 28;
(1998) 194 CLR 355
Shire of Toodyay [2016] WASAT 141
Shire of Yalgoo [2016] WASAT 136

[2022] WASAT 113

REASONS FOR DECISION OF THE TRIBUNAL:***Introduction***

1 The Shire of Toodyay (**Shire** or **Applicant**) has referred a general question as to whether its rates for the 2022-23 financial year have been imposed in accordance with the *Local Government Act 1995* (WA) (**LG Act**). Section 6.82 of the LG Act allows such questions to be referred to the Tribunal.

2 At the heart of the matter is the Council of the Shire of Toodyay's decision, in May 2022, to introduce a Mining Tenement Differential Rate (**MTDR**) (the 'UV Mining' rate) to recognise the impacts of mining exploration activities on the Shire's assets.

3 The Director General of the Department of Local Government, Sport and Cultural Industries has intervened (**Intervenor**) in this matter pursuant to s 37(3) of the *State Administrative Tribunal Act 2004* (WA) (**SAT Act**).

4 Both the Applicant and the Intervenor are of the view that the decision to impose the MTDR was not in accordance with the LG Act. However, the Applicant submits that the Tribunal should just dismiss the application as the resolution to impose the MTDR was of no legal effect. In the alternative, the Applicant submits that only the decision to impose the differential rate on land identified as 'UV Mining' should be quashed pursuant to s 6.82 of the LG Act.

5 The Intervenor submits that the Tribunal should quash the general rate for land rated on the basis of unimproved value, rather than just the differential rate for UV Mining.

6 For the following reasons, the Intervenor's submissions should be accepted. The UV Mining general differential rate was not imposed in accordance with the LG Act and will be quashed. The consequence of that is that, perforce of s 6.32(3)(b) of the LG Act, the Shire must now adopt a new general rate for the purposes of its annual budget.

Background

7 The following facts are agreed between the parties:

- 1) On 15 July 2022, the Applicant submitted an application to the Minister for Local Government (**Minister**) under s 6.33(3) of the *Local Government Act 1995* (WA)

[2022] WASAT 113

(**LG Act**) for approval to impose a differential rate on land categorised as 'UV Mining' for the 2022-23 financial year (**application**).

- 2) At a Special Council Meeting (**SCM**) held on 10 August 2022, the Council of the Applicant considered the following recommendation (**Recommendation 1**) from the administration of the Shire:

'The Shire of Toodyay raises annual rates on a differential basis. This means that Council has the option to set more than one rate in the dollar based on property class, rather than having a uniform rate for all property classes. Differential rates allow different classes of property to be taxed differently.

In accordance with legislative requirements, Officers sought Council's approval to advertise differential rates at a SCM held on 8 June 2022. This included the introduction of a mining differential rate to meet the cost incurred by mining activities taking place within the Shire. The rates were advertised for a period of 21 days inviting submissions from the community.

At an SCM held on 13 July 2022, Council considered the submissions received and authorised the CEO to seek the approval of the Minister to impose a differential general rate which is more than twice the lowest differential general rate imposed by it, in accordance with s 6.33(3) of the Act. Officers await the outcome of the decision.

Officers have included the revenue to be raised from the proposed differential rate. Should the Minister refuse approval, a report will be brought back to Council for a budget amendment.

The proposed differential rates are contained in the table below.'

[2022] WASAT 113

General Rate - Gross Rental Value (GRV)	Rate in \$ (cents)
GRV Residential	0.138729
GRV Commercial	0.147014
GRV Industrial	0.128650
GRV Rural	0.128292
GRV Rural Residential	0.121456
General Rate - Unimproved Value (UV)	
UV General	0.014170
UV Rural	0.008298
UV Mining	0.885755

- 3) At the SCM on 10 August 2022, the Council carried a motion to impose the above differential rates for the 2022-23 financial year.
 - 4) As at 10 August 2022, the Minister had not approved the Shire's application under s 6.33(3) of the LG Act.
 - 5) As at 31 August 2022, the date by which s 6.2(1) of the LG Act requires local governments to adopt their annual budget (unless the Minister allows an extension of time), the Minister had not approved the Shire's application.
 - 6) On 5 September 2022, the delegate of the Minister rejected the Shire's application.
- 8 I have also received a witness statement from Mr Maurice Werder,¹ an officer at the Shire. Mr Werder explains that the basis of the MTDR was to allow the Applicant to address revenue requirements, to maintain additional infrastructure and road expenditure generation by mining exploration being conducted within the Shire's municipal area.
- 9 Mr Werder's statement also explains the process by which the Shire prepared its budget for the 2022/23 financial year.

¹ Exhibit 1.

[2022] WASAT 113

Statutory scheme

10 Part 6 of the LG Act deals with the financial management of local governments.

11 Section 6.1 includes the following defined terms:

differential general rate means the rate imposed under section 6.33;

general rate means a rate imposed in accordance with section 6.32(1)(a).

12 Division 2 of Pt 6 relates to the annual budget. Section 6.2(1) requires a local government to prepare an annual budget for its municipal fund each financial year. In preparing that annual budget, the local government is to have regard to the contents of the plan for the future made pursuant to s 5.56 of the LG Act. The local government is to prepare a detailed estimate for the current year of:

- (a) the expenditure by the local government; and
- (b) the revenue and income, independent of general rates, of the local government; and
- (c) the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.

13 All expenditure, revenue and income of the local government is to be taken into account unless otherwise prescribed.²

14 Section 6.3 provides for a budget to be made 'in other circumstances', including where it is required to do so in consequence of the quashing of either a 'general valuation or a 'rate or service charge', by a court or by the Tribunal.

15 Division 6 of Pt 6 of the LG Act deals with rates and service charges.

16 Section 6.26 of the LG Act explains what is 'rateable land'. Pursuant to s 6.28 the Minister determines the method of valuation of land to be used by a local government as the basis for a rate. The Minister's determination must be published in the *Government Gazette*. In making

² LG Act, s 6.2(3).

[2022] WASAT 113

that determination, the Minister is to have regard to the general principle that the basis for a rate on any land is to be:

- (a) where the land is used predominantly for rural purposes, the unimproved value of the land; and
- (b) where the land is used predominantly for non-rural purposes, the gross rental value of the land.

17 Subdivision 2 of Div 6 of the LG Act is directed to 'rates and service charges'.

18 Section 6.32(1) provides that when adopting the annual budget, a local government, in order to make up a budget deficiency, is to impose a general rate on rateable land within its district, such rate may be imposed 'uniformly' or 'differentially'. Section 6.32(1)(b) recognises other forms of rates including a 'specified area rate' and a 'minimum payment'. Section 6.32(1)(c) provides for the imposition of a 'service charge'.

19 Section 6.32(2) of the LG Act requires the local government, in imposing a rate, to:

- (a) set a rate which is expressed as a rate in the dollar of the gross rental value of rateable land within its district to be rated on gross rental value; and
- (b) set a rate which is expressed as a rate in the dollar of the unimproved value of rateable land within its district to be rated on unimproved value.

20 Section 6.32(3) then provides that a local government:

- (a) may, at any time after the imposition of rates in a financial year, in an emergency, impose (by absolute majority) a supplementary general rate or specified area rate for the unexpired portion of the current financial year; and
- (b) is to, after a court or the Tribunal has quashed a general valuation, rate or service charge, impose (by absolute majority) a new general rate, specified area rate or service charge.

21 Section 6.33 is headed 'Differential general rates'.

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22 Section 6.33(1) provides that a local government may impose differential general rates according to any, or a combination, of the following characteristics:

- (a) the purpose for which the land is zoned, whether or not under a planning scheme as defined in the *Planning and Development Act 2005* (**PD Act**); or
- (b) a purpose for which the land is held or used as determined by the local government; or
- (c) whether or not the land is vacant land; or
- (d) any other characteristic or combination of characteristics prescribed.³

23 Section 6.33(3) then provides:

In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

24 Local governments cannot rely on rates to raise unlimited funds. Section 6.34 of the LG Act provides that, unless otherwise approved by the Minister, the amount shown in the annual budget as being the amount it is estimated will be yielded by the general rate is not to be:

- (a) more than 110% of the amount of the budget deficiency; or
- (b) less than 90% of the amount of the budget deficiency.

25 Section 6.82(1) of the LG Act provides that in circumstances where there is a question of general interest as to whether a rate or service charge was imposed in accordance with this Act, the local government or any person may refer the question to the Tribunal to have it resolved.

26 The referral of questions under s 6.82 of the LG Act arises in the Tribunal's review jurisdiction.⁴ It follows that my task is therefore to make the correct and preferable decision on the review.⁵

³ *Local Government (Financial Management) Regulations 1996* (WA), reg 52A.

⁴ *Citygate Properties Pty Ltd and City of Bunbury* [2009] WASAT 142 [35]-[36].

⁵ SAT Act, s 27(2).

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27 Section 6.82(3) of the LG Act then provides that the Tribunal, in dealing with a matter referred to it, 'may make an order quashing a rate or service charge which in its opinion has been improperly made or imposed'.

The UV Mining Rate was not imposed in accordance with the LG Act

28 As is clear from the agreed facts, the differential general rate imposed by the Shire on land rated as 'UV Mining' for the 2022-23 financial year was 0.885755 cents in the dollar.

29 The lowest differential rate based upon unimproved value imposed by the Shire for the 2022-23 financial year was 0.008298 cents in the dollar.

30 It follows that the differential general rate imposed by the Shire on land rated as UV Mining for the 2022-23 financial year did not comply with s 6.33(3) of the LG Act because it was more than twice the lowest differential general rate imposed by the Shire, but the Shire had not obtained, and in fact did not obtain, the Minister's approval to impose the rate. The differential rate of 0.885755 is, in fact, more than 106 times greater than the lowest differential rate of 0.008298.

Intervenor's submissions

31 The Intervenor submits that the correct and preferable decision is for the Tribunal to quash the general rate for land rates on the basis of unimproved value (which is generally rural land), rather than just the differential rate for UV Mining for the following reasons.

32 ***Firstly***, under s 6.32(2) of the LG Act, the general rate must be imposed separately for rateable land valued on its unimproved value (UV land) and rateable land valued on its gross rental value (GRV land). Therefore, there are two general rates, one for GRV land and one for UV land.

33 ***Secondly***, s 6.32(1)(a) of the LG Act speaks of imposing 'a general rate' and s 6.32(2)(b) and s 6.82 refer to quashing 'a rate' rather than a particular differential rate.

34 ***Thirdly***, if only a particular differential rating category (such as UV Mining) is quashed, the Shire may not have the flexibility to address the issue in a way that is in the best interests of the local government, because a local government can only change a rate in limited

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circumstances, such as where a Court or the Tribunal has quashed a general rate: s 6.32(3) of the LG Act.

35 **Fourthly**, s 6.3 of the LG Act refers to the quashing of a 'rate or service charge'. That same phrase is relevantly used in s 6.82(3). Section 6.2 confers on local governments the power to prepare and adopt a budget. Section 6.3 provides for the making of a budget in other circumstances 'in a form and manner similar to the annual budget', and therefore is to include detailed information relating to the rates and service charges that will apply.

36 The fact that s 6.3 of the LG Act confers power for the preparation and adoption of a new budget following the quashing of a rate by the Tribunal suggests a legislative intention that the local government would have the ability and flexibility to make any adjustments to its budget 'as are necessary to meet the case', rather than being limited to removing or adjusting a particular differential rate.

37 **Fifthly**, while s 6.3 requires a local government to prepare and adopt a new budget following the quashing of a rate, the power to impose 'a new general rate, specified area rate or service charge' after a court or the Tribunal has quashed a 'general valuation, rate or service charge' is found in s 6.32(3)(b) of the LG Act.

38 The fact that a local government is required by s 6.32(3)(b) to impose 'a new general rate, specified area rate or service charge' supports the position that an order made by the Tribunal under s 6.82(3) should quash a general rate, as opposed to a particular differential general rate, because a local government could not impose a new 'general rate' under s 6.32(3)(b) unless the previous general rate had first been quashed by the Tribunal.

Applicant's submissions

39 The Applicant agrees that the UV Mining was not imposed in accordance with the LG Act. However, it does not agree with the orders put forward by the Intervenor.

40 The Applicant says the preferred course is for the Tribunal to dismiss the application under the SAT Act. The basis for its submission is that there is nothing needed to quash the imposition of the UV Mining rate because it never had legal effect. This is because the differential rate of the nature sought required, but did not receive, the Minister's approval. The differential UV Mining rate was therefore, as a matter of law, never

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imposed. Accordingly, there is no determination with legal effect that can be the subject of an order to quash.

41 In the alternative, the Applicant submits that the Tribunal should make orders quashing only the UV Mining rate. It says, in effect, that the UV Mining rate is severable from the other general rates imposed on the basis of unimproved value.

42 The Applicant focuses on the text of s 6.82 of the LG Act and the use of the word 'rate' (as opposed to 'rates'). It submits the ordinary term 'rate' relates to a general rate imposed on a particular basis by s 6.32(1) of the LG Act and is not, as is contended by the Intervenor, a reference to a plurality of rates under a designation in 6.32(2) of the LG Act.

43 The Applicant further submits that s 6.3 provides flexibility for a local government to make any adjustments to its budget making process 'as are necessary' in response to a rate being quashed.

44 The Applicant accepts that it is arguable that 'quashing "a rate" requires the local government to amend its rates schedule by replacing not only the impugned differential rate but all UV rates and to adopt a new budget'. However, the Applicant submits that such a construction requires reading words into the provision and is not made clear by the language used.

45 The Applicant says that the Tribunal has, in the past, in decisions such as *Shire of Toodyay*,⁶ treated rates within the UV category as distinct for the purposes of making orders under s 6.82 of the LG Act. That is to say, the lawfulness of each rate was determined by the Tribunal independently on separate grounds.

Disposition

An order under s 6.82(3) is appropriate

46 For the following two reasons, I agree with the Intervenor that an order quashing the differential general rate that was adopted by the Shire is appropriate.

47 ***First***, as is agreed between the parties, the UV Mining rate was imposed in a manner contrary to the requirements of s 6.33(3) of the LG Act. The differential general rate was therefore, I find, not imposed in accordance with the LG Act. In the circumstances, resolving the

⁶ *Shire of Toodyay* [2016] WASAT 141 [7].

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matter via an order made pursuant to s 6.82 of the LG Act seems to be the appropriate course provided by the statute.

48 *Second*, I do not agree with the Applicant that there is no need for an order and that I should instead simply dismiss the application.

49 What has been referred to the Tribunal by the Shire 'is a question of general interest' as to whether, relevantly the differential general rate for UV Mining was imposed in accordance with the LG Act.

50 In all instances, where a rate is found not to have been imposed in accordance with the LG Act it may be argued that there is in fact no need for an order under s 6.82(3) of the LG Act quashing the rate. That is because, if rates were imposed in a manner that is *ultra vires*, it may be argued that the decision to impose the rate is of no legal consequence and thus no declaration is required from the Tribunal confirming that to be so.

51 I do not accept that, having found that the rate was not imposed in accordance with the LG Act, that I should then dismiss the application, rather than make an order quashing the rate, is consistent with the architecture of the LG Act and the statutory scheme. Parliament has given the Tribunal the function of making a determination as to whether a rate has been imposed in accordance with the LG Act.

