



# Shire of Shark Bay

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## *Meeting Minutes*

Minutes of the Special Meeting of the Shark Bay Shire Council held in the Council Chamber at the Shark Bay Recreation Centre, Francis Street, Denham on Thursday 15 September 2016 commencing at 3.30 pm.

**PURPOSE** I advise that a special meeting of Council is called in accordance with Section 5.5(2) of the *Local Government Act* to consider the following item: Extraordinary Elections to fill the vacancy in the Useless Loop / Pastoral Ward.

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In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by a member or officer of the Shire of Shark Bay during the course of any meeting is not intended to be an is not to be taken as notice of approval from the Shire of Shark Bay.

The Shire of Shark Bay advises that no action should be taken on any application or item discussed at a Council meeting and should only rely on **WRITTEN ADVICE** of the outcome and any conditions attaching to the decision made by the Shire of Shark Bay.

**1.0 DECLARATION OF OPENING**

The President will declared the meeting open at 3.30 pm,

**2.0 ATTENDANCES AND APOLOGIES**

<u>Present</u>	Cr C Cowell	President
	Cr K Capewell	Deputy President
	Cr L Bellottie	
	Cr K Laundry	
	Cr G Ridgley	
	Vacant Position	Useless Loop / Pastoral Ward

	Mr P Anderson	Chief Executive Officer
	Mrs R Mettam	Executive Assistant
	Ms J Yorke	Administration Assistant

Apologies

Cr M Prior

**3.0 PUBLIC QUESTION TIME**

The President opened public question time at 3.30 pm and as there was no public present closed public question time at 3.30 pm.

**4.0 EXTRA-ORDINARY ELECTION USELESS LOOP/PASTORAL WARD**

GV00001

Author

Chief Executive Officer

Disclosure of Any Interest

Nil

**Note: councillor must nominate which option is being moved**

Officer Recommendation

Option 1: That Council –

Receive the report presented by the Chief Executive Officer

Or

Option 2: (1) Declare in accordance with section 4.20 (4) of the Local Government Act 1995 that the WA Electoral Commissioner to be responsible for the

conduct of the extraordinary election for the Shire of Shark Bay Useless Loop/Pastoral ward together with any other elections which may also be required,

(2) Decide in accordance with section 4.61 (2) of the Local Government Act 1995 that the method of conducting the election will be as postal election and the date of the election to be 14 December 2016.

**Note: Absolute Majority required for option two**

Moved Cr Bellottie

Seconded Cr Laundry

**Council Resolution**

**(1) Declare in accordance with section 4.20 (4) of the Local Government Act 1995 that the WA Electoral Commissioner is to be responsible for the conduct of the extraordinary election for the Shire of Shark Bay Useless Loop/Pastoral ward together with any other elections which may also be required,**

**(2) Decide in accordance with section 4.61 (2) of the *Local Government Act 1995* that the method of conducting the election will be as postal election and the date of the election to be 14 December 2016.**

**5/0 CARRIED**

**Background**

Councillor Wake has advised the Chief Executive Officer in correspondence dated 4 September 2016 that he is resigning from Council. The resignation is effective from the date of the notice.

Ex-Councillor Wake was elected to the Office of Councillor at the October 2015 elections for a term of 4 years expiring in October 2017.

In accordance with the legislation an extra-ordinary election needs to be held to seek nominations for the vacant position, unless with the approval of the Electoral Commissioner the Council resolves by Absolute Majority to allow the vacancy to remain unfilled until the next ordinary Election Day.

The next ordinary Election Day will be 15 October 2017.

The commissioner has advised that he will not approve the vacancy to remain unfilled until the 15 October 2017 as the resignation has been received prior to the end of January 2017.

Unless other arrangements are made the Chief Executive Officer is to be the Returning Officer of a Local Government however, if a Local Government wishes to have the Western Australian Electoral Commission conduct a postal voting election then the Local Government must make a declaration to this effect before the eightieth (80) day before an election according the section 4.20(4) of the ***Local Government Act 1995***

and is to decide that the election is to be held as a postal election in accordance with section 4.61 of the ***Local Government Act 1995***.

Comment

The Council has since the 2011 elections engaged the Electoral Commission to conduct the elections by postal vote and experienced very encouraging voter participation when an election was held.

This has provided for a greater ability for electors to participate in the election process. While the voting in person is still relevant the ability for absent owners to participate in the election by postal voting ensures a greater representation of the community.

