

Special Council Meeting

17 November 2020

Minutes

To: The President and Councillors

Here within the Minutes of the Ordinary Council Meeting of the Shire of Toodyay held on the abovementioned date in the Council Chambers at the Shire of Toodyay, 15 Fiennes Street, Toodyay.

A handwritten signature in blue ink, which appears to read 'Suzie Haslehurst', is positioned above the printed name and title.

Suzie Haslehurst
CHIEF EXECUTIVE OFFICER



Our Vision, Purpose and Values

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

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

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

Community Values: We value highly:

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

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

Integrity: We behave honestly to the highest ethical standard.

Accountability: We are transparent in our actions and accountable to the community.

Inclusiveness: We are responsive to the community and we encourage involvement by all people.

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

Disclaimer

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

Availability of Meeting Agenda and its Attachments

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

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

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



TABLE OF CONTENTS

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
2.	RECORDS OF ATTENDANCE	1
	2.1 Apologies	1
3.	DISCLOSURE OF INTERESTS	1
4.	PUBLIC QUESTIONS (relating to the purpose of the meeting)	1
5.	PUBLIC SUBMISSIONS (relating to the purpose of the meeting)	2
6.	PURPOSE OF THE MEETING AND SHIRE OFFICER REPORTS	4
	6.1 Report of the Authorised Inquiry into the Shire of Toodyay	4
7.	CLOSURE OF MEETING	8

An Attachment follows Item 7.

Preface

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

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

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

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

Unconfirmed Minutes

These minutes were approved for distribution on 18 November 2020.




Suzie Haslehurst

CHIEF EXECUTIVE OFFICER

Confirmed Minutes

These minutes were confirmed at a meeting held on 24 November 2020.

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

The Shire President declared the Special Meeting open at 4.03pm.

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 T Chitty	
Cr S Pearce	
Cr P Hart	
Cr M McKeown	

Staff

Ms S Haslehurst	Chief Executive Officer
Mr K Nieuwoudt	Manager Planning and Development
Mr R Ness	Acting Manager Works and Services
Mrs C Luangala	Manager Corporate & Community Services
Mr H de Vos	Planning Officer
Mrs M Rebane	Executive Assistant

Visitors

L Graham

2.1 APOLOGIES

Cr B Rayner
Cr P Greenway
Cr B Bell

3. DISCLOSURE OF INTERESTS

Nil

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

Nil

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

L Graham addressed Council in regard to the purpose of the meeting.

Remember when removing Allan Henshaw, Charlie Wroth, Chris Firns, Kevin Hogg, David Dow or Brian Rayner as Shire President was going fix everything? It clearly didn't do that and the same can be said for the procession of CEOs.

The local newspaper and some folks are now howling for more political blood and those howls should just be ignored. It is that vengeful and tribal behaviour that got us into this mess and as long as it remains, in a mess is where we stay.

When the Toodyay Progress Association started, we aimed to change the culture of the Shire of Toodyay, not to change the faces and that is because if they are doing the job properly, it is not important who is shire president, councillor or CEO.

We failed in that, but still no councillors should resign, and their vindication will come from learning from the past and driving systemic change; if they do not, they should be voted out of office. That is how democracies work but then yet another cycle will begin.

I am often told that I don't understand what is happening inside council and that is true, because it is not important; my attention has always been on what you do, not what you say. In any functioning organisation, public or private; decision makers regularly review significant actions and take remedial action. But the Shire of Toodyay has no history of doing that:

There has been a revolving door of councillors, Presidents, CEOs and staff in the Shire, but the shire is still where it has been heading for a decade; dysfunctional and broke to the extent that significant rate hikes are the only survival tool left.

Councillors are still divided into personality-based factions or tribes as I call them.

Council still does not understand that it is the body charged with running the shire and neither do staff.

Councillors, Council has almost complete powers to oversee, direct and question what are becoming known as "administrative" or "operational" matters, but you just don't do it.

The issues raised in the inquiry all stem from a culture of sidestepping and shortcutting laws, procedures, policies and ethical standards. This council needs to drive change, but it is not doing that in any meaningful way and it certainly is not doing in in any coordinated or strategic way; which brings us to this inquiry report.

That a department could produce such incomprehensible garbage in an official report is a disgrace that officers needed to come to Toodyay to explain it is another indictment on it. The agenda papers tell us:

"Councillors and staff were informed that Toodyay will be a test case for a new approach to the recovery of a local government with adverse findings from an Inquiry."

That is not true. If it were true, such a recommendation would have been included in the recommendations and findings of the inquiry; details on how this wonderful new approach is going to work would have been in the report, but they were not.

Now the Department may have plans for a new process using our shire as test case; but that is not what the report says. It is not what was recommended by the inquiry and it is a political red herring.