52 By its express terms, s 6.82 is to operate in instances where there is a general question as to whether a rate has been imposed in a manner that accords with the requirements of the LG Act. No doubt a provision of this nature recognises the fact that there are currently 137 local governments in Western Australia, each of which must impose rates in order to meet a budget deficiency. It is trite that general questions as to whether rates adopted by local governments accord with the requirements of the LG Act will arise from time to time.

53 This is such a case. Having found that there is a general question, I am not simply inclined to dismiss the application on the basis of a submission that the rate never took effect and has not been levied. In my view, an order in the terms of s 6.82(3) is warranted.

54 Furthermore, as submitted by Mr Misso, counsel for the Intervenor, as a matter of administrative law, an act done in breach of a condition regulating the exercise of a statutory power (in this case, the power to impose a differential general rate) is not necessarily invalid and of no effect. Whether such an act is invalid and of no effect 'depends upon

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whether there can be discerned a legislative purpose to invalidate any act that fails to comply with the condition'.⁷

55 That would then involve an inquiry as to whether the statutory purpose of the duty (relevantly, to seek Ministerial consent pursuant to s 6.33(3) of the LG Act), when considered on context, would be advanced by holding an exercise of decision-making power affected by the breach of duty to be invalid.⁸

56 The Shire adopted the budget on 10 August 2022. It remains the adopted budget. To not make an order under s 6.82(3) of the LG Act does not bring finality to this situation and leaves open the question of the validity of the adopted differential general rate for UV Mining.

57 Coming back to the evident purpose of s 6.82, an order quashing the imposition of the rate not only serves the purpose of answering the question posed by the Applicant, but also alerts and informs other local governments and stakeholders which may have similar rating questions.

58 It is also the case that in order to be empowered to set a new general rate under s 6.32(3)(b), and to prepare a new budget under s 6.3, an order quashing a rate under s 6.82(3) must first be made.

59 I will make an order pursuant to s 6.82(3) of the LG Act.

What is the appropriate terms for an order under s 6.82(3)

60 Having determined that an order pursuant to s 6.82(3) of the LG Act is appropriate, I turn now to the appropriate terms of the order.

61 There is a contest between the parties as to whether I may only quash the UV Mining differential general rate or whether I am required to quash the general differential rate (comprising in this instance, the 'UV General', 'UV Rural' and 'UV Mining' differential rates).

62 The answer to this is a question of statutory construction. It is not straightforward. There are some textual indications on each side of the debate.

63 In my exchanges with counsel, it is clear that this question has not before been directly addressed by the Tribunal or in Western Australia.

⁷ *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28; (1998) 194 CLR 355, 388-389 [91] (McHugh, Gummow, Kirby and Hayne JJ).

⁸ *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30; (2017) 262 CLR 510, 534 [83] (Kiefel CJ, Bell, Gagler and Keane JJ).

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My own searches have yielded no case authorities which may assist. The Tribunal has made many orders quashing particular differential rates⁹ and there are others where the Tribunal has quashed the general differential rate.¹⁰ This no doubt reflects the fact that proceedings of this nature are rarely contested and argued.

64 I turn to set out the features of the statutory scheme that arise for consideration.

65 A local government is required to, perforce of 6.32(1) of the LG Act, impose a rate, being a general rate, either uniformly or differentially. The definition of general rate includes a differential general rate.¹¹

66 Section 6.33 is directed to differential general rates. It is plain from that section that there can be more than one differential general rate adopted. Section 6.33 controls the relationship between each differential general rate that has been adopted by requiring that no general differential rate can be more than twice that of the lowest differential general rate, unless the Minister's approval has been obtained.

67 Turning to s 6.82, this provision empowers the Tribunal to consider a question of general interest as to whether a rate was imposed in accordance with the LG Act. The Tribunal may 'make an order quashing a rate or service charge' that was improperly made.

68 Once an order under s 6.82 is made, s 6.32(3)(b) requires the local government to, relevantly, impose a new 'general rate'.

69 It is important to note that the rate setting exercise does not operate in vacuum. It arises in the context of the setting of the annual budget and rates are imposed to make up a budget deficiency. The revenue that can be leveraged from rates is limited and must, pursuant to, s 6.34 of the LG Act be such that rates yield between no more than 110%, and no less than 90%, of the budget deficiency.

70 Intuitively, one may assume that if one differential general rate is to be quashed, then the local government may need to adjust all the differential general rates that were adopted in order to ensure the budget

⁹ *Shire of Toodyay* [2016] WASAT 141; *City of Kalgoorlie-Boulder* [2017] WASAT 56.

¹⁰ *Minister for Local Government and Shire of Mingenew* [2013] DR 479; *Shire of Yalgoo* [2016] WASAT 136; *Shire of Carnarvon and No Respondent* [2020] DR 72.

¹¹ Regulation 23 of the *Local Government (Financial Management) Regulations 1996* (WA) addresses the rate information required in the annual budget and includes references to both general rates and differential general rates.

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deficiency can be met. It may not be as simple as reimposing only one particular differential general rate in a manner that accords with s 6.33(3).

71 However, that is not what is pressed for here by the Shire. The Shire submits I should only quash the UV Mining differential general rate.

72 The Intervenor's submissions have much force. Those submissions are to the effect that if Parliament intended that the Tribunal may quash a particular 'differential general rate', rather than a 'general rate', then the term 'differential general rate' rather than a 'general rate' would have been used in s 6.32(3)(b). That is to say, what s 6.32(3)(b) requires is for a new *general rate*, for the purposes of s 6.32(1)(a) of the LG Act, to be imposed.

73 Against that, it may be said that s 6.33 recognises that there may be, in fact must be, more than one differential general rate imposed and that s 6.82(3) uses the term that a 'rate' may be quashed. That is to say, the term 'general rate' is not used in s 6.82(3).

74 While that fact does support the Applicant's argument at some level, it is also the case that the use of the generic term 'rate' in s 6.82(3) reflects the fact that there may be any number of rates imposed by a local government including a general rate (either uniform or differential), as well as specified area rate or minimum payment, that may be quashed.

75 The primary difference between the parties in this matter seems to be whether, following an order quashing a 'rate' (no matter what kind of rate) is made under s 6.82(3), what then follows?

76 Section 6.3 requires a local government to prepare a new budget in consequence of the quashing of a rate by the Tribunal. The new budget is to be in a form and manner similar to the annual budget, with such modifications as are necessary.

77 It seems to me that s 6.3, read together with s 6.32(3)(b), and taking account of the statutory scheme in general, means that when a rate is quashed, the consequence is that a new general rate is required to be imposed and a new budget prepared.

78 That makes sense to me, given that the rates set out in the annual budget come into existence *uno flato* with the objective of, together, meeting the budget deficit. To me, it is axiomatic that the quashing of one rate that was imposed may, indeed possibly even must, have

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consequential effects on the other rates adopted and imposed. That is to say, the rates that are adopted to meet the needs of the annual budget, stand or fall together.

79 Following the quashing of 'a rate' under s 6.82(3), s 6.32(3)(b) requires a local government to impose 'a new general rate'. The reference to 'general rate' and not a 'differential general rate' refers to the imposition of general rates under s 6.32, not s 6.33 which relates to the setting of differential general rates.

80 For these reasons, the Intervenor's case should, on balance, be accepted as the preferred construction.

81 The parties each submitted draft orders depending on the conclusion I ultimately reached.

82 For the reasons set out above, the order sought by the Intervenor will be made.

Orders

The Tribunal orders:

1. The general rate imposed by the Shire of Toodyay upon rateable land within its district to be rated on unimproved value for the 2022-23 financial year pursuant to 6.32(1) of the *Local Government Act 1995* (WA) is quashed pursuant to s 6.82 of that Act.

I certify that the preceding paragraph(s) comprise the reasons for decision of the State Administrative Tribunal.

DR S WILLEY, SENIOR MEMBER

21 DECEMBER 2022

SHIRE OF TOODYAY
ANNUAL BUDGET
FOR THE YEAR ENDED 30 JUNE 2023
LOCAL GOVERNMENT ACT 1995

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SHIRE'S VISION

The Shire will endeavour to provide community services and facilities to meet the needs of members of the community and enable them to enjoy a pleasant and healthy way of life.

SHIRE OF TOODYAY
STATEMENT OF COMPREHENSIVE INCOME BY NATURE OR TYPE
FOR THE YEAR ENDED 30 JUNE 2023

	NOTE	2022/23 Budget	2021/22 Actual	2021/22 Budget
		\$	\$	\$
Revenue				
Rates	2(a)	7,069,204	6,895,483	6,870,033
Operating grants, subsidies and contributions	11	1,810,514	3,290,588	2,475,731
Fees and charges	14	1,420,409	1,162,168	1,568,041
Interest earnings	12(a)	50,000	51,525	36,000
Other revenue	12(b)	140,428	888,105	416,271
		10,490,555	12,287,869	11,366,076
Expenses				
Employee costs		(4,273,693)	(3,714,584)	(3,960,004)
Materials and contracts		(4,266,992)	(4,201,919)	(4,253,010)
Utility charges		(450,649)	(373,792)	(473,360)
Depreciation on non-current assets	6	(4,436,148)	(4,300,000)	(3,907,920)
Interest expenses	12(d)	(155,813)	(166,711)	(291,090)
Insurance expenses		(394,663)	(372,519)	(307,650)
Other expenditure		(291,946)	(207,892)	(255,910)
		(14,269,904)	(13,337,417)	(13,448,944)
		(3,779,349)	(1,049,548)	(2,082,868)
Non-operating grants, subsidies and contributions	11	3,776,923	1,671,882	3,301,633
Profit on asset disposals	5(b)	0	0	4,000
		3,776,923	1,671,882	3,305,633
Net result for the period		(2,426)	622,334	1,222,765
Other comprehensive income				
<i>Items that will not be reclassified subsequently to profit or loss</i>				
Changes in asset revaluation surplus		0	0	0
Total other comprehensive income for the period		0	0	0
Total comprehensive income for the period		(2,426)	622,334	1,222,765

This statement is to be read in conjunction with the accompanying notes.

SHIRE OF TOODYAY
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2023

NOTE	2022/23 Budget	2021/22 Actual	2021/22 Budget	
	\$	\$	\$	
CASH FLOWS FROM OPERATING ACTIVITIES				
Receipts				
Rates	7,069,204	6,551,349	6,870,033	
Operating grants, subsidies and contributions	1,810,514	3,290,588	2,475,731	
Fees and charges	1,420,409	1,162,168	1,568,041	
Interest received	50,000	51,525	40,000	
Other revenue	140,428	888,105	416,271	
	10,490,555	11,943,735	11,370,076	
Payments				
Employee costs	(4,273,693)	(3,955,775)	(3,960,004)	
Materials and contracts	(4,266,992)	(4,410,485)	(4,253,010)	
Utility charges	(450,649)	(373,792)	(473,360)	
Interest expenses	(155,813)	(166,711)	(291,090)	
Insurance paid	(394,663)	(372,519)	(307,650)	
Other expenditure	(291,946)	(207,892)	(255,910)	
	(9,833,756)	(9,487,174)	(9,541,024)	
Net cash provided by (used in) operating activities	4	656,799	2,456,561	1,829,052
CASH FLOWS FROM INVESTING ACTIVITIES				
Payments for purchase of property, plant & equipment	5(a)	(2,427,971)	(438,043)	(1,846,684)
Payments for construction of infrastructure	5(a)	(5,144,065)	(2,144,424)	(4,158,829)
Non-operating grants, subsidies and contributions		3,776,923	1,671,882	3,301,633
Proceeds from sale of property, plant and equipment	5(b)	593,000	298,068	692,500
Net cash provided by (used in) investing activities		(3,202,113)	(612,516)	(2,011,380)
CASH FLOWS FROM FINANCING ACTIVITIES				
Repayment of borrowings	7(a)	(317,686)	(306,787)	(471,167)
Principal elements of lease payments	8	(139,662)	(195,947)	0
Net cash provided by (used in) financing activities		(457,348)	(502,734)	(471,167)
Net increase (decrease) in cash held		(3,002,662)	1,341,311	(653,495)
Cash at beginning of year		4,667,695	4,436,093	2,856,717
Cash and cash equivalents at the end of the year	4	1,665,033	5,777,404	2,203,222

This statement is to be read in conjunction with the accompanying notes.

SHIRE OF TOODYAY
RATE SETTING STATEMENT
FOR THE YEAR ENDED 30 JUNE 2023

	NOTE	2022/23 Budget	2021/22 est. Actual	2021/22 Budget
		\$	\$	\$
OPERATING ACTIVITIES				
Net current assets at start of financial year - surplus/(deficit)	3	3,198,000	1,111,677	780,101
		3,198,000	1,111,677	780,101
Revenue from operating activities (excluding rates)				
Operating grants, subsidies and contributions	11	1,810,514	3,290,588	2,475,731
Fees and charges	14	1,420,409	1,162,168	1,568,041
Interest earnings	12(a)	50,000	51,525	36,000
Other revenue	12(b)	140,428	888,105	416,271
Profit on asset disposals	5(b)	0	0	4,000
		3,421,351	5,392,386	4,500,043
Expenditure from operating activities				
Employee costs		(4,273,693)	(3,714,584)	(3,960,003)
Materials and contracts		(4,266,992)	(4,201,919)	(4,253,010)
Utility charges		(450,649)	(373,792)	(473,360)
Depreciation on non-current assets	6	(4,436,148)	(4,300,000)	(3,907,920)
Interest expenses	12(d)	(155,813)	(166,711)	(291,090)
Insurance expenses		(394,663)	(372,519)	(307,650)
Other expenditure		(291,946)	(207,892)	(255,910)
		(14,269,904)	(13,337,417)	(13,448,943)
Non-cash amounts excluded from operating activities	3(b)	4,461,148	4,314,855	3,907,920
Amount attributable to operating activities		(3,189,405)	(2,518,499)	(4,260,879)
INVESTING ACTIVITIES				
Non-operating grants, subsidies and contributions	11	3,776,923	1,671,882	3,301,633
Payments for property, plant and equipment		(2,288,309)	(438,043)	(1,846,684)
Payments for construction of infrastructure	5(a)	(5,144,065)	(2,144,424)	(4,158,829)
Proceeds from disposal of assets	5(b)	593,000	298,068	692,500
Amount attributable to investing activities		(3,062,451)	(612,516)	(2,011,380)
Amount attributable to investing activities		(3,062,451)	(612,516)	(2,011,380)
FINANCING ACTIVITIES				
Repayment of borrowings	7(a)	(317,686)	(306,787)	(471,167)
Principal elements of finance lease payments	8	(139,662)		0
Transfers to cash backed reserves (restricted assets)	9(a)	(406,000)	(721,406)	(771,738)
Transfers from cash backed reserves (restricted assets)	9(a)	56,000	624,879	655,131
Amount attributable to financing activities		(807,348)	(403,314)	(587,774)
Budgeted deficiency before general rates		(7,059,204)	(3,534,329)	(6,860,033)
Estimated amount to be raised from general rates	2(a)	7,069,204	6,876,480	6,870,033
Net current assets at end of financial year - surplus/(deficit)	3	10,000	3,342,151	10,000

This statement is to be read in conjunction with the accompanying notes.

SHIRE OF TOODYAY
FOR THE YEAR ENDED 30 JUNE 2023

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SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

1 (a) BASIS OF PREPARATION

The annual budget has been prepared in accordance with Australian Accounting Standards (as they apply to local governments and not-for-profit entities) and interpretations of the Australian Accounting Standards Board, and the *Local Government Act 1995* and accompanying regulations.

