



Agenda

Special Council Meeting

22 January 2024

Notice of Meeting

Notice is hereby given that the next Special Council Meeting of the Shire of Exmouth will be held on 22 January 2024, in the Bundegi Boardroom, Ningaloo Centre, 2 Truscott Crescent, Exmouth commencing at 4.00 pm.

A handwritten signature in black ink, appearing to be 'Ben Lewis', with a long horizontal stroke extending to the right.

Ben Lewis
CHIEF EXECUTIVE OFFICER

Disclaimer

The advice and information contained herein are given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note that this agenda contains recommendations which have not yet been adopted by Council.

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In particular and without derogating in any way from the broader disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Exmouth during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Exmouth. The Shire of Exmouth warns that anyone who has an application lodged with the Shire of Exmouth must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attached to the decision made by the Shire of Exmouth in respect of the application.

SNAPSHOT

Strategic Community Plan 2023-2033



Your Choice. Our Future.

VISION

A globally recognised community of guardians for our unique environment and culture as we pursue innovations for sustainable growth.

GOALS

The goals are organised in five strategic pillars: Social, Natural Environment, Built Environment, Economy, and Governance and Leadership.

SOCIAL

Nurture a friendly, safe and inclusive community spirit.

- Improve local community and visitor experiences.
- Ensure a full suite of services to meet the needs of families and individuals at all ages and stages of life.
- Build community cohesion and connectedness.



GOVERNANCE & LEADERSHIP

Foster open, transparent & accountable leadership, working collaboratively & in partnership with our community & stakeholders.

- Forward-thinking leadership for efficient & sustainable operations.
- Continued focus on transparent, accountable leadership & community & stakeholder engagement.
- Council & administration plan & lead with good governance.



ECONOMY

Enhance a robust, resilient & diversified economy that champions innovation.

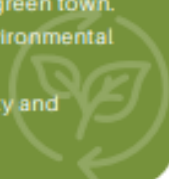
- Increase opportunities for smart and sustainable business ideas.
- Establish Exmouth as a vibrant, welcoming and environmentally aware destination.
- Promote Exmouth as a thriving economy based on its regional strength as a global environmental hotspot.



NATURAL ENVIRONMENT

Embrace natural sensitivities and promote positive change.

- Establish Exmouth as a clean and green town.
- Prepare Exmouth for changing environmental conditions.
- Increase awareness of sustainability and environmental issues.



BUILT ENVIRONMENT

Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry.

- Infrastructure and assets are well-managed and maintained.
- Plan and cater for increased population growth.
- Revitalisation and expansion of airport services.



Disclosure of Interest Form

(Elected Members/Committee Members/Employees/Contractors)
Local Government Act 1995 (Section 5.65, 5.70, 5.71 & 5.71(B))

To: Chief Executive Officer

Name [Click here to enter text.](#)

Elected Member Committee Member Employee Contractor

Ordinary Council Meeting held on [Click here to enter text.](#)

Special Council Meeting held on [Click here to enter text.](#)

Committee Meeting held on [Click here to enter text.](#)

Other [Click here to enter text.](#)

Report No [Click here to enter text.](#)

Report Title [Click here to enter text.](#)

Type of Interest (*see overleaf for further information)

Proximity Financial Impartiality

Nature of Interest

[Click here to enter text.](#)

Extent of Interest (if intending to seek Council approval to be involved with debate and/or vote)

[Click here to enter text.](#)

Signed: _____ Date: [Click here to enter text.](#)

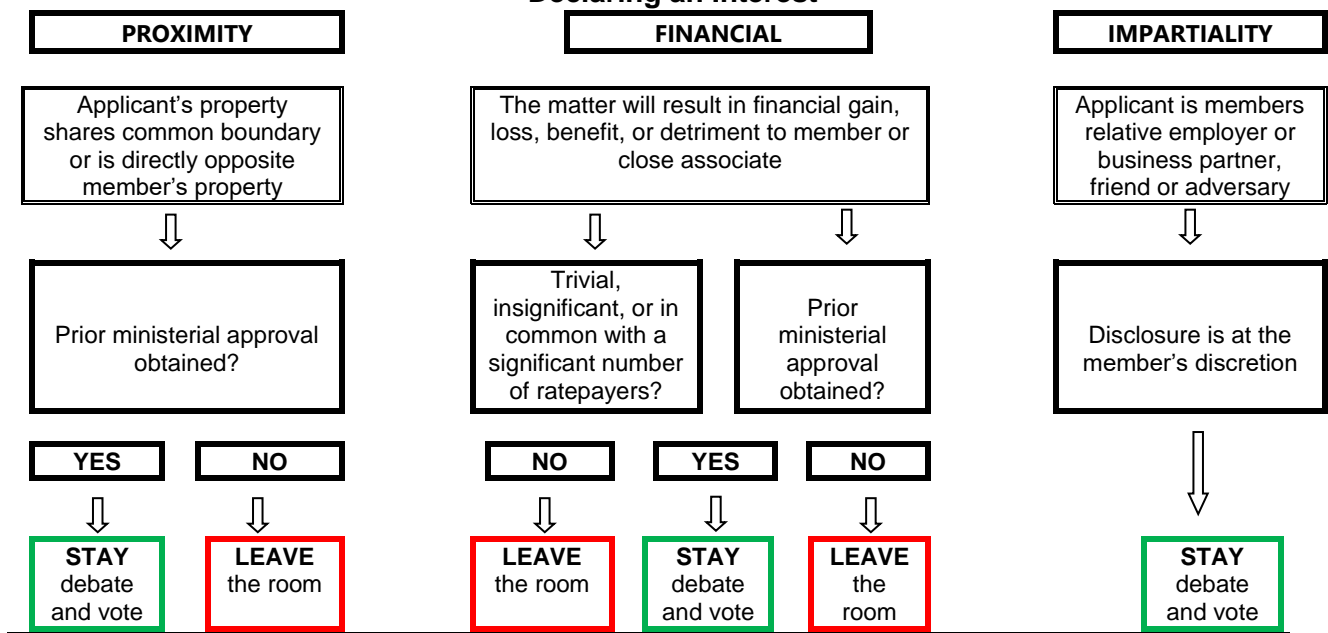
- **Note 1** - Elected Members/ Committee Members/Employees refer to the Disclosure of Interest Declaration card when disclosure is being read out at Council or Committee Meeting.
- **Note 2:** For Ordinary meetings of the Council, elected members and employees are requested to submit this completed form to the Chief Executive Officer prior to the meeting. Where this is not practicable, disclosure(s) must be given to the Chief Executive Officer prior to the matter being discussed.
- **Note 3:** Employees or Contractors disclosing an interest in any matter apart from at meetings, where there is a conflict of interest including disclosures required by s5.71 are required to submit this form to the CEO as soon as practicable.