You should be angry about this report's incompetence. Wrongly described in the agenda papers as "discrepancies", the many fundamental errors of fact and substance in the report brand it meaningless; the findings do not reflect the text and the recommendations do not reflect the findings.

Simply put this report is incoherent and substandard and even if you wanted to, you could not act on it; because it does not even provide enough of a factual basis for you to work from, there is no point workshopping it. So, you should reject it.

I am sure you will be warned of dire consequences if reject it; but those warnings are largely nonsense because both the Supreme Court and the Act limit what any Government or Minister can do. The Minister can only order the recommendations be implemented; but that can only happen if you do not respond in the required time. Once a response is received by the Minister, if he is not happy, he can issue a "show cause notice" – but after the Town of Cambridge Supreme Court case, no sane minister would take such action based on this report.

You need to make a decision in the public interest – which decision should be to reject this very substandard report and its recommendations; to advise the Minister of what you have done and immediately start to search for a suitable person to come in and mentor the Shire through what is going to be a very difficult time.

6. PURPOSE OF THE MEETING AND SHIRE OFFICER REPORTS

6.1 Report of the Authorised Inquiry into the Shire of Toodyay

Date of Report:	14 October 2020/13 November 2020
Applicant or Proponent:	Shire of Toodyay
File Reference:	LGN2
Author:	S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	27 October 2020: Res. No. 298/10/20
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Correspondence from Minister for Local Government; Heritage; Culture and the Arts.

PURPOSE OF THE REPORT

To receive correspondence from the Minister for Local Government; Heritage; Culture and the Arts granting an extension to the deadline to provide a response to the Shire of Toodyay Inquiry Report.

BACKGROUND

Section 8.3 of the *Local Government Act 1995* (the Act) gives the Director-General of the Department of Local Government, Sport and Cultural Industries (the Department) authority to inquire into all local governments and their operations and affairs.

On 6 December 2018, an inquiry was authorised in accordance with 8.3(2) of the Act. The nature and scope of the inquiry was as follows:

- The adequacy of and adherence to Council's policies and procedures by both Elected Members and staff;
- Enforcement action undertaken by the Shire;
- The function of the Audit Committee;
- Declarations of interests by Elected Members;
- The culture within the Shire; and

- Any other matter that comes to the persons attention during the inquiry under section 8.4(2) of the Act.

The Report was tabled in Parliament on 13 October 2020. Council is now required to consider and submit its response to the recommendations to the Department within 35 days in accordance with the provisions of Section 8.14(3) of the Act.

At the October 2020 Ordinary Council Meeting it was resolved:

That Council:

1. *Defers this matter to a workshop to devise a response to the Inquiry; and*
2. *Holds a Special Meeting of Council to consider Council's Response to the Inquiry on or before 17 November 2020.*

COMMENTS AND DETAILS

Council was recently visited by Officers from the Department of Local Government, Sport and Cultural Industries:

- Mr Gordon MacMile, Executive Director;
- Mr Ron Murphy, Manager of Investigations and Assessments; and
- Marina Sucur, Senior Project Officer.

Councillors and staff were informed that Toodyay will be a test case for a new approach to the recovery of a local government with adverse findings from an Inquiry. This provides an opportunity for Council, in conjunction with the Department, to chart a new direction and address issues in a manner tailored to the Shire's needs. Discrepancies within the Report were also discussed.

Department representatives also indicated that the Minister would be writing to the Shire President with the intent of giving Council more time to formulate a response back to the Minister.

This correspondence has been received and is attached at Attachment 1.

The Shire has been provided an extension until 30 November 2020. Given the fact that Council deferred this matter in order to hold a workshop to formulate Council's response to the Inquiry, it is proposed that Council receives the correspondence from the Minister and defers any decision pending a workshop to be held following the meeting of which this report is the subject.

It is proposed that a Special Meeting to endorse Council's response to the Inquiry Report is held in time to enable submission to the Minister on or before the 30 November deadline.

IMPLICATIONS TO CONSIDER

Consultative:

- Department of Local Government, Sport & Cultural Industries
- WA Local Government Association

Strategic:

Governance: The way the Shire leads and operates

Objective 1 Provide accountable and transparent leadership for the community

Objective 2 Consistently improve our governance practices

Objective 3 Ensure rigorous organisational systems

Policy related:

Nil

Financial:

Nil

Legal and Statutory:

Local Government Act 1995

8.13. Authorised person's report

- (1) *An authorised person is to compile a report on the outcome of any inquiry he or she conducts.*
- (2) *The report is to contain any recommendations that the authorised person considers appropriate.*
- (3) *The report of an authorised person other than the Departmental CEO is to be given to the Departmental CEO.*
- (4) *The Departmental CEO is to give a copy of the report to the Minister.*

[Section 8.13 amended: No. 28 of 2006 s. 364.]