The *Local Government Act 1995* and accompanying Regulations take precedence over Australian Accounting Standards where they are inconsistent.

The *Local Government (Financial Management) Regulations 1996* specify that vested land is a right-of-use asset to be measured at cost. All right-of-use assets (other than vested improvements) under zero cost concessionary leases are measured at zero cost rather than at fair value. The exception is vested improvements on concessionary land leases such as roads, buildings or other infrastructure which continue to be reported at fair value, as opposed to the vested land which is measured at zero cost. The measurement of vested improvements at fair value is a departure from AASB 16 which would have required the Shire to measure any vested improvements at zero cost.

Accounting policies which have been adopted in the preparation of this annual budget have been consistently applied unless stated otherwise. Except for cash flow and rate setting information, the budget has been prepared on the accrual basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and liabilities.

Financial reporting disclosures in relation to assets and liabilities required by the Australian Accounting Standards have not been made unless considered important for the understanding of the budget or required by legislation.

The local government reporting entity

All funds through which the SHIRE OF TOODYAY controls resources to carry on its functions have been included in the financial statements forming part of this annual budget.

In the process of reporting on the local government as a single unit, all transactions and balances between those Funds (for example, loans and transfers between Funds) have been eliminated.

All monies held in the Trust Fund are excluded from the financial statements. A separate statement of those monies appears at Note 13 to the annual budget.

2021/22 actual balances

Balances shown in this budget as 2021/22 Actual are estimates as forecast at the time of preparation of the annual budget and are subject to final adjustments.

Budget comparative figures

Unless otherwise stated, the budget comparative figures shown in the budget relate to the original budget estimate for the relevant item of disclosure.

Comparative figures

Where required, comparative figures have been adjusted to conform with changes in presentation for the current financial year.

Initial application of accounting standards

During the budget year, the below revised Australian Accounting Standards and Interpretations are expected to be compiled, become mandatory and be applicable to its operations.

- AASB 2020-3 *Amendments to Australian Accounting Standards* - Annual Improvements 2018-2020 and Other Amendments
- AASB 2020-6 *Amendments to Australian Accounting Standards* - Classification of Liabilities as Current or Non-current - Deferral of Effective Date

It is not expected these standards will have an impact on the annual budget.

New accounting standards for application in future years

The following new accounting standards will have application to local government in future years:

- AASB 2021-2 *Amendments to Australian Accounting Standards* - Disclosure of Accounting Policies or Definition of Accounting Estimates
- AASB 2021-6 *Amendments to Australian Accounting Standards* - Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards

It is not expected these standards will have an impact on the annual budget.

Judgements, estimates and assumptions

The preparation of the annual budget in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that effect the application of policies and reported amounts of assets and liabilities, income and expenses.

The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances; the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

The balances, transactions and disclosures impacted by accounting estimates are as follows:

- estimated fair value of certain financial assets
- estimation of fair values of land and buildings and investment property
- impairment of financial assets
- estimation uncertainties and judgements made in relation to lease accounting
- estimated useful life of assets

Rounding off figures

All figures shown in this statement are rounded to the nearest dollar.

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

1 (b) KEY TERMS AND DEFINITIONS - NATURE OR TYPE

REVENUES

RATES

All rates levied under the *Local Government Act 1995*. Includes general, differential, specified area rates, minimum rates, interim rates, back rates, ex-gratia rates, less discounts and concessions offered. Exclude administration fees, interest on instalments, interest on arrears, service charges and sewerage rates.

SERVICE CHARGES

Service charges imposed under Division 6 of Part 6 of the *Local Government Act 1995*. Regulation 54 of the *Local Government (Financial Management) Regulations 1996* identifies these as television and radio broadcasting, underground electricity and neighbourhood surveillance services.

Excludes rubbish removal charges. Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

PROFIT ON ASSET DISPOSAL

Profit on the disposal of assets including gains on the disposal of long term investments. Losses are disclosed under the expenditure classifications.

OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS

Refer to all amounts received as grants, subsidies and contributions that are not non-operating grants.

NON-OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS

Amounts received specifically for the acquisition, construction of new or the upgrading of non-current assets paid to a local government, irrespective of whether these amounts are received as capital grants, subsidies, contributions or donations.

FEES AND CHARGES

Revenue (other than service charges) from the use of facilities and charges made for local government services, sewerage rates, rentals, hire charges, fee for service, photocopying charges, licences, sale of goods or information, fines, penalties and administration fees. Local governments may wish to disclose more detail such as rubbish collection fees, rental of property, fines and penalties, other fees and charges.

INTEREST EARNINGS

Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

OTHER REVENUE / INCOME

Other revenue, which can not be classified under the above headings, includes dividends, discounts, and rebates. Reimbursements and recoveries should be separated by note to ensure the correct calculation of ratios.

EXPENSES

EMPLOYEE COSTS

All costs associated with the employment of person such as salaries, wages, allowances, benefits such as vehicle and housing, superannuation, employment expenses, removal expenses, relocation expenses, worker's compensation insurance, training costs, conferences safety expenses, medical examinations, fringe benefit tax, etc.

MATERIALS AND CONTRACTS

All expenditures on materials, supplies and contracts not classified under other headings. These include supply of goods and materials, legal expenses, consultancy, maintenance agreements, communication expenses, advertising expenses, membership, periodicals, publications, hire expenses, rental, leases, postage and freight etc. Local governments may wish to disclose more detail such as contract services, consultancy, information technology, rental or lease expenditures.

UTILITIES (GAS, ELECTRICITY, WATER, ETC.)

Expenditures made to the respective agencies for the provision of power, gas or water. Exclude expenditures incurred for the reinstatement of roadwork on behalf of these agencies.

INSURANCE

All insurance other than worker's compensation and health benefit insurance included as a cost of employment.

LOSS ON ASSET DISPOSAL

Loss on the disposal of fixed assets includes loss on disposal of long term investments.

DEPRECIATION ON NON-CURRENT ASSETS

Depreciation and amortisation expense raised on all classes of assets.

INTEREST EXPENSES

Interest and other costs of finance paid, including costs of finance for loan debentures, overdraft accommodation and refinancing expenses.

OTHER EXPENDITURE

Statutory fees, taxes, provision for bad debts, member's fees or State taxes. Donations and subsidies made to community groups.

SHIRE OF TOODYAY

NOTES AND FORMING PARTS OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

(a) Rating Information

Rate Description	Basis of valuation	Rate in	Number of properties	Rateable value	2022/23 Budgeted rate revenue	2022/23 Budgeted interim rates	2022/23 Budgeted back rates	2022/23 Budgeted total revenue	2021/22 Budget total revenue
		\$		\$	\$	\$	\$	\$	\$
(i) Differential general rates or general rates									
Gross rental valuations									
GRV Residential		0.138729	568	7,870,244	1,091,831			1,091,831	1,018,184
GRV Commercial		0.147014	28	1,355,370	199,258			199,258	191,323
GRV Industrial		0.128650	20	431,330	55,491			55,491	52,284
GRV Rural		0.128292	107	1,505,180	193,103			193,103	186,060
GRV Rural Residential		0.121456	979	14,013,000	1,701,963			1,701,963	1,596,702
Unimproved valuations									
UV General (incl. Mining)		0.014170	458	80,952,500	1,147,097			1,147,097	1,107,749
UV Rural		0.008298	188	185,358,000	1,538,101			1,538,101	1,485,619
UV Mining		0.000000	0	0	0			0	0
Sub-Total			2,348	291,485,624	5,926,844	0	0	5,926,844	5,637,921
Minimum payment									
Gross rental valuations									
GRV Residential		1,351	233	959,716	314,783			314,783	347,207
GRV Commercial		1,351	6	29,850	8,106			8,106	6,755
GRV Industrial		1,351	9	29,200	12,159			12,159	13,510
GRV Rural		1,351	36	277,428	48,636			48,636	49,987
GRV Rural Residential		1,351	430	2,341,302	580,930			580,930	636,321
Unimproved valuations									
UV General (incl. Mining)		1,351	126	6,272,161	170,226			170,226	172,928
UV Rural		1,351	20	2,063,000	27,020			27,020	5,404
UV Mining		1,351	0	0	0			0	0
Interims and Back rates					0	10,000		10,000	
Sub-Total			860	11,972,657	1,161,860	10,000	0	1,171,860	1,232,112
			3,208	303,458,281	7,088,704	10,000	0	7,098,704	6,870,033
Concessions on general rates (Refer note 2(g))								(29,500)	0
Total amount raised from general rates								7,069,204	6,870,033
Ex-gratia rates									
Concessions on specified area and ex gratia rates (Refer note 2(g))								1,273	0
Total specified area and ex gratia rates								1,273	0
Total rates								7,070,477	6,870,033

All land (other than exempt land) in the SHIRE OF TOODYAY is rated according to its Gross Rental Value (GRV) in townsites or Unimproved Value (UV) in the remainder of the SHIRE OF TOODYAY.

The general rates detailed for the 2022/23 financial year have been determined by Council on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the budget and the estimated revenue to be received from all sources other than rates and also considering the extent of any increase in rating over the level adopted in the previous year.

The minimum rates have been determined by Council on the basis that all ratepayers must make a reasonable contribution to the cost of local government services/facilities.

SHIRE OF TOODYAY
 NOTES TO AND FORMING PART OF THE BUDGET
 FOR THE YEAR ENDED 30 JUNE 2023

2. RATES AND SERVICE CHARGES (CONTINUED)

(b) Interest Charges and Instalments - Rates and Service Charges

The following instalment options are available to ratepayers for the payment of rates and service charges.

Instalment options	Date due	Instalment plan admin charge	Instalment plan interest rate	Unpaid rates interest rates
		\$	%	%
Option one				
Single full payment	12/10/2022	0	0.0%	7.0%
Option two				
First instalment	12/10/2022	0	3.0%	7.0%
Second instalment	12/12/2022	7.50	3.0%	7.0%
Third instalment	13/02/2023	7.50	3.0%	7.0%
Fourth instalment	13/04/2023	7.50	3.0%	7.0%

	2022/23 Budget revenue	2021/22 Actual revenue	2021/22 Budget revenue
	\$	\$	\$
Instalment plan admin charge revenue	16,000	15,415	20,000
Instalment plan interest earned	10,000	11,128	10,000
Unpaid rates and service charge interest earned	45,000	51,525	25,000
	71,000	78,068	55,000

SHIRE OF TOODYAY
 NOTES TO AND FORMING PART OF THE BUDGET
 FOR THE YEAR ENDED 30 JUNE 2023
 2. RATES AND SERVICE CHARGES (CONTINUED)

(c) Objectives and Reasons for Differential Rating

The rates in the dollar (\$) for the various differential rates are calculated to provide the shortfall in income required to enable the Shire to provide necessary works and services in the 2022/2023 financial year for each category after taking into account all non-rate sources of income.

Differential rates provide equity in the rating of properties across the Shire. The following rate categories have been determined for the implementation of differential rating.

Differential general rate

Description	Characteristics	Objects	Reasons
GRV Residential	The rate in the \$ of 0.138729 has been set to ensure that the porportion of total rate revenue derived from Residential property remains consistent with previous years. This is based on the total raised from all properties now rated as Residential.		
GRV Commercial	The rate in the \$ of 0.147014 has been set to ensure that the porportion of total rate revenue derived from Commercial property remains consistent with previous and recognises the higher demand on Shire infrastructure and services from the activity on Commercial property.		
GRV Industrial	The rate in the \$ of 0.128650 has been set to ensure that the porportion of total rate revenue derived from Industrial property remains consistent with previous and recognises the higher demand on Shire infrastructure and services from the activity on Industrial property.		
GRV Rural	The rate in the \$ of 0.128292 has been set to ensure that the porportion of total rate revenue derived from these properties remains consistent with previous years.		
GRV Rural Residential	The rate in the \$ of 0.121456 has been set to ensure that the porportion of total rate revenue derived from these properties remains consistent with previous years, notwithstanding that in previous years these properties had been rated as UV General.		
UV General	The rate in the \$ of 0.01417 has been set to ensure that the porportion of total rate revenue derived from small rural holdings remains consistent with previous years.		
UV Rural	The rate of \$ 0.008298 has been set to ensure that broadacre farming properties, those above 100 hectares and used for grazing or cropping, are not adversely affected by the valuation changes resulting from preponderance of small rural holdings.		
UV Mining	The rate of \$ 0.000000 has been set to ensure that the requirements of the Mining Tenements can be significantly addressed within the rates revenue from this sector.		

(d) Differential Minimum Payment

Differential Minimum A minimum payment of \$1,351 is applied to GRV & UV properties in recognition that every property receives some minimum level of benefit from works and services provided. The minimum payment helps encourage development and discourage speculation.

SHIRE OF TOODYAY
 NOTES TO AND FORMING PART OF THE BUDGET
 FOR THE YEAR ENDED 30 JUNE 2023

2. RATES AND SERVICE CHARGES (CONTINUED)

(e) Specified Area Rate

(f) Service Charges

The Shire did not raise service charges for the year ended 30th June 2023.

(g) Waivers or concessions

Rate, fee or charge to which the waiver or concession is granted	Type	Discount %	Discount (\$)	2022/23 Budget	2021/22 Actual	2021/22 Budget	Circumstances in which the waiver or concession is granted
General Rates	Concession			\$ 19,500	\$ 19,003	\$	0 Concessions provided to charitable groups
Write Offs	Waiver			10,000	0	0	0 Budget allocation for unrecoverable rates charges
				29,500	19,003	0	

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

3. NET CURRENT ASSETS

Note	2022/23 Budget 30 June 2023	2021/22 Actual 30 June 2022	2021/22 Budget 30 June 2022	
	\$	\$	\$	
(a) Composition of estimated net current assets				
Current assets				
Cash and cash equivalents - unrestricted	4	1,695,033	2,885,711	1,379,724
Cash and cash equivalents - restricted	4	2,131,984	1,781,984	2,403,825
Receivables		1,698,188	1,698,188	1,439,215
Inventories		166,846	166,846	115,904
		5,692,051	6,532,729	5,338,668
Less: current liabilities				
Trade and other payables		(3,440,773)	(1,274,300)	(2,303,518)
Contract liabilities		0	0	(527,306)
Lease liabilities	8	(201,348)	(341,010)	0
Long term borrowings	7	(306,788)	(306,788)	(471,167)
Employee provisions		(406,724)	(406,724)	(868,755)
		(4,355,633)	(2,328,822)	(4,170,746)
Net current assets		1,336,418	4,203,907	1,167,922
Less: Total adjustments to net current assets	3.(c)	(1,326,418)	(861,756)	(1,157,922)
Net current assets used in the Rate Setting Statement		10,000	3,342,151	10,000

EXPLANATION OF DIFFERENCE IN NET CURRENT ASSETS AND SURPLUS/(DEFICIT)

Items excluded from calculation of budgeted deficiency

When calculating the budget deficiency for the purpose of Section 6.2 (2)(c) of the *Local Government Act 1995* the following amounts have been excluded as provided by *Local Government (Financial Management) Regulation 32* which will not fund the budgeted expenditure.

(b) Non-cash amounts excluded from operating activities

The following non-cash revenue or expenditure has been excluded from amounts attributable to operating activities within the Rate Setting Statement in accordance with *Financial Management Regulation 32*.