The conduct of the election by the Electoral Commission and by postal vote also provides for increased levels of separation from the process for the administration.

The Electoral Commissioner has been contacted and has indicated that they will be willing to undertake the extraordinary election for the Useless Loop/Pastoral ward Vacancy.

The electoral process including the updating of the electoral rolls takes 80 days and if approval for the election to be held over until October 2017 is not forthcoming, must be held within 4 months of the resignation (4 January 2017), this would make an election date in mid-December.

The proposed election timetable is attached which indicates a date of Wednesday 14 December 2016 as the election day if the council agrees to the recommendation and the process commences on 25 September 2016

Legal Implications

*Local Government (Elections) Regulations 1997.*  
*Local Government Act 1995.*

**4.17. Cases in which vacant offices can remain unfilled**

(3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow\* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

\* *Absolute majority required.*

- (4A) Subsection (3) applies —  
(a) If —

- (i) the office is for a district that has no wards; and
  - (ii) at least 80% of the number of offices of member of the council in the district are still filled;
- or
- (b) if —
    - (i) the office is for a ward for which there are 5 or more offices of councillor; and
    - (ii) at least 80% of the number of offices of councillor for the ward are still filled.
- (4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.

#### **4.9. Election day for extraordinary election**

- (1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed —
- (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or
  - (b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).
- (2) The Election Day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.
- (3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —
- (a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and
  - (b) advise the CEO of the day fixed.

#### **4.61. Choice of methods of conducting the election**

- (1) *The election can be conducted as a —*
- postal election** which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or
- Voting in person election** which is an election at which the principal method of casting votes is by voting in person on Election Day but at which votes can also be cast in person before Election Day, or posted or delivered, in accordance with regulations.
- (2) *The local government may decide\* to conduct the election as a postal election.*

*\* Absolute majority required.*

(3) *A decision under subsection (2) has no effect if it is made after the 80th day before Election Day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.*

(4) *A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.*

(5) *A decision made under subsection (2) on or before the 80th day before Election Day cannot be rescinded after that 80th day.*

(6) *For the purposes of this Act, the poll for an election is to be regarded as having been held on Election Day even though the election is conducted as a postal election.*

(7) *Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.*

**4.20. CEO to be returning officer unless other arrangements are made**

(1) *Subject to this section the CEO is the returning officer of a local government for each election.*

(2) *A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint\* a person other than the CEO to be the returning officer of the local government for —*

*(a) an election; or*

*(b) all elections held while the appointment of the person subsists.*

*\* Absolute majority required.*

(3) *An appointment under subsection (2) —*

*(a) is to specify the term of the person's appointment; and*

*(b) has no effect if it is made after the 80th day before an election day.*

(4) *A local government may, having first obtained the written agreement of the Electoral Commissioner, declare\* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

*\* Absolute majority required.*

(5) *A declaration under subsection (4) has no effect if it is made after the 80th day before Election Day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.*

(6) *A declaration made under subsection (4) on or before the 80th day before Election Day cannot be rescinded after that 80th day.*

Section 4.62 of the *Local Government Act 1995* prescribes the requirement for Polling Places (booths) in respect to voting as *In Person*. The Postal Voting does not require any Polling Place in each Ward where an election is required.

**4.62. Polling places required**

(1) *For every election in a district or a ward, the returning officer is to ensure that there will be at least one polling place in the district that is open between 8 a.m. and 6 p.m. on Election Day.*

(2) *For a voting in person election in a district that is divided into wards, the returning officer is to ensure that there will be at least one polling place in each ward that is open between 8 a.m. and 6 p.m. on election day unless the returning officer determines that, in respect of a particular ward, it is not necessary or not practicable —*

*(a) to open a polling place in that ward on election day; or*

*(b) for there to be a polling place in that ward that is open all the time between 8 a.m. and 6 p.m. on Election Day.*

(3) *For a voting in person election in a ward the returning officer is to ensure that there will be at least one polling place in the ward that is open between 8 a.m. and 6 p.m. on Election Day unless the returning officer determines that it is not necessary or not practicable —*

*(a) to open a polling place in that ward on Election Day; or*

*(b) for there to be a polling place in that ward that is open all the time between 8 a.m. and 6 p.m. on Election Day.*

Policy Implications

There are no policy implications relative to this report at this point in time.