8.14. Copies to be given to local government and suspended council members

- (3) *Within 35 days after receiving the report or such longer period as the Minister allows, the local government is to give the Minister written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the authorised person.*

Risk related:

There is a compliance risk should Council choose not to provide a response to the Inquiry. This is rated extreme. As an extension has been granted to provide a response, workshop arranged to formulate a response for endorsement by Council, this risk is reduced.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Notes the correspondence from the Minister for Local Government, Heritage; Culture and the Arts granting an extension to provide a response to the Shire of Toodyay Authorised Inquiry Report as attached at Attachment 1 to this report.
2. Following a workshop, requests the Chief Executive Officer to convene a Special Council Meeting to endorse Council's Response to the Shire of Toodyay Inquiry Report to enable submission on or before 30 November 2020.

Cr Hart moved the Officer's Recommendation as follows:

That Council:

1. **Notes the correspondence from the Minister for Local Government, Heritage; Culture and the Arts granting an extension to provide a response to the Shire of Toodyay Authorised Inquiry Report as attached at Attachment 1 to this report.**
2. **Following a workshop, requests the Chief Executive Officer to convene a Special Council Meeting to endorse Council's Response to the Shire of Toodyay Inquiry Report to enable submission on or before 30 November 2020.**

Cr McKeown moved an amendment to the motion as follows:

That at Point 2 the words "response to the Shire of Toodyay Inquiry Report" be replaced with the words "written advice setting out the things that Council has done or proposes to do to give effect to the recommendations of the Authorised Person"

Cr Ruthven seconded the amendment.

Clarification was sought.

The amendment was put.

AMENDMENT/COUNCIL RESOLUTION NO. 305/11/20

MOVED Cr McKeown

SECONDED Cr Ruthven

That at Point 2 the words "response to the Shire of Toodyay Inquiry Report" be replaced with the words "written advice setting out the things that Council has done or proposes to do to give effect to the recommendations of the Authorised Person"

MOTION CARRIED 5/1

In accordance with Section 5.21(4) (b) of the *Local Government Act 1995*, Cr Madacsi requested that the vote of all members present be recorded. Councillors Madacsi,

Ruthven, Chitty, Hart and McKeown voted for the motion. Councillor Pearce voted against the motion.

The substantive motion was considered.

Cr McKeown raised a Point of Order in accordance with Standing Order 8.4 pertaining to Standing Order 9.6 Order of call in debate; given that the Shire President is to call other speakers against and for the motion, alternating where possible.

The Shire President upheld the Point of Order in accordance with Standing Order 8.5, and followed the process set out in Standing Order 9.6, calling for speakers for or against the substantive motion.

The substantive motion was put.

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. 306/11/20

MOVED Cr McKeown

SECONDED Cr Ruthven

That Council:

1. Notes the correspondence from the Minister for Local Government, Heritage; Culture and the Arts granting an extension to provide a response to the Shire of Toodyay Authorised Inquiry Report as attached at Attachment 1 to this report.
2. Following a workshop, requests the Chief Executive Officer to convene a Special Council Meeting to endorse Council's written advice setting out the things that Council has done or proposes to do to give effect to the recommendations of the Authorised Person to enable submission on or before 30 November 2020.

MOTION CARRIED 5/1

In accordance with Section 5.21(4) (b) of the *Local Government Act 1995*, Cr Madacsi requested that the vote of all members present be recorded. Councillors Madacsi, Ruthven, Chitty, Hart and McKeown voted for the motion. Councillor Pearce voted against the motion.

The Officer's Recommendation was amended to ensure Council's resolution reflects the provisions of s.8.14(3) of the Local Government Act 1995.

7. CLOSURE OF MEETING

The meeting was declared closed at 4.18pm.



Hon David Templeman MLA
Minister for Local Government; Heritage; Culture & the Arts

Our Ref: 66-14198

Cr Rosemary Madacsi
President
Shire of Toodyay
PO Box 96
TOODYAY WA 6566

Dear Cr Madacsi

I have been advised by the Department of Local Government, Sport and Cultural Industries (Department) that the Shire of Toodyay (Shire) have requested I allow further time for the Shire to provide written advice setting out the things that it has done or proposes to do to give effect to the recommendations from the Authorised Inquiry Report.

I commend the Shire on their approach to their response and I understand the Shire has organised a workshop for members to determine Council's response and have invited the Department to discuss the findings and recommendations in the report.

Whilst the Shire has only requested an extension of one day, I will allow an extension of 13 days and I look forward to receiving the Shire's response no later than 30 November 2020.

Yours sincerely


HON DAVID TEMPLEMAN MLA
MINISTER FOR LOCAL GOVERNMENT;
HERITAGE; CULTURE AND THE ARTS

11 NOV 2020