Adjustments to operating activities

Note	2022/23 Budget 30 June 2023	2021/22 Actual 30 June 2022	2021/22 Budget 30 June 2022	
	\$	\$	\$	
Less: Profit on asset disposals	5(b)	0	0	(4,000)
Add: Depreciation on assets	6	4,436,148	4,300,000	3,907,920
Movement in non-current pensioner deferred rates		0	14,855	0
Movement in current employee provisions associated with restricted cash		25,000	0	0
Non cash amounts excluded from operating activities		4,461,148	4,314,855	3,903,920

(c) Current assets and liabilities excluded from budgeted deficiency

The following current assets and liabilities have been excluded from the net current assets used in the Rate Setting Statement in accordance with *Financial Management Regulation 32* to agree to the surplus/(deficit) after imposition of general rates.

Adjustments to net current assets

Note	2022/23 Budget 30 June 2023	2021/22 Actual 30 June 2022	2021/22 Budget 30 June 2022	
	\$	\$	\$	
Less: Cash - restricted reserves	9	(2,131,984)	(1,781,984)	(1,876,519)
Add: Current liabilities not expected to be cleared at end of year				
- Current portion of borrowings		306,788	306,788	471,167
- Current portion of lease liabilities		201,348	341,010	0
- Current portion of employee benefit provisions held in reserve		297,430	272,430	247,430
Total adjustments to net current assets		(1,326,418)	(861,756)	(1,157,922)

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

3 (d) NET CURRENT ASSETS (CONTINUED)

SIGNIFICANT ACCOUNTING POLICIES

CURRENT AND NON-CURRENT CLASSIFICATION

An asset or liability is classified as current if it is expected to be settled within the next 12 months, being the Shire's operational cycle. In the case of liabilities where the Shire does not have the unconditional right to defer settlement beyond 12 months, such as vested long service leave, the liability is classified as current even if not expected to be settled within the next 12 months. Inventories held for trading are classified as current or non-current based on the Shire's intentions to release for sale.

TRADE AND OTHER PAYABLES

Trade and other payables represent liabilities for goods and services provided to the Shire prior to the end of the financial year that are unpaid and arise when the SHIRE OF TOODYAY becomes obliged to make future payments in respect of the purchase of these goods and services. The amounts are unsecured, are recognised as a current liability and are normally paid within 30 days of recognition.

PREPAID RATES

Prepaid rates are, until the taxable event has occurred (start of the next financial year), refundable at the request of the ratepayer. Rates received in advance are initially recognised as a financial liability. When the taxable event occurs, the financial liability is extinguished and the Shire recognises revenue for the prepaid rates that have not been refunded.

INVENTORIES

General

Inventories are measured at the lower of cost and net realisable value.

Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

Superannuation

The SHIRE OF TOODYAY contributes to a number of superannuation funds on behalf of employees.

All funds to which the SHIRE OF TOODYAY contributes are defined contribution plans.

LAND HELD FOR RESALE

Land held for development and sale is valued at the lower of cost and net realisable value. Cost includes the cost of acquisition, development, borrowing costs and holding costs until completion of development. Finance costs and holding charges incurred after development is completed are expensed.

Gains and losses are recognised in profit or loss at the time of signing an unconditional contract of sale if significant risks and rewards, and effective control over the land, are passed on to the buyer at this point.

GOODS AND SERVICES TAX (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

Receivables and payables are stated inclusive of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

TRADE AND OTHER RECEIVABLES

Trade and other receivables include amounts due from ratepayers for unpaid rates and service charges and other amounts due from third parties for goods sold and services performed in the ordinary course of business.

Trade receivables are recognised at original invoice amount less any allowances for uncollectible amounts (i.e. impairment). The carrying amount of net trade receivables is equivalent to fair value as it is due for settlement within 30 days.

Trade receivables are held with the objective to collect the contractual cashflows and therefore measures them subsequently at amortised cost using the effective interest rate method.

Due to the short term nature of current receivables, their carrying amount is considered to be the same as their fair value. Non-current receivables are indexed to inflation, any difference between the face value and fair value is considered immaterial.

The Shire applies the AASB 9 simplified approach to measuring expected credit losses using a lifetime expected loss allowance for all trade receivables. To measure the expected credit losses, rates receivable are separated from other trade receivables due to the difference in payment terms and security for rates receivable.

PROVISIONS

Provisions are recognised when the Shire has a present legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured.

Provisions are measured using the best estimate of the amounts required to settle the obligation at the end of the reporting period.

EMPLOYEE BENEFITS

Short-term employee benefits

Provision is made for the Shire's obligations for short-term employee benefits. Short term employee benefits are benefits (other than termination benefits) that are expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service, including wages, salaries and sick leave. Short-term employee benefits are measured at the (undiscounted) amounts expected to be paid when the obligation is settled.

The Shire's obligations for short-term employee benefits such as wages, salaries and sick leave are recognised as a part of current trade and other payables in the statement of financial position. The Shire's obligations for employees' annual leave and long service leave entitlements are recognised as provisions in the statement of financial position.

SHIRE OF TOODYAY

NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

4. RECONCILIATION OF CASH

For the purposes of the Statement of Cash Flows, cash includes cash and cash equivalents, net of outstanding bank overdrafts. Estimated cash at the end of the reporting period is as follows:

Note	2022/23 Budget	2021/22 Actual	2021/22 Budget
	\$	\$	\$
Cash at bank and on hand	3,827,017	4,667,695	3,783,549
Total cash and cash equivalents	3,827,017	4,667,695	3,783,549
Held as			
- Unrestricted cash and cash equivalents	3(a) 1,695,033	2,885,711	1,379,724
- Restricted cash and cash equivalents	3(a) 2,131,984	1,781,984	2,403,825
	3,827,017	4,667,695	3,783,549
Restrictions			
The following classes of assets have restrictions imposed by regulations or other externally imposed requirements which limit or direct the purpose for which the resources may be used:			
- Cash and cash equivalents	2,131,984	1,781,984	2,403,825
	2,131,984	1,781,984	2,403,825
The restricted assets are a result of the following specific purposes to which the assets may be used:			
Financially backed reserves	9 2,131,984	1,781,984	1,876,519
Contract liabilities	0	0	527,306
	2,131,984	1,781,984	2,403,825
Reconciliation of net cash provided by operating activities to net result			
Net result	(2,426)	622,334	1,222,766
Depreciation	6 4,436,148	4,300,000	3,907,920
(Profit)/loss on sale of asset	5(b) 0	0	(4,000)
Share of profit or (loss) of associates accounted for using the equity method	0	0	0
(Increase)/decrease in receivables	0	(344,134)	
(Increase)/decrease in inventories	0	(96,005)	
Increase/(decrease) in payables	0	(112,561)	
Increase/(decrease) in employee provisions	0	(241,191)	
Non-operating grants, subsidies and contributions	(3,776,923)	(1,671,882)	(3,301,633)
Net cash from operating activities	656,799	2,456,561	1,825,053

SIGNIFICANT ACCOUNTING POLICES

CASH AND CASH EQUIVALENTS

Cash and cash equivalents include cash on hand, cash at bank, deposits available on demand with banks, other short term highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value and bank overdrafts.

Bank overdrafts are shown as short term borrowings in current liabilities in Note 3 - Net Current Assets.

FINANCIAL ASSETS AT AMORTISED COST

The Shire classifies financial assets at amortised cost if both of the following criteria are met:

- the asset is held within a business model whose objective is to collect the contractual cashflows, and
- the contractual terms give rise to cash flows that are solely payments of principal and interest.

SHIRE OF TOODYAY
 NOTES TO AND FORMING PART OF THE BUDGET
 FOR THE YEAR ENDED 30 JUNE 2023
 FOR THE ASSETS

(a) Acquisition of Assets

The following assets are budgeted to be acquired during the year.

Reporting program

Asset class	Law, order, public safety	Community amenities	Recreation and culture	Transport	Other property and services	2022/23 Budget total	2021/22 Actual total	2021/22 Budget total
	\$	\$	\$	\$	\$	\$	\$	\$
<i>Property, Plant and Equipment</i>								
Buildings - non-specialised						0		182,207
Buildings - specialised	707,766	61,000	194,561		15,798	979,125	218,419	574,892
Plant and equipment					1,448,846	1,448,846	219,624	1,089,585
	707,766	61,000	194,561	0	1,464,644	2,427,971	438,043	1,846,684
<i>Infrastructure</i>								
Infrastructure - Roads				4,503,199		4,503,199	1,949,263	3,749,829
Infrastructure - Footpaths				122,500		122,500		
Infrastructure - Drainage				130,000		130,000	169,991	356,000
Other infrastructure			149,118			149,118		53,000
Other infrastructure - Bridges				239,248		239,248	25,170	
	0	0	149,118	4,994,947	0	5,144,065	2,144,424	4,158,829
Total acquisitions	707,766	61,000	343,679	4,994,947	1,464,644	7,572,036	2,582,466	6,005,513

A detailed breakdown of acquisitions on an individual asset basis can be found in the supplementary information attached to this budget document as follows:

SIGNIFICANT ACCOUNTING POLICIES

RECOGNITION OF ASSETS

Assets for which the fair value as at the date of acquisition is under \$5,000 are not recognised as an asset in accordance with *Financial Management Regulation 17A (5)*. These assets are expensed immediately.

Where multiple individual low value assets are purchased together as part of a larger asset or collectively forming a larger asset exceeding the threshold, the individual assets are recognised as one asset and capitalised.

SHIRE OF TOODYAY
 NOTES TO AND FORMING PART OF THE BUDGET
 FOR THE YEAR ENDED 30 JUNE 2023

5. FIXED ASSETS

(b) Disposals of Assets

The following assets are budgeted to be disposed of during the year.

	2022/23 Budget Net Book Value	2022/23 Budget Sale Proceeds	2022/23 Budget Profit	2022/23 Budget Loss	2021/22 Actual Net Book Value	2021/22 Actual Sale Proceeds	2021/22 Actual Profit	2021/22 Actual Loss	2021/22 Budget Net Book Value	2021/22 Budget Sale Proceeds	2021/22 Budget Profit	2021/22 Budget Loss
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
By Program												
Transport	493,000	493,000	0	0		0	0	0	352,500	352,500	0	0
Economic services		0	0	0	298,068	298,068	0	0	340,000	340,000	0	0
Other property and services	100,000	100,000	0	0		0	0	0	0	4,000	4,000	0
	593,000	593,000	0	0	298,068	298,068	0	0	692,500	696,500	4,000	0
By Class												
<i>Property, Plant and Equipment</i>												
Land - freehold land	100,000	100,000				0				0		
Buildings - non-specialised		0			298,068	298,068			340,000	340,000		
Plant and equipment	493,000	493,000			0	0			352,500	356,500	4,000	
	593,000	593,000	0	0	298,068	298,068	0	0	692,500	696,500	4,000	0

SIGNIFICANT ACCOUNTING POLICIES

GAINS AND LOSSES ON DISPOSAL

Gains and losses on disposals are determined by comparing proceeds with the carrying amount. These gains and losses are included in profit or loss in the period which they arise.

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

6. ASSET DEPRECIATION

	2022/23 Budget	2021/22 Actual	2021/22 Budget
	\$	\$	\$
By Program			
Governance	97,194	97,194	83,000
Law, order, public safety	287,952	287,952	245,900
Health	41,571	41,571	35,500
Housing	29,861	29,861	25,500
Community amenities	16,628	16,628	14,200
Recreation and culture	635,960	635,960	543,085
Transport	2,936,448	3,076,530	2,627,235
Economic services	80,214	80,214	68,500
Other property and services	310,319	310,319	265,000
	4,436,148	4,576,230	3,907,920
By Class			
Buildings - non-specialised	260,878	260,878	144,371
Buildings - specialised	11,784	11,784	8,552
Furniture and equipment	0	0	90,801
Plant and equipment	20,783	20,783	499,790
Other property, plant and equipment [describe]	492,267	492,267	72,392
Other property, plant and equipment [describe]	140,511	140,511	11,135
Infrastructure - Roads	2,163,906	2,303,988	1,974,023
Infrastructure - Footpaths	31,324	31,324	26,089
Infrastructure - Drainage	79,255	79,255	66,010
Infrastructure - water supply	302,013	302,013	406,203
Infrastructure - parks and ovals	658,449	658,449	544,673
Infrastructure - waste facilities	76,700	76,700	63,881
Right of use - plant and equipment	198,278	198,278	
	4,436,148	4,576,230	3,907,920

SIGNIFICANT ACCOUNTING POLICIES

DEPRECIATION

The depreciable amount of all fixed assets including buildings but excluding freehold land, are depreciated on a straight-line basis over the individual asset's useful life from the time the asset is held ready for use. Leasehold improvements are depreciated over the shorter of either the unexpired period of the lease or the estimated useful life of the improvements.

The assets residual values and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Major depreciation periods used for each class of depreciable asset are:

Buildings - non-specialised	30 to 50 years
Buildings - specialised	50 to 80 years
Furniture and equipment	4 to 10 years
Plant and equipment	5 to 15 years
Other property, plant and equipment [describe]	
Other property, plant and equipment [describe]	
Infrastructure - Roads	20 to 80 years
Infrastructure - Footpaths	20 years
Infrastructure - Drainage	80 years
Infrastructure - water supply	30 to 75 years
Infrastructure - parks and ovals	10 to 60 Years
Infrastructure - waste facilities	40 Years
Right of use - plant and equipment	Based on the remaining lease

AMORTISATION

The depreciable amount of all intangible assets with a finite useful life, are depreciated on a straight-line basis over the individual asset's useful life from the time the asset is held for use.

The assets residual value of intangible assets is considered to be zero and useful live and amortisation method are reviewed at the end of each financial year.

Amortisation is included within Depreciation on non-current assets in the Statement of Comprehensive Income.

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

7. INFORMATION ON BORROWINGS

(a) Borrowing repayments

Movement in borrowings and interest between the beginning and the end of the current financial year.

Purpose	Loan Number	Institution	Interest Rate	Budget	2022/23	Budget	2022/23	Actual	2021/22	Actual	2021/22	Budget	2021/22	Budget	2021/22	
				Principal 1 July 2022	Budget Principal Repayments	Principal outstanding 30 June 2023	Budget Interest Repayments	Principal 1 July 2021	Actual Principal Repayments	Principal outstanding 30 June 2022	Actual Interest Repayments	Principal 1 July 2021	Budget Principal Repayments	Principal outstanding 30 June 2022	Budget Interest Repayments	
				\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
Recreation and culture																
Loan 67 - Library Upgrade	67	WATC	6.6%	97,833	(47,329)	50,504	(5,689)	142,186	(44,353)	97,833	(8,664)	142,186	(44,353)	97,833	(14,073)	
Loan 72 - Land - Rec Precinct	72	WATC	4.5%	655,659	(47,371)	608,288	(28,656)	700,991	(45,332)	655,659	(30,695)	700,991	(45,332)	655,659	(35,158)	
Loan 75B - Recreation Precinct	75B	WATC		4,320,601	(183,558)	4,137,043	(98,560)	4,500,000	(179,399)	4,320,601	(102,719)	4,500,000	(343,778)	4,156,222	(197,115)	
Transport																
Loan 71 - Depot - Stage 2	71	WATC	4.5%	516,577	(39,427)	477,150	(22,909)	554,281	(37,704)	516,577	(24,632)	554,281	(37,704)	516,577	(28,282)	
Other property and services																
Loan 63 - Bendigo Bank	63	WATC	6.3%	0		0					0			0	(1,046)	
Loan 74 - Refurbish Bendigo Bank	74	WATC	3.2%	0		0					0			0	(1,010)	
				5,590,671	(317,686)	5,272,985	(155,813)	5,897,458	(306,787)	5,590,671	(166,711)	5,897,458	(471,167)	5,426,291	(276,684)	

All borrowing repayments, other than self supporting loans, will be financed by general purpose revenue.
The self supporting loan(s) repayment will be fully reimbursed.