Financial Implications

The Electoral Commission has provided a quote of \$6,000 including GST to conduct the extraordinary election undertaken in December 2013 for the Shire of Shark Bay.

The quoted amount is based on an election being conducted, it is anticipated the cost would be less if the vacant position was elected unopposed.

It is difficult to estimate the amount of cost to Council of conducting in person elections given that there is limited capacity available to conduct the elections in house and costs would be dependent upon the voter turnout if the elections were held in person.

Strategic Implications

There are no strategic implications relative to this report at this point in time.

RISK MANAGEMENT

There are no risk implications relative to this report at this point in time.

## MINUTES OF THE SPECIAL COUNCIL MEETING – 15 SEPTEMBER 2016

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### Voting Requirements

**Absolute Majority required for options two and three.**

### Signature

Chief Executive Officer

*P Anderson*

Date of Report

12 September 2016

# MINUTES OF THE SPECIAL COUNCIL MEETING – 15 SEPTEMBER 2016



WESTERN AUSTRALIAN  
Electoral Commission

## ELECTION TIMETABLE Local Government Extraordinary Election

Days to Polling Day	Local Government Act	References to Act/Regs	Day	Date
80	Last day for agreement of Electoral Commissioner to conduct postal election.	LGA 4.20 (2)(3)(4)	Sun	25/09/2016
80	A decision made to conduct the election as a postal election cannot be rescinded after the 80th day.	LGA 4.61(5)	Sun	25/09/2016
70	Electoral Commissioner to appoint a person to be the Returning Officer of the Local Government for the election.	LGA 4.20 (4)	Wed	5/10/2016
70 to 56	Between the 70th/56th day the CEO is to give Statewide public notice of the time and date of close of enrolments. <b>Preferred date Wednesday 5 Oct 2016</b>	LGA 4.39(2)	Wed to Wed	5/10/2016 to 19/10/2016
56	Last day for for the CEO to advise the Electoral Commissioner of the need to prepare a residents roll.	LGA 4.40(1)		19/10/2016
56	Advertising may begin for nominations from 56 days and no later than 45 days before election day. <b>Preferred date Wednesday 19 Oct 2016</b>	LGA 4.47(1)	Wed	19/10/2016
50	Close roll 5.00 pm	LGA 4.39(1)	Tue	25/10/2016
45	Last day for advertisement to be placed calling for nominations.	LGA 4.47(1)	Sun	30/10/2016
44	<b>Nominations Open</b> First day for candidates to lodge completed nomination paper, in the prescribed form, with the Returning Officer. Nominations period is open for 8 days.	LGA 4.49(a)	Mon	<b>31/10/2016</b>
38	If a candidate's nomination is withdrawn not later than 4.00 pm on the 38th day before election day, the candidate's deposit is to be refunded.	Reg. 27(5)	Sun	6/11/2016
37	<b>Close of Nominations</b> 4.00 pm on the 37th day before election day.	LGA 4.49(a)	Mon	<b>7/11/2016</b>
36	Last day for the CEO to prepare & certify an owners & occupiers roll for the election. Last day for the Electoral Commissioner to prepare & certify a residents roll.	LGA 4.41(1) LGA 4.40(2)	Tue	8/11/2016
28	Lodgement of election packages with Australia Post. Week Commencing	Approx	Wed	16/11/2016
22	The preparation of any consolidated roll under subregulation (1) be completed on or before 22nd day before election day.	Reg. 18(2)	Tue	22/11/2016
19	Last day for the Returning Officer to give Statewide public notice of the election. <b>Preferred date Wednesday 9 Nov 2016</b>	LGA 4.64(1)	Fri	25/11/2016
4	Commence processing returned election packages	Approx	Sat	10/12/2016
0	<b>Election Day</b> Close of poll 6.00 pm	LGA 4.7	Wed	<b>14/12/2016</b>

  

Post Election Day	Post Declaration	References to Act/Regs		Date
5	Election result advertisement.	LGA 4.77	Mon	19/12/2016
14	Report to Minister. The report relating to an election under section 4.79 is to be provided to the Minister within 14 days after the declaration of the result of the election.	Reg.81	Wed	28/12/2016
28	An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.	LGA 4.81(1)	Wed	11/01/2017

**5.0 MEETING CLOSURE**

The President closed the Special Council meeting at 3.39 pm.