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

7. INFORMATION ON BORROWINGS

(b) New borrowings - 2022/23

The Shire does not intend to undertake any new borrowings for the year ended 30th June 2023

(c) Unspent borrowings

The Shire had no unspent borrowing funds as at 30th June 2022 nor is it expected to have unspent borrowing funds as at 30th June 2023.

(d) Credit Facilities

	2022/23 Budget	2021/22 Actual	2021/22 Budget
	\$	\$	\$
Undrawn borrowing facilities credit standby arrangements			
Bank overdraft limit	700,000	700,000	700,000
Bank overdraft at balance date	0	0	0
Credit card limit	32,000	32,000	32,000
Credit card balance at balance date	0	0	0
Total amount of credit unused	732,000	732,000	732,000
Loan facilities			
Loan facilities in use at balance date	5,272,985	5,590,671	5,426,291

SIGNIFICANT ACCOUNTING POLICIES

BORROWING COSTS

Borrowing costs are recognised as an expense when incurred except where they are directly attributable to the acquisition, construction or production of a qualifying asset. Where this is the case, they are capitalised as part of the cost of the particular asset until such time as the asset is substantially ready for its intended use or sale.

**SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023**

8. LEASE LIABILITIES

Purpose	Institution	Lease Interest Rate	Lease Term	Budget Lease	2022/23 Budget Lease	Budget Lease	2022/23 Budget Lease	2021/22 Actual Lease	Actual Lease	2021/22 Actual Lease	Budget Lease	2021/22 Budget Lease	Budget Lease	2021/22 Budget Lease	
				Principal 1 July 2022	Principal Repayments	Principal outstanding 30 June 2023	Principal Repayments	Principal 1 July 2021	Principal repayments	Principal outstanding 30 June 2022	Principal repayments	Principal 1 July 2021	Principal repayments	Principal outstanding 30 June 2022	Principal repayments
				\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
Governance															
ESRI Mapping Software	Commonwealth E	1.7%	36 months	8,673	(8,673)	0	(895)	36,893	(28,220)	8,673	(895)	40,211	(27,812)	12,399	(934)
Drum Roller	Gear Select	1.5%	60 months	67,060	(24,852)	42,208	(2,311)	91,912	(24,852)	67,060	(2,311)	95,271	(23,447)	71,824	(1,730)
IVECO Truck	CNHI Capital	4.3%	60 months	23,747	(23,747)	0	(1,628)	57,636	(33,889)	23,747	(1,628)	64,317	(31,552)	32,765	(3,441)
Front Wheel Loader	Komatsu	1.5%	60 months	137,162	(49,404)	87,758	(1,581)	186,566	(49,404)	137,162	(1,581)	193,086	(46,737)	146,349	(3,019)
Grader	Komatsu	2.1%	60 months	28,037	(28,037)	0	(2,965)	79,819	(51,782)	28,037	(2,965)	86,009	(48,877)	37,132	(4,593)
Photocopier	WOBM	2.1%	60 months	0	0	0	(119)	2,851	(2,851)	0	(119)	3,380	(4,939)	(1,559)	(192)
Solar Proposal Library/Depot	All Leasing	2.2%	84 months	10,411	(4,949)	5,462	(405)	15,360	(4,949)	10,411	(405)	16,315	(4,621)	11,694	(497)
				275,090	(139,662)	135,428	(9,904)	471,037	(195,947)	275,090	(9,904)	498,589	(187,985)	310,604	(14,406)

SIGNIFICANT ACCOUNTING POLICIES

LEASES

At the inception of a contract, the Shire assesses whether the contract is, or contains, a lease. A contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

At the commencement date, a right-of-use asset is recognised at cost and a lease liability at the present value of the lease payments that are not paid at that date. The lease payments are discounted using the interest rate implicit in the lease, if that rate can be readily determined. If that rate cannot be readily determined, the Shire uses its incremental borrowing rate.

LEASE LIABILITIES

The present value of future lease payments not paid at the reporting date discounted using the incremental borrowing rate where the implicit interest rate in the lease is not readily determined.

SHIRE OF TOODYAY

NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

9. FINANCIALLY BACKED RESERVES

(a) Financially Backed Reserves - Movement

	2022/23 Budget Opening Balance	2022/23 Budget Transfer to	2022/23 Budget Transfer (from)	2022/23 Budget Closing Balance	2021/22 Actual Opening Balance	2021/22 Actual Transfer to	2021/22 Actual Transfer (from)	2021/22 Actual Closing Balance	2021/22 Budget Opening Balance	2021/22 Budget Transfer to	2021/22 Budget Transfer (from)	2021/22 Budget Closing Balance
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Restricted by council												
(a) Leave reserve	247,430	25,000		272,430	222,430	25,000		247,430	222,430	25,000		247,430
(b) Asset Development Reserve	328,068	100,000	(30,000)	398,068	30,000	298,068		328,068	30,000	340,000		370,000
(c) CCTV Reserve	27,116			27,116	27,116			27,116	27,116			27,116
(d) Emergency Mangement Reserve	75,350			75,350	75,350			75,350	75,350			75,350
(e) Heritage Asset Reserve	11,165		(6,000)	5,165	11,165			11,165	11,165			11,165
(f) Information Technology Reserve	0			0	22,578		(22,578)	0	22,578		(22,578)	0
(g) Newcastle Footbridge & Pedestrian Overpass	38,494	5,000		43,494	38,494			38,494	38,494			38,494
(h) Plant Replacement Reserve	152,005			152,005	152,005			152,005	152,005			152,005
(i) Community Bus Reserve	0			0	89,780		(89,780)	0	89,780		(89,780)	0
(j) Recreation Development Reserve	245,411	10,000		255,411	31,853	213,558		245,411	31,853	213,558		245,411
(k) Refuse Reserve	115,379			115,379	115,379			115,379	115,379			115,379
(l) Road Contribution Reserve	197,467	125,000	(20,000)	302,467	281,682	75,000	(159,215)	197,467	334,285	75,000	(159,215)	250,070
(m) Strategic Access & Fire Egress Track Reser	234,319	100,000		334,319	234,319			234,319	234,319			234,319
(n) Morangup Community Centre Reserve	0			0	353,306		(353,306)	0	353,306		(353,306)	0
(o) Asset Replacement Reserve	0			0	0			0	30,252		(30,252)	0
(p) Drainage and Sewerage Reserve	109,780	20,000		129,780	0	109,780		109,780		109,780		109,780
(q) Biosecurity Reserve **New**	0	1,000		1,000	0			0				0
(r) Roads Reserve **New**	0	20,000		20,000	0			0				0
(s) Mining Industry Reserve **New**	0	0		0	0			0				0
	1,781,984	406,000	(56,000)	2,131,984	1,685,457	721,406	(624,879)	1,781,984	1,768,312	763,338	(655,131)	1,876,519

SHIRE OF TOODYAY

NOTES TO AND FORMING PART OF THE BUDGET

FOR THE YEAR ENDED 30 JUNE 2023

9. FINANCIALLY BACKED RESERVES

(b) Financially Backed Reserves - Purposes

In accordance with Council resolutions in relation to each reserve account, the purpose for which the reserves are set aside are as follows:

Reserve name	Anticipated date of use	Purpose of the reserve
(a) Leave reserve	Ongoing	Funds set aside to provide payments for Employee Entitlement liabilities
(b) Asset Development Reserve	Ongoing	Funds set aside for the future purchase and/or development of assets
(c) CCTV Reserve	Ongoing	Funds set aside for the replacement, expansion and maintenance of CCTV
(d) Emergency Mangement Reserve	Ongoing	Funds set aside to assist in emergency management and recovery
(e) Heritage Asset Reserve	Ongoing	Funds set aside for the preservation and/or purchase of Built Heritage assets of significance within the Shire of Toodyay
(f) Information Technology Reserve	Ongoing	Funds set aside for the replacement and maintenance of computer hardware
(g) Newcastle Footbridge & Pedestrian Overpass	Ongoing	Funds set aside for the maintenance and upkeep of the Newcastle Footbridge and the Duke Street Pedestrian Overpass
(h) Plant Replacement Reserve	Ongoing	Funds set aside for the ongoing upgrade and replacement of Council owned fleet
(i) Community Bus Reserve	Ongoing	Funds set aside for the purchase of a new Shire of Toodyay Community Bus
(j) Recreation Development Reserve	Ongoing	Funds set aside for the development of recreational facilities
(k) Refuse Reserve	Ongoing	Funds set aside for the development and maintenance of the Shire of Toodyay Waste Transfer Station
(l) Road Contribution Reserve	Ongoing	Funds set aside from contributions given towards particular roads to assist in the ongoing maintenance and preservation of these roads. These funds cannot be used on roads other than those identified in the contribution
(m) Strategic Access & Fire Egress Track Reser	Ongoing	Funds set aside for the implementation and maintenance of strategic access and egress tracks
(n) Morangup Community Centre Reserve	Ongoing	Funds set aside for the development of the Morangup Community Centre
(o) Asset Replacement Reserve	30/06/2022	Reserve closed as at 30 June 2022 - future asset replacements to be managed through the Recreation Development Reserve
(p) Drainage and Sewerage Reserve	Ongoing	Funds set aside for drainage improvements
(q) Biosecurity Reserve **New**	Ongoing	Funds set aside for the management of invasive plants and pests
(r) Roads Reserve **New**	Ongoing	Funds set aside for future road maintenance, renewals and upgrades
(s) Mining Industry Reserve **New**	Ongoing	Funds set aside to assist in managing the impacts of mining activities within the community

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

10. REVENUE RECOGNITION

SIGNIFICANT ACCOUNTING POLICIES

Recognition of revenue is dependant on the source of revenue and the associated terms and conditions associated with each source of revenue and recognised as follows:

Revenue Category	Nature of goods and services	When obligations typically satisfied	Payment terms	Returns/Refunds/Warranties	Determination of transaction price	Allocating transaction price	Measuring obligations for returns	Revenue recognition
Rates	General Rates	Over time	Payment dates adopted by Council during the year	None	Adopted by council annually	When taxable event occurs	Not applicable	When rates notice is issued
Specified area rates	Rates charge for specific defined purpose	Over time	Payment dates adopted by Council during the year	Refund in event monies are unspent	Adopted by council annually	When taxable event occurs	Not applicable	When rates notice is issued
Service charges	Charge for specific service	Over time	Payment dates adopted by Council during the year	Refund in event monies are unspent	Adopted by council annually	When taxable event occurs	Not applicable	When rates notice is issued
Grant contracts with customers	Community events, minor facilities, research, design, planning evaluation and services	Over time	Fixed terms transfer of funds based on agreed milestones and reporting	Contract obligation if project not complete	Set by mutual agreement with the customer	Based on the progress of works to match performance obligations	Returns limited to repayment of transaction price of terms breached	Output method based on project milestones and/or completion date matched to performance obligations as inputs are shared
Grants, subsidies or contributions for the construction of non-financial assets	Construction or acquisition of recognisable non-financial assets to be controlled by the local government	Over time	Fixed terms transfer of funds based on agreed milestones and reporting	Contract obligation if project not complete	Set by mutual agreement with the customer	Based on the progress of works to match performance obligations	Returns limited to repayment of transaction price of terms breached	Output method based on project milestones and/or completion date matched to performance obligations as inputs are shared
Grants with no contractual commitments	General appropriations and contributions with no specific contractual commitments	No obligations	Not applicable	Not applicable	Cash received	On receipt of funds	Not applicable	When assets are controlled
Licences/ Registrations/ Approvals	Building, planning, development and animal management, having the same nature as a licence regardless of naming.	Single point in time	Full payment prior to issue	None	Set by State legislation or limited by legislation to the cost of provision	Based on timing of issue of the associated rights	No refunds	On payment and issue of the licence, registration or approval
Waste management collections	Kerbside collection service	Over time	Payment on an annual basis in advance	None	Adopted by council annually	Apportioned equally across the collection period	Not applicable	Output method based on regular weekly and fortnightly period as proportionate to collection service
Waste management entry fees	Waste treatment, recycling and disposal service at disposal sites	Single point in time	Payment in advance at gate or on normal trading terms if credit provided	None	Adopted by council annually	Based on timing of entry to facility	Not applicable	On entry to facility
Airport landing charges	Permission to use facilities and runway	Single point in time	Monthly in arrears	None	Adopted by council annually	Applied fully on timing of landing/take-off	Not applicable	On landing/departure event
Fees and charges for other goods and services	Cemetery services, library fees, reinstatements and private works	Single point in time	Payment in full in advance	None	Adopted by council annually	Applied fully based on timing of provision	Not applicable	Output method based on provision of service or completion of works
Sale of stock	Aviation fuel, kiosk and visitor centre stock	Single point in time	In full in advance, on 15 day credit	Refund for faulty goods	Adopted by council annually, set by mutual agreement	Applied fully based on timing of provision	Returns limited to repayment of transaction price	Output method based on goods

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

11. PROGRAM INFORMATION

Income and expenses

Income excluding grants, subsidies and contributions

	2022/23 Budget	2021/22 Actual	2021/22 Budget
	\$	\$	\$
Governance	16,919	254,003	121,450
General purpose funding	7,198,517	7,009,472	7,000,433
Law, order, public safety	46,483	257,909	87,880
Health	19,000	20,140	80,500
Housing	8,500	8,378	13,780
Community amenities	1,008,405	919,726	945,011
Recreation and culture	67,370	93,794	189,200
Transport	22,800	92,318	17,310
Economic services	306,156	295,049	309,740
Other property and services	4,606	46,270	129,041
	8,698,756	8,997,059	8,894,345

Operating grants, subsidies and contributions

Governance	0	0	7,500
General purpose funding	362,023	1,864,756	705,576
Law, order, public safety	642,395	932,193	1,134,763
Recreation and culture	30,000	62,957	65,370
Transport	776,096	430,682	562,522
	1,810,514	3,290,588	2,475,731

Non-operating grants, subsidies and contributions

Law, order, public safety	586,889	470,358	639,879
Recreation and culture	304,679	0	0
Transport	2,885,355	1,201,524	2,661,754
	3,776,923	1,671,882	3,301,633

Expenses

Governance	(2,491,147)	(701,723)	(574,779)
General purpose funding	(112,419)	(269,144)	(348,773)
Law, order, public safety	(1,662,049)	(2,134,459)	(2,178,243)
Health	(200,812)	(162,307)	(241,016)
Education and welfare	(8,491)	(20,559)	(39,713)
Housing	(23,580)	(22,441)	(34,503)
Community amenities	(1,423,759)	(1,472,671)	(1,665,311)
Recreation and culture	(1,986,267)	(1,786,266)	(1,980,471)
Transport	(3,952,540)	(4,305,093)	(3,873,047)
Economic services	(851,163)	(974,231)	(1,281,297)
Other property and services	(1,576,392)	(1,488,301)	(1,231,790)
Total expenses	(14,288,619)	(13,337,195)	(13,448,943)

Net result for the period

	(2,426)	622,334	1,222,766
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SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

12. OTHER INFORMATION

	2022/23 Budget	2021/22 Actual	2021/22 Budget
	\$	\$	\$
The net result includes as revenues			
(a) Interest earnings			
Investments			
- Reserve funds	5,000		11,000
Late payment of fees and charges *	10,000	0	11,000
Other interest revenue (refer note 1b)	35,000	51,525	14,000
	50,000	51,525	36,000
* The Shire has resolved to charge interest under section 6.13 for the late payment of any amount of money at 7%.			
(b) Other revenue			
Reimbursements and recoveries	140,428	888,105	416,271
	140,428	888,105	416,271
The net result includes as expenses			
(c) Auditors remuneration			
Audit services	40,000	0	40,000
	40,000	0	40,000
(d) Interest expenses (finance costs)			
Borrowings (refer Note 7(a))	155,813	166,711	276,684
Interest expense on lease liabilities	9,904	9,904	14,406
	165,717	176,615	291,090
(e) Write offs			
General rate	10,000	0	0
	10,000	0	0

SHIRE OF TOODYAY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2023

13. ELECTED MEMBERS REMUNERATION

	2022/23 Budget	2021/22 Budget
	\$	\$
Elected member - Cr Madacsi		
President's allowance	32,199	22,174
Meeting attendance fees	22,080	15,205
Annual allowance for ICT expenses	1,000	400
	55,279	37,779
Elected member - Cr Ruthven		
Deputy President's allowance	8,050	5,544
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	23,310	18,219
Elected member - Cr Duri		
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	15,260	12,675
Elected member - Cr Hart		
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	15,260	12,675
Elected member - Cr McCormick		
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	15,260	12,675
Elected member - Cr McKeown		
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	15,260	12,675
Elected member - Cr Pearce		
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	15,260	12,675
Elected member - Wrench		
Meeting attendance fees	14,260	12,275
Annual allowance for ICT expenses	1,000	400
	15,260	12,675
Elected member - Cr Bell		
Meeting attendance fees	0	12,275
Annual allowance for ICT expenses	0	400
	0	12,675
Total Elected Member Remuneration	170,149	144,723
President's allowance	32,199	22,174
Deputy President's allowance	8,050	5,544
Meeting attendance fees	121,900	113,405
Annual allowance for ICT expenses	8,000	3,600
	170,149	144,723

SHIRE OF TOODYAY
 NOTES TO AND FORMING PART OF THE BUDGET
 FOR THE YEAR ENDED 30 JUNE 2023

14. FEES AND CHARGES

	2022/23 Budget	2021/22 Actual	2021/22 Budget
	\$	\$	\$
By Program:			
Governance	7,418	17,387	
General purpose funding	55,400	15,415	24,500
Law, order, public safety	34,283	35,709	87,874
Health	12,000	12,905	67,000
Housing	8,500	8,378	10,280
Community amenities	957,577	878,293	773,275
Recreation and culture	63,569	59,080	270,028
Economic services	279,056	132,580	243,866
Other property and services	2,606	2,422	91,218
	1,420,409	1,162,169	1,568,041

The subsequent pages detail the fees and charges proposed to be imposed by the local government.

7 CONFIDENTIAL BUSINESS**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. SCM004/02/23****MOVED** Cr D Wrench

That Council considers the confidential report listed below in a meeting closed to the public in accordance with Section 5.23(2) of the *Local Government Act 1995*:

7.1 Update: GP and Allied Health Services at Alma Beard Medical Centre

This matter is considered to be confidential under Section 5.23(2) - (c), (e)(iii) and (e)(ii) of the Local Government Act 1995, 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 a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting, a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government and a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government.

In accordance with Standing Orders Clause 5.2 (5) while the resolution under sub-clause 5.2 (2) remains in force, the operation of Standing Orders Clause 7.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.

MOTION CARRIED 7/0

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 3.57pm.

The Presiding Member adjourned the meeting at 3.57pm.

The Presiding Member resumed the meeting at 4.03pm.

7.1 Update: GP and Allied Health Services at Alma Beard Medical Centre

Discussion of the item was held behind closed doors.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. SCM005/02/23**MOVED** Cr M McKeown

That Council:

1. Agrees to the following essential terms of the draft General Practice Agreement as provided at Confidential Attachment 1 to this report:

- (a) Exclusive use of the Alma Beard Medical Centre, rent free;
 - (b) Building insurance, maintenance and grounds upkeep to be provided by the Shire;
 - (c) Information technology and furniture fit-out as detailed to be provided by the Shire;
 - (d) Cost of utilities to be shared equally between the Shire and the Doctor;
 - (e) Annual subsidy payable to the Doctor in quarterly instalments, to be reviewed annually;
 - (f) Annual report on practice activities to be provided by the Doctor;
 - (g) Medical records to remain the property of the Shire upon termination (subject to legislative requirements such as the *Privacy Act*);
 - (h) A five-year term with a tentative commencement date of 27 March 2023;
 - (i) A rates subsidy of 100% of the rates payable on any property purchased by the Doctor for the practice; and
 - (j) Consideration of the provision of a vehicle at the conclusion of the first year of the contract.
2. Authorises the Chief Executive Officer to finalise the DRAFT General Practice Agreement in accordance with the agreed essential terms above and as outlined in this report.
3. Requests the Chief Executive Officer to:
- (a) bring the Final General Practice Agreement back to Council for approval; and
 - (b) include the financial implications of the executed General Practice Agreement in the 2022-23 mid-year Budget Review and in future annual budgets.

MOTION CARRIED 7/0

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. SCM006/02/23

MOVED Cr D Wrench

SECONDED Cr B Ruthven

That Council move from behind closed doors and Standing Orders are resumed at 4.25pm.

MOTION CARRIED 7/0

The Council Chambers were re-opened at 4.25pm.

In accordance with Standing Order 5.2(7), the Presiding Member read aloud Resolution No. SCM005/02/23 for the benefit of members of the public online, and for those who had returned to the public gallery.

8 CLOSURE OF MEETING

The Shire President declared the meeting closed at 4.27pm.



ATTACHMENTS MINUTES

Special Council Meeting

Wednesday, 1 February 2023

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5.1.	G Appleby submission	
	Attachment 1 Submission from G Appleby.....	4
5.2	L Graham submission	
	Attachment 1 Document for submission from Mr Graham (Ref: IAM87860); and	8
	Attachment 2 Copy of Development Application provided under FOI to Mr Graham - tabled to Councillors by Mr Graham at 2.23pm.....	21

Geoff Appleby

Madam Shire President.

Submission in relation to Item 6.1.1, Shipping Container 19a Clinton Street - SCM 1st February 2023

On the cover page the report, as in all reports of this nature, Councillors are informed that their role in the matter is "quasi-judicial" and on the final page is the officer's recommendation that Council "NOTE" submissions received. Because of the unusual manner in which this report has been drafted, which is more in the style of a submission rather than just a factual report, I think it is important for Councillors to give special consideration to their legal obligations when considering a quasi-judicial matter.

Because it describes most of the business which comes before it, Council will of course be aware of the meaning of "quasi-judicial", but for those who are unfamiliar with the concept, it translates as 'in many ways like a court of law' and it does impose legal requirements and obligations on quasi-judicial bodies to "give full weight to submissions and conduct investigations into disputed claims and alleged infractions of rules and regulations and it must put aside partisan views to determine the matter in the general manner of a law court". Decisions of a quasi-judicial body require findings of facts to reach conclusions of law that justify the decision; and such decisions are open to challenge in court.

I therefore respectfully suggest that the officer's recommendation to "note" submissions should be read by councillors to reflect on the importance of their role when they are required to adjudicate in a quasi-judicial matter of this delicate nature, especially when the officer's report would appear to encourage support of an unlawful development application which breaches the Shire policies, planning codes, Acts of Parliament and Regulations.

The officer then downplays the importance of this matter and states that Council is being asked to determine this matter, despite delegated authority being available at officer level. It is my understanding that delegated authority is bestowed by Council on the CEO and the CEO can sub-delegate to other employees as appropriate. In this particular matter, the CEO has a direct interest and must therefore relinquish her delegated authority. Having done so, she is no longer in a position to make such a sub-delegation in this matter. However, irrespective of this, the Shire's Local Planning Policy - Non-Habitable structures informs us that in determining applications for the use of shipping containers, Council will require certain information to be provided by the applicant, and this can only be interpreted to mean that application must be made to Council for approval.

In his report the officer acknowledges that the application is being considered retrospectively, and if Council decides to allow this matter to proceed and it supports the officer's recommendation, the Supreme Court has ruled that retrospective action cannot legitimise any alleged illegal actions which may have been committed prior to retrospective authority. Council will therefore be required to take action if any offences have occurred prior to the retrospective approval.

The Officer's report also tells us that the shipping container was placed on Shire property without authority and prior consent, and he also tells us that an application for a shipping container in a designated zone, (of which this is one), **WILL NOT** be supported unless the structure is for temporary building site works. The officer, in spite of the Council's policy being perfectly clear, then states that the officers see no difference in impact between a container being used for site works or for furniture storage. I suggest that if this is their view, they should carefully re-read the Council's policy.

1

On receipt of this unlawful development application and a covering letter informing the officer that the container would unlawfully be put on the site the following day, the officer was duty bound to refuse the application and inform the applicant they were not permitted to put the container on the site; but he did not do that and it appears likely that he took that decision because of the relative status between the applicant and himself.

Instead the application was accepted and Council is now informed that the applicant is requesting approval for a shipping container that is already in situ.

The officer then launches into a defence of the unlawful behaviour by stating that “whilst it is not ideal, it is expected, and even catered for in both the deemed provisions and the Planning and Development Regulations 2009”.

I agree that it is far from ideal, but I do not see how it could be expected; and incidentally, I can find no deeming provision whatsoever in the Regulations; or elsewhere for that matter which support the proposition that a less than ideal, expected, unlawful act can be catered for. However, section 57 of the Regs is interesting and tells us that “A person must not give any false or misleading information in, or in relation to, an application or request made under these regulations. (2) A person making an application or request made under these regulations must not withhold information that is or may be material to the application or request. And this is quite a significant matter because a breach attracts a maximum a fine of \$50,000.

And I think it is here we should revisit the Officer’s report to the December 2022 council meeting which also dealt with the illegal placement of shipping containers. The author of this report was the same manager and the officer responsible was the CEO; and I quote from the planning officer’s report contained in the agenda:

“Given the seriousness of the non-compliance, it is recommended that Council resolves to infringe the applicants to **set an example** and to **signal to the community** that the tolerance for non-compliance when landowners are undertaking development without approval, is very low”.

The officer’s attitude when dealing with this non-compliance in December make no statements of mitigation, did not seek to defend the unlawful actions or suggest that Council should pay only scant attention to statutes. It is surprising how quickly attitudes can change.

Referring back to the present report the officer attempts to mitigate the present non-compliance by telling councillors that local government has discretion built into the decision making process, which he mistakenly says is backed up by LEGAL PRECEDENT; and he tries to substantiate this false premise by providing examples from transcripts of appeals in various tribunals.

The officer is completely wrong in believing that legal precedent can be established in this manner. Legal precedent actually means that judges are bound to follow interpretations of the law made by judges in higher courts, in cases with similar facts involving similar legal principle.

Quoting unsupported statements made by Counsel for appellants in Tribunal appeals does not justify the manager tearing up Local Government and State planning policy, codes, laws and regulations. To the contrary to the manager’s obligation is to uphold and administer those same tenets and principles.

The cases which the officer puts forward in an attempt to justify his position relate to appeals to determine (a) whether a development application was required to knock down buildings, (b) an appeal against a Council refusing to allow a stack of new houses to be built close to the Perth airport, and (c) an appeal regarding the extension of a shopping centre in Queensland. It is not apparent how these hearings have any relevance to the current matter and there were no pertinent points of law contained within the findings.

Incidentally all three appeals were lost and I find it incomprehensible that a manager responsible for implementing planning and policy legislation for the Shire would spend his valuable time on such research, and even consider it was an appropriate course to take when dealing with an unlawful application. It is the role of the officer to produce a factual report for Council to consider, not to condone illegal and unlawful acts and mount a defence for the applicant.

The officer then quotes from State Planning Policy 7.3 Residential Design Codes – Volume 1. It is not only irrelevant, but the statements contained in this section of the report could be construed as misleading. The officer states, “Shipping containers are regarded as outbuildings in this policy”

I can find no mention of shipping containers in SPP 7. The definition of an outbuilding in the Design Code is: “An enclosed non-habitable structure that is detached from any dwelling”, and on further examination it refers to sheds, carports and detached garages etc but I can find no reference to shipping containers.

Furthermore, at 7.2 the Code also says that pre-existing local planning policies if a properly adopted local planning policy which came into effect prior to the gazettal of the R-Codes (as amended), is inconsistent with the R-Codes Volume 1: a) For those sections of Part 5 modified in accordance with section 7.3.1 or modified with WAPC approval in accordance with section 7.3.2, the provisions of the R-Codes **do not supersede any development standard**.

The officer then presents a series of calculations to demonstrate that the combined structure areas of the container and outbuildings conform with the R Codes. No calculations can alter the fact that there is an illegal container in Shire property.

And then on to Local Planning Policy – Advertising of planning proposals. The officer says that the development application was advertised in accordance with this policy, however when a local resident asked for a copy of the development application he was told that it was confidential, but he was given a redacted version of the accompanying letter. This would appear to be contrary to the requirement for advertising the application for comment. Furthermore, I could find no such advertisement in local newspapers or on the SOT website. A copy of the application was eventually provided to the resident as a result of him paying \$30 for a Freedom of Information application, which confirmed the development application was not in fact confidential and should have been given freely.

The officer then tells us that in regard to Local Planning Policy – Use of Sea Containers & Other similar storage structures that; “by virtue of the zoning – this development **does not** comply”. He goes on to reiterate that the application **WILL NOT** be supported unless the structure is for temporary building site works.

Continuing the theme of demonstrating why the application cannot be approved, the officer tells us that in regard to Draft Local Planning Policy – Non-habitable structures, the development application would be **NON-COMPLIANT** on account of the zoning. He then goes on to say that under Local Planning Policy – Central Toodyay Heritage Area, The structure does **NOT** meet the roof pitch requirements of this policy.

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

I’m not quite sure how an appeal to SAT would work. The owner of the property, The Shire of Toodyay is refused permission to place the container on its property for a myriad of reasons. The owner, the Shire of Toodyay wishes to appeal the Toodyay Council’s decision and lodges an appeal with the tribunal.....and the Shire is called upon to defend its ruling against itself?

And just a final comment in “Risk related”; the officer classifies his assessment of the reputational damage as high. The reputation of the Shire is low in the minds of many people and if this application is granted, it can only get worse.

Geoffrey R McDonald-Appleby

175 Drummondi Drive, Toodyay.

0427 299 330

SUBMISSION TO THE
SHIRE OF TOODYAY
MADE BY LARRY GRAHAM
01 FEB 23

THE POST EVENT JUSTIFICATION POSING AS ADVICE THAT YOU HAVE BEEN GIVEN BY YOUR STAFF SAYS YOU SHOULD APPROVE THIS BIZARRE EVENT JUST BECAUSE YOU CAN; BUT LET ME TELL YOU THE LAST TIME THIS SHIRE DID THAT, IT RESULTED IN AN ADVERSE FINDING IN THE FORMAL INQUIRY. COUNCILLORS, NOT ONLY SHOULD YOU NOT APPROVE THIS ITEM, BUT YOU CANNOT LAWFULLY APPROVE IT.

I REFER TO THE DEVELOPMENT APPLICATION THAT I SENT YOU, THE ONE YOUR STAFF DID NOT PROVIDE YOU WITH AND IF YOU LOOK AT THE FIRST PAGE YOU WILL SEE THAT THE OWNERS NAME IS BLANK – IT IS NOT REDACTED - IT IS BLANK.

IF YOU THEN GO TO THE SECTION BELOW THE REDACATED CONTACT INFORMATION YOU WILL SEE A HIGHLIGHTED STATEMENT THAT SAYS: “THIS APPLICATION WILL **NOT** PROCEED WITHOUT THE SIGNATURE OF **ALL** OWNERS”. THOSE TWO FACTS KILL THIS APPLICATION; LIKE MONTY PYTHON’S PARROT – IT IS STONE MOTHERLESS DEAD, AND YOU CANNOT APPROVE IT.

ON THE NEXT PAGE BELOW THE REDACTED APPLICANT’S SIGNATURE IS UNDER A MANDATED VERIFICATION WHERE THE APPLICANT CERTIFIED THAT THEY UNDERSTOOD A FEW THINGS, INCLUDING THAT ACCEPTANCE MAY BE REJECTED IF THE FORM IS INCOMPLETE – WELL THIS FORM IS INCOMPLETE AND HAS NOT BEEN SIGNED BY ANY OWNER, SO WHY IT ACCEPTED?

BUT WAIT THERE IS MORE, BECAUSE PAGES 2, 3 AND 4 ARE COMPLETELY BLANK WITH NONE OF THE MANDATED INFORMATION PROVIDED AND THE COMPULSORY BUSH FIRE PLANNING IS COMPLETELY MISSING

PAGE 5 IS AN IRRELEVANT AERIAL PHOTO OF THE PROPERTY WITH NONE OF THE REQUIRED PLANNING INFORMATION BEING PROVIDED; THERE ARE SOME DETAILS IN THE AGENDA, BUT THEY COULD NOT POSSIBLY BE FROM THE APPLICATION BECAUSE THEY ARE NOT PROVIDED.

AT THE TIME THE APPLICATION WAS MADE THE APPLICANT WAS NOT EVEN A TENANT, BUT EVEN IF THE APPLICANT WAS A TENANT, THEY COULD STILL NOT MAKE A DEVELOPMENT APPLICATION ON A RENTAL PROPERTY.

ONLY THE OWNER CAN DO THAT, AND THE OWNER DID NOT.

NOW LET’S GO TO THE LETTER IN THE AGENDA PAPERS, IN IT THE APPLICANT SAID: “...WE HAVE ARRANGED FOR THE CONTAINER TO BE DELIVERED THIS WEDNESDAY 14 DECEMBER 2022.”

THE APPLICANT IS FORMALLY ADVISING THE PLANNING DEPARTMENT OF THE SHIRE THAT THE APPLICANT WAS, CONTRARY TO THE ACT, THE REGULATIONS, THE TOWN PLAN, AND COUNCIL'S OWN POLICIES GOING TO PUT A CONTAINER THERE WITHOUT THE APPROVAL THAT IS LAWFULLY REQUIRED BEFOREHAND.

WHEN YOU ARE OFFICIALLY ADVISED THAT SOMEONE IS GOING TO BREAK THE LAW, THE ONLY COURSE OF ACTION OPEN TO A PUBLIC OFFICER IS DIRECT THAT NOT OCCUR. IN THIS CASE THAT DID NOT OCCUR AND THE APPLICATION SHOULD NOT HAVE BEEN ACCEPTED BECAUSE ONLY AN OWNER CAN MAKE OR SIGN AN APPLICATION FOR DEVELOPMENT APPROVAL AND THE APPLICANT IS NOT THE OWNER.

BUT NONE OF THAT HAPPENED AND NOW YOU ARE BEING TOLD THAT IGNORING ALL OF THAT AND JUST VALIDATING UNLAWFUL AND IMPROPER BEHAVIOUR IS ALL RIGHT. WELL, IT IS NOT, AND YOUR CODE OF CONDUCT REQUIRES YOU TO REFUSE TO APPROVE AND ENDORSE UNLAWFUL ACTS, CONFLICTS OF INTEREST, INVALID APPLICATIONS, AND BROKEN PROCESSES.

SHIRE STAFF ARE NOT ALLOWED TO IGNORE THE LAW, REGULATIONS, AND COUNCIL POLICY, AND IT IS YOUR JOB TO HOLD THEM TO ACCOUNT, BECAUSE THE RULES APPLY TO EVERYONE, INCLUDING SHIRE STAFF.

IN CLOSING I JUST WANT TO SAY THAT EVEN IF ALL THE CHILDISH AND PARANOID NONSENSE BEING CIRCULATED ABOUT MY MOTIVES IS CORRECT, AND IT IS NOT, NONE OF IT CHANGES THE BASIC AND FUNDAMENTAL FACT THAT A CONTAINER WAS PLACED ON COUNCIL PROPERTY BY A COUNCIL EMPLOYEE WITHOUT APPROVAL AND THAT IS AN UNLAWFUL ACT. ONE WHICH WAS OFFICIALLY BROUGHT TO THE ATTENTION OF OFFICE HOLDERS ON 2 JANUARY AND SINCE THEN NOTHING MEANINGFUL HAS HAPPENED.

COUNCILLORS, THERE IS NO EVIDENCE THAT ANYONE IN THE SHIRE HAS ACTED APPROPRIATELY IN THIS MATTER, AND YOU NEED TO REJECT THESE PROPOSALS AND YOU NEED TO DEMAND THAT THE SHIRE'S BEHAVIOUR BE INDEPENDENTLY INVESTIGATED.

BREACHES

For the information of councillors, the following is a non-exhaustive list of the relevant parts of the many Shire Policies, Laws, Regulations, and processes that have been breached or not complied with in relation to Agenda Item 6.1.1.

This paper forms part of my submission to council and I stress that Councillors should have been advised of all of these in their agenda papers.

Shire of Toodyay Code of Conduct for Council Members

s6 - Accountability

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

s18 - Securing personal advantage or disadvantaging others

A council member must not make improper use of their office —

1. (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
2. (b) to cause detriment to the local government or any other person.

PLANNING AND/OR DEVELOPMENT

Local Planning Policy 14 – The Use of Sea Containers & Other Similar Storage Structures

STATUTORY POWERS: This Local Planning Policy is made pursuant to Clause 2.2 of the Shire of Toodyay Local Planning Scheme No 4.

POLICY STATEMENT: All sea containers and other similar structures require the Planning and Approval of Council prior to their location on a property.

Draft Use of Shipping Containers and Similar Storage Structures Policy (July 2022)

Policy Statement: This policy applies to the whole of the Shire of Toodyay. All sea containers and other similar structures require development approval to prior (sic) their location on a property.

Local Planning Policy - Non - Habitable Structures

(i.e. Outbuildings, Sheds, Gazebos, Carports, Shade houses and Shipping Containers)

Policy Statement: (1) This policy applies to the whole of the Shire of Toodyay.

(2) All shipping containers and other similar structures require development approval to prior their location on a property.

Local Planning Policy 20 – Central Toodyay Heritage Area

Statutory Context: The Central Toodyay Heritage Area will be given statutory protection under the Shire of Toodyay's Local Planning Scheme No 4. Local Planning Scheme No 4 contains the Model Scheme Text provisions that allow for the designation of a heritage area and the adoption of policy guidelines that will be applicable to that area.

All applications for development, including new development or the alteration, extension, modification or demolition of existing buildings within the Central Toodyay Heritage Area shall comply with this Local Planning Policy.

Principles of Development: All applications within the Central Toodyay Heritage Area shall have regard to and respect the following principles of development:

- a) All development shall enhance and reinforce the historic character of the Central Toodyay Heritage Area

Shire as a Developer Policy

In relation to all projects where Council is both developer and regulator the following will be applied:

1. Planning Decisions

- (a) Decisions of a planning nature will be made and documented in the same way as if planning consent was required.
- (b) The Consultation requirements set out in the scheme or Council's consultation policy will be applied, unless Council is satisfied that the consultation objectives have already been achieved through other means (e.g. Strategic Community Plan consultations). Any decision to waive consultation will be documented.
- (c) Planning delegations will be used to deal with public works proposals where applicable.
- (d) Planning decisions requiring a Council Resolution will be dealt with separately from project management decision making.
- (e) Any decision to waive or vary any planning controls that would apply to a project were it not a public work, will be documented.

2. Project Management Decisions

- (a) Project management decisions will be dealt with separately from planning decisions.
- (b) If a project management decision also requires a planning decision the planning decision will be made first.

Local Planning Policy 8 - Compliance

STATUTORY POWERS: This Local Planning Policy is made pursuant to Clause 2.2 of the Shire of Toodyay Local Planning Scheme No 4.

POLICY STATEMENT: Officers from the Planning & Development Department shall inspect a development approved by Council;

(2) Where it is brought to the attention of Council that an unauthorised use has commenced, or that an approved use has commenced without compliance with the conditions of approval, Council Officers shall inspect the premises in order to confirm the activities being undertaken or to confirm the conditions not being met.

Following this abovementioned inspection, landowners will be issued with:

(c) A direction being served to cease the unauthorised use forthwith, as the unauthorised use is in breach of the Council's Local Planning Scheme or in Council's opinion the unauthorised use is having a detrimental effect on the amenity of the area or raises an obvious issue of public health or safety.

**Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 1 Part 3
CI 18**

The symbols used in the zoning table have the following meanings — D means that the use is not permitted unless the local government has exercised its discretion by granting development approval

Local Planning Scheme 4 – Table 1 Zoning Table

Councillors should note that in every Zone of the Scheme, a Transportable Structure is zoned as D which means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

**Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Part 7
CI 60**

Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

- (a) the person has obtained the development approval of the local government under Part 8; or
- (b) development approval is not required for the development under clause 61.

**Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Part 8
CI 62**

- (1) An application for development approval must be —
 - (a) made in the form of the “Application for development approval” set out in clause 86(1); and
 - (b) signed by the owner of the land on which the proposed development is to be located; and
 - (c) accompanied by any fee for an application of that type set out in the Planning and Development Regulations 2009 or prescribed under the Local Government Act 1995; and

- (d) accompanied by the plans and information specified in clause 63
- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following —
 - (a) a person who is referred to in the definition of owner in respect of freehold land in clause 1;
 - (c) a person who is authorised under another written law to make an application for development approval in respect of the land
 - (d) an agent of a person referred to in paragraph (a)

**Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Part 8
CI 63**

- (1) An application for development approval must be accompanied by –
 - a. a plan or plans in a form approved by the local government showing the following -

Note – For brevity sake I have not included all ten of these requirements however none have been complied with.

- (2) The local government may waive or vary a requirement set out in subclause (1)
- (3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme or within an area designated under this Scheme as a heritage area, the local government may require the application to be accompanied by one or more of the following – Note - see previous about inclusion

**Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Part 8
CI 63A**

- (1) On receipt of an application for development approval, the local government must —
 - (a) consider whether the application and accompanying material comply with clauses 62 and 63; and
 - (b) within 7 days after the day on which the application is received, advise the applicant by written notice —
 - (i) if the local government is satisfied that the application and accompanying material comply with clauses 62 and 63 — that the application has been accepted for assessment; or

- (ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.
- (2) If the local government does not give advice under subclause (1)(b) within the 7-day period referred to in that subclause, the application is taken to be accepted for assessment on the day after the end of that period.

Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Part 9 Cl 68

- (2) In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

Note - Again, for brevity's sake I have not included the long list of regulated matters that have to be given regard but that the list does include:

- (fa) any local planning strategy for this Scheme endorsed by the Commission;
- (g) any local planning policy for the Scheme area;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (y) any submissions received on the application;

Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Part 12 cl 86

The form of an application for development approval referred to in clause 62(1)(a) is as follows —

Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Part 12 cl 87

- (1) This clause applies if under a provision of this Scheme the local government is required to publish in accordance with this clause a notice, plan, application or other document (the document).
- (2) The local government must make the document available in accordance with the applicable requirements of subclauses (3) to (5).
- (3) For all documents, the local government must —
 - (a) publish on the website of the local government —
 - (i) the document; or

(ii) a hyperlink to a webpage on which the document is published;

and

(b) if it is reasonably practicable to do so — make a copy of the document available for public inspection at a place in the district of the local government during normal business hours.

Planning and Development Act (2005) – s214 Illegal development, responsible authority’s powers as to

(1) For the purposes of subsections (2) and (3) —

(a) a development is undertaken in contravention of a planning scheme or an interim development order if the development —

(i) is required to comply with the planning scheme or interim development order; and

(ii) is commenced, continued or carried out otherwise than in accordance with the planning scheme or interim development order or otherwise than in accordance with any condition imposed with respect to that development by the responsible authority pursuant to its powers under that planning scheme or interim development order;

(b) a development is undertaken in contravention of planning control area requirements if the development —

(i) is commenced, continued or carried out in a planning control area without the prior approval of that development obtained under section 116; or

(ii) is commenced, continued or carried out otherwise than in accordance with the approval referred to in subparagraph (i) or otherwise than in accordance with the conditions, if any, subject to which that approval is given.

Planning and Development Act (2005) – s218 Enforcement and Legal Proceedings

A person who —

- (a) contravenes the provisions of a planning scheme; or
- (b) commences, continues or carries out any development in any part of a region the subject of a region planning scheme or any part of an area the subject of a local planning scheme, an improvement scheme or the Swan Valley Planning Scheme otherwise than in accordance with the provisions of the planning scheme; or
- (c) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition,

commits an offence.

GOVERNANCE AND PROBITY

Council Delegation Register – Delegations to the CEO

DAR8 – Development Application Delegations

“Authority to approve or refuse applications for development approval, with or without conditions, subject to consistency with Shire of Toodyay Local Planning Scheme No. 4 (the Scheme), including giving due regard to relevant Local Planning Policies, and / or WAPC / State Planning Policies, and the exclusions / conditions set out below.”

Local Government Act (1995) – s5.71 Delegations and disclosures

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

(a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and

(b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

S83 of the Criminal Code of WA - Corruption

Any public officer who, without lawful authority or a reasonable excuse —

(a) acts upon any knowledge or information obtained by reason of his office or employment; or

(b) acts in any matter, in the performance or discharge of the functions of his office or employment, in relation to which he has, directly or indirectly, any pecuniary interest; or

(c) acts corruptly in the performance or discharge of the functions of his office or employment,

so as to gain a benefit, whether pecuniary or otherwise, for any person, or so as to cause a detriment, whether pecuniary or otherwise, to any person, is guilty of a crime and is liable to imprisonment for 7 years.

Local Government Act 1995 – Part 5 Division 6 s5.60

5.60 When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

Local Government Act 1995 – Part 5 Division 6 s5.60A

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

Local Government Act (1995) s5.51A Code of Conduct for Employees

- (1) The CEO must prepare and implement a code of conduct to be observed by employees of the local government.
- (2) The CEO may amend the code of conduct.
- (3) The CEO must publish an up-to-date version of the code of conduct on the local government's official website.
- (4) Regulations may prescribe the content of, and other matters in relation to, codes of conduct under this section.
- (5) A code of conduct under this section is of no effect to the extent that it is inconsistent with regulations made for the purposes of subsection (4).

Local Government (Administration) Regulations 1996 r19AD

- (1) A code of conduct must contain a requirement that a local government employee who has an interest in any matter to be discussed at a council or committee meeting attended by the local government employee disclose the nature of the interest —
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (2) A code of conduct must contain a requirement that a local government employee who has given, or will give, advice in respect of any matter to be discussed at a council or

committee meeting not attended by the local government employee disclose the nature of any interest the local government employee has in the matter —

- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the time the advice is given.
- (5) A code of conduct must require that if, to comply with a requirement under subregulation (1) or (2), a local government employee discloses an interest in a written notice given to the CEO before a meeting, then —
- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

Local Government (Administration) Regulations 1996 r19AE

- (2) A code of conduct must contain requirements relating to —
- (a) the behaviour expected of a local government employee in relation to each of the following —
 - (iv) the use of the resources of the local government;
 - (v) the use of the local government's finances;
 - (c) the reporting by local government employees of suspected breaches of codes of conduct and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour; and
 - (d) the way in which suspected breaches of the code of conduct and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour of a local government employee are to be managed.

Departmental Operational Guideline 20 - Declaring Financial Interests in Meetings

The CEO as the principal officer of a local government has the legal duty and responsibility to report any breaches under Part 5, Division 6 of the Act in accordance with section 28 of the Corruption and Crime Commission Act 2003

Corruption Crime and Misconduct Act 2003

serious misconduct means —

- (a) misconduct of a kind described in section 4(a), (b) or (c) by a public officer; or
- (b) police misconduct;

s4 Term used: misconduct

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or
- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or

and constitutes or could constitute —

- (vi) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the Public Sector Management Act 1994 (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

s28 Certain officers obliged to notify serious misconduct

- (1) This section applies to the following persons —
 - (c) the principal officer of a notifying authority;
- (2) Subject to subsections (4), (5) and (6), a person to whom this section applies must notify the Commission in writing of any matter —
 - (a) which that person suspects on reasonable grounds concerns or may concern serious misconduct; and
 - (b) which, in the case of a person referred to in subsection (1)(c) or (d), is of relevance or concern to that person in his or her official capacity.

CEO Contract of Employment

Cl 3.2 Specific Obligations

- (1) You must —
 - (a) perform the functions of a CEO as stated in section 5.41 of the Act;
 - (c) carry out all lawful directions given by the Council in relation to the performance of your functions;
 - (d) comply with the Local Government's Code of Conduct, the Policies, the Act and insofar as it relates to the performance of Your Functions, any other Written Law;

Cl 10.1 (2) If it is alleged that You have engaged in conduct of a type that would give the Local Government reason to terminate Your employment or if, in the reasonable opinion of the Council, the circumstances warrant, the Council may –

- (a) initiate an investigation under this clause; and /or
- (b) suspend You with pay under this clause.

Local Government Act (1995) - Functions of CEO cl 5.41

The CEO's functions are to -

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented

NOTE: I have edited some of the provisions; this is not done to hide anything or mislead, it is done to assist direct councillors towards the relevant provisions that have a direct effect on this matter.

Councillors can of course access the originals of all I have included, and I encourage councillors to do that prior to making any decisions because the context of laws, regulations and policy is important.

It is also worthy of note that most of these provisions should have been brought to councillor's attention by their administration. And that has not occurred on this matter.

There is also a further vast array of breaches under the State Planning Policy 3.7 - Planning in bushfire prone areas and the Planning and Development (Local Planning Schemes) Regulations 2015, however time does not permit me to outline them all here, but the administration of the Shire should do so for councillor's information.



**Application for Development Approval
Local Planning Scheme No. 4 (LPS 4)**

PROPERTY DETAILS		
Lot No.	House/Street No: 19	Location No: A
Diagram/Plan No:	Certificate of Title Vol No:	Certificate of Title Folio:
Title Encumbrances (e.g. Easements, Restrictive Covenants):		
Street Name: CLINTON STREET		Suburb: TOODYAY
Nearest street intersection: FIENNES STREET		

OWNER/S DETAILS	
Company Name (if applicable): SHIRE OF TOODYAY	
Owner/s Name:	Owner/s Name:
Position Title: Manages Development and Regulation <small>(only required when signing on behalf of a Company)</small>	Position Title: <small>(only required when signing on behalf of a Company)</small>
Signature: Redacted Information	Signature:
Date: 12.12.22	Date:
Postal Address: PO Box 96 TOODYAY WA 6566	
Contact Person: Redacted Information	Contact No.:
E-mail Address: Redacted Information @toodyay.wa.gov.au	
The application will not proceed without the signature of all owners. For the purposes of signing this application an owner includes the persons referred to in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2 clause 62(2).	

OFFICE USE ONLY	
Acceptance Officer's Initials:	Date Received:
Receipt No.	

SHIRE OF TOODYAY	
Record Number	DA No.
13 DEC 2022	
Officer / Dept:	
File Number	A2585/14CLI

P2022-122

15 Fiennes Street, Toodyay WA 6566 • PO Box 96 Toodyay WA 6566
Telephone (08) 9574 9345 Facsimile (08) 2158 Website www.toodyay.wa.gov.au

Development Approval



APPLICATION DETAILS			
Nature of Development	<input type="checkbox"/> Works	<input checked="" type="checkbox"/> Use	<input type="checkbox"/> Works and Use
Is an exemption from development claimed for part of the development?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
If yes, is the exemption for:	N/A.		<input type="checkbox"/> Works <input type="checkbox"/> Use
Has development and/or use commenced? <small>(If yes and your application is not for an amendment, retrospective fees will apply)</small>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Description of proposed works and/ or land use: LOCATION OF A SHIPPING CONTAINER (20FT) IN THE DRIVEWAY OF THE PREMISES			
Description of exemption claimed (if relevant): N/A			
Nature of any existing buildings and /or land use: RESIDENTIAL HOUSE			
Estimated cost of proposed development (ex. GST): N/A			
Approximate time of completion: PRIOR TO 30 APRIL 2023			

APPLICANT DETAILS	
Company Name:	
Contact Person: SUZIE HASLEHURST	Contact No: Redacted Information
Postal Address: Redacted Information	
E-mail Address: Redacted Information @ toodyay.wa.gov.au	
<p>I certify that I have assessed the plans and provided all of the required information for the development proposed for the site above. If the information is not provided, the application may be returned or placed on hold until all required information is received. Failure to provide a completed development application form, checklist, insufficient plans and/or incorrect / insufficient fees, may result in my application not being accepted.</p> <p>I understand that in line with the Shire's recordkeeping requirements, the original of this application and supporting information will not be returned as stated on the Development Application Checklist.</p> <p>I understand that the information provided including plans attached forming part of the development application may be made available to the public for advertising purposes.</p> <p>I understand that if advertising of the application is required by the Shire a fee (in accordance with the Shire's adopted fees and charges schedule) will be invoiced to the applicant.</p>	
Applicant's Signature: Redacted Information	Date: 12/12/2022

Development Approval

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 Telephone (08) 9574 9300 Facsimile (08) 9574 2158 Website www.toodyay.wa.gov.au

Development Application Checklist Local Planning Scheme No. 4 (LPS 4)



This checklist has been prepared to ensure that development applications submitted to the Shire of Toodyay for approval are complete and contain all required information to allow for it to be processed in a timely manner. The Shire asks that you read the following information and complete the checklist to ensure all requirements have been met so that your application can be formally accepted.

Please note that an assessment cannot be carried out by an Officer until all information is received, therefore, incomplete application will **not** be accepted. In line with the Shire's recordkeeping requirements, please ensure that the information included on this form is accurate and complete and please retain a copy of the completed form before submitting with the Shire as the form and any supporting documents will not be returned. The Shire accepts no responsibility for any loss, damage, liability or inconvenience suffered by any person as a result of using the form or lodging the form with the Shire.

Mandatory Checklist Requirements All applications must be accompanied by:	Applicant Use Only
Completed Application for Development Application Form	<input type="checkbox"/>
Completed Development Application Checklist	<input type="checkbox"/>
Application Fee/s – Refer to the Planning Fee Schedule	<input type="checkbox"/>
Cover Letter Explaining the Proposal	<input type="checkbox"/>
Copy of Current Certificate of Title	<input type="checkbox"/>
One (1) hard copy of site, floor, elevation and site feature survey plans drawn to a scale of 1:200 or 1:100 (where not submitted through online lodgement)	<input type="checkbox"/>
Plan Specifications	Applicant Use Only
Site Plan (Drawn to scale, at not less than 1:200) <ul style="list-style-type: none"> Street name(s) and lot number; Lot dimensions north point and scale; Existing and proposed buildings and uses; Existing and proposed ground and finish levels (relative to a nominated datum point or Australian Height Datum (AHD)); Driveways/access points; Setbacks; Lot boundaries (existing and proposed), including strata boundaries; Details and location of any fencing; Location & layout of any car parking areas; Proposed landscaping areas; and Location of Septic Tanks, Leach Drains and Soakwells related to Sewerage Treatment Systems. 	<input type="checkbox"/>
Floor Plan (Drawn to scale of 1:100 or 1:200) <ul style="list-style-type: none"> A Plan of every storey with floor levels (Relative Level (RL) or Australian Height Datum (AHD)); Room layout including walls, doors, windows and proposed use of each room; and Dimensions of buildings. 	<input type="checkbox"/>
Elevation Plan (Drawn to scale of 1:100 or 1:200) <ul style="list-style-type: none"> View of every face or proposed building(s)/ Structure(s) detailing all openings (door and windows) and architectural features; Materials and colours (if known); and Show floor levels (Relative Level (RL) or Australia Height Datum (AHD)). 	<input type="checkbox"/>
Site Survey Feature (Drawn to scaled 1:100 or 1:200) <ul style="list-style-type: none"> Including street verge, drawn to scale and endorsed by a Licensed Surveyor. (Note: A Site Feature Survey is not required for ancillary structures (e.g. patio, outbuildings).)	<input type="checkbox"/>
Landscaping Proposal/Plan <ul style="list-style-type: none"> Required for all grouped and multiple dwelling proposals (refer to R-Codes Parts 5.3.2 and 6.3.2) 	<input type="checkbox"/>

Development Approval

15 Fiennes Street, Toodyay WA 6566 • PO Box 96, Toodyay WA 6566
Telephone (08) 9574 9300 Facsimile (08) 9574 2158 Website www.toodyay.wa.gov.au

**Development Application Checklist
Local Planning Scheme No. 4 (LPS 4)**



Additional Considerations	Applicant Use Only
<p>Details of Variation to Standards/ Requirements A justification letter is required to accompany any development application where variations are proposed to the Residential Design Codes or the Shire of Toodyay Local Planning Scheme No. 4 (LPS 4).</p> <ul style="list-style-type: none"> • If variation is sought to the Deemed to Comply Requirements of the R-Codes, the justification letter is to demonstrate how to proposal meets the relevant design principles or the R-Codes. • If variation is sought to the standards and requirements of LPS 4, the justification letter is to detail how to proposal will not have any adverse effect on occupiers of the development or on the adjoining or nearby landowners in the locality. 	<p>Provided <input type="checkbox"/></p> <p>Not Applicable <input type="checkbox"/></p>
<p>Development Assessment Panel (DAP) - Is this application being referred to the DAP?</p> <p>Exempted Applications If the proposal is for the construction of a single house, carport, patio, outbuilding or associated incidental development and the cost of proposed development is \$2 million or above. Please note development application proposals for less than ten grouped dwellings or multiple dwellings \$2 million or above are optional.</p> <p>Mandatory Applications - Where the cost of development is \$10 million or above.</p> <p>Optional Applications - Where the cost of development is \$2 million or more but less than \$10 million. The application can either be assessed by the Shire of Toodyay (complete and submit the 'Opt-Out' application form available on the Shire of Toodyay website) OR have the application assessed by the DAP (complete and submit the DAP application form available on the Department of Planning, Lands and Heritage website).</p>	<p>Provided <input type="checkbox"/></p> <p>Not Applicable <input type="checkbox"/></p>
<p>Bushfire Planning Requirements If development is proposed on a property which is located in a bushfire prone area (You can confirm whether a property is located within a Bushfire Prone Area by referring to maps available by Landgate, then a Bushfire Attack Level (BAL) assessment is required to be provided, unless;</p> <ul style="list-style-type: none"> • The proposed development is for a Single House (or an addition or extension to a Single House, including an Ancillary Accommodation), on a lot that is less than 1,100m2 in area; or • There is an endorsed Bushfire Management Plan which covers the property and includes a BAL Counter Map. <p>If required, the BAL assessment is to be prepared by an accredited Bushfire Planning Practitioner or BAL assessor. The applicant will be informed of any further information required by the Shire during the assessment of the application.</p>	<p>Provided <input type="checkbox"/></p> <p>Not Applicable <input type="checkbox"/></p>

Development Approval

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Development Application Checklist Local Planning Scheme No. 4 (LPS 4)

Additional Considerations	Applicant Use Only
<p>Multiple Dwellings/ Apartments and Design WA If you are seeking planning approval for multiple dwellings or an apartment development, the Shire advises that the proposal should be consistent with the standards within the Western Australian Planning Commission's (WAPC's) Design WA. Please refer to the Department of Planning, Lands and Heritage website for more information.</p> <p>The Shire is giving due regard to the provisions of Design WA in its consideration of all multiple dwellings and apartment developments. The Shire therefore requests that you do the following:</p> <ul style="list-style-type: none"> Undertake a self-assessment of your multiple dwellings/ apartment proposal against Design WA and include this as supporting information to accompany your development application submissions to the Shire; and Ensure compliance of the development proposal with the requirements of Design WA. <p>It is expected that this will streamline the approval process by reducing the likelihood of design-related issues that may arise during the course of the Shire's assessment.</p>	<p>Provided</p> <p><input type="checkbox"/></p> <p>Not Applicable</p> <p><input type="checkbox"/></p>
<p>Health Services, Building and Street Addressing Requirements There are a number of health legislative, building and street addressing requirements that may have implications on your proposed development. It is recommended that you refer to the Shire of Toodyay website for information pertaining to your proposal.</p>	<p>Noted</p> <p><input type="checkbox"/></p>

PAYMENT

Cash: Can be made at the Administration Offices, 15 Fiennes Street, Toodyay

Cheque: Cheques are to be made payable to the Shire of Toodyay and are to be attached to your application and mailed to:

Shire of Toodyay
PO Box 96
TOODYAY WA 6566

Credit Card: All credit card payments incur a surcharge of 0.57%. This includes GST.
Please provide your credit card details below:

Credit Card Type





NAME ON CARD _____

Credit Card Number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

	Transaction Amount (before surcharge)	Surcharge Amount (Transaction Amount X 0.57%)
Expiry	\$	\$
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/>	<input type="text"/>

Payment Authorisation Card Holders Signature

Development Approval

 <p>Department of Planning, Cities and Heritage</p>	<p>Legend</p> <p><input type="checkbox"/> Cadastre</p>	<p>Landgate information contained in this printed map is for personal and non-commercial use and is to be used as a guide only. Use for commercial advantage or monetary compensation is strictly prohibited. The Western Australia Land Information Authority (Landgate) takes no responsibility as to the reliability, currency, or accuracy of Landgate data contained on this website or any output derived from that data.</p>	<p>Notes</p>
 <p>1: 360</p>		<p>This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.</p> <p>THIS MAP IS NOT TO BE USED FOR NAVIGATION</p> <p>0.0 Kilometers</p> <p>0 0.01</p> <p>Date produced: 12-Dec-2022</p>	