CEO: _____ Signed: _____ Date: _____

OFFICE USE ONLY

Particulars recorded in Minutes Particulars recorded in Register

*** Declaring an Interest**



Local Government Act 1995 – Extract

s.5.60A - Financial Interest

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.

s.5.60B – Proximity Interest

A person has a proximity interest in a matter if the matter concerns —

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
- (b) a proposed change to the zoning or use of land that adjoins the person's land; or
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.

5.65 - Members' interests in matters to be discussed at meetings to be disclosed.

(1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must 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. (Penalties apply).

(2) It is a defence to a prosecution under this section if the member proves that he or she did not know: (a) that he or she had an interest in the matter; or (b) that the matter in which he or she had an interest would be discussed at the meeting.

(3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.70 - Employees to disclose interests relating to advice or reports.

(1) In this section: 'employee' includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

(2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

(3) An employee who discloses an interest under this section must if required to do so by the council or committee, as the case may be, disclose the extent of the interest. (Penalties apply).

5.71 - Employees to disclose interests relating to delegated functions.

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. (Penalties apply)

5.71A. - CEOs to disclose interests relating to gifts in connection with advice or reports

(1) A CEO who has an interest relating to a gift in a matter in respect of which the CEO proposes to provide advice or a report, directly or indirectly, to the council or a committee must disclose the nature of the interest in a written notice given to the council.

(2) A CEO who makes a disclosure under subsection (1) must not provide the advice or report unless the CEO is allowed to do so under section 5.71B(2) or (6).

(3) A CEO who has an interest relating to a gift in a matter in respect of which another employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when the advice or report is provided.

Local Government (Administration) Regulations 1996 – Extract - In this clause and in accordance with Regulation 19AA "Interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

AGENDA INDEX

| | | |
|--------|--|----|
| 1. | DECLARATION OF OPENING AND ANNOUNCEMENTS..... | 7 |
| 2. | ATTENDANCE, APOLOGIES AND APPROVED LEAVE OF ABSENCE | 7 |
| 3. | RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE | 7 |
| 4. | PUBLIC QUESTION TIME | 7 |
| 5. | DECLARATIONS OF INTEREST..... | 7 |
| 6. | APPLICATIONS FOR LEAVE OF ABSENCE | 7 |
| 7. | CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS..... | 7 |
| 8. | ANNOUNCEMENTS/ REPORTS OF ELECTED MEMBERS..... | 7 |
| 9. | ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION | 8 |
| 10. | PETITIONS/ DEPUTATION/PRESENTATIONS/ SUBMISSIONS | 8 |
| 11. | MATTERS ARISING FROM COMMITTEES OF COUNCIL..... | 8 |
| 12. | REPORTS OF OFFICERS..... | 9 |
| 12.1.1 | EXTRAORDINARY ELECTION..... | 9 |
| 13. | ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN..... | 12 |
| 14. | NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING ... | 12 |
| 15. | MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS..... | 12 |
| 16. | CLOSURE OF MEETING | 12 |

1. Declaration of Opening and Announcements

2. Attendance, Apologies and Approved Leave of Absence

| | |
|---------------------------------|-------------------------|
| Councillor M (Matthew) Niikkula | Shire President |
| Councillor J (Jackie) Brooks | Deputy Shire President |
| Councillor D (Darlene) Allston | |
| Councillor D (David) Gillespie | |
| Councillor T (Todd) Bennett | |
| Councillor K (Kristy) Devereux | |
| Mr Ben Lewis | Chief Executive Officer |

3. Response to Previous Public Questions Taken on Notice

Nil

4. Public Question Time

In accordance with section 5.24 of the *Local Government Act 1995*, a 15-minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration Towards Public

When public questions necessitate resolutions of Council, out of courtesy and at the Shire President's discretion the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the Shire President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

5. Declarations of Interest

Nil

6. Applications for Leave of Absence

The *Local Government Act 1995* (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for a leave of absence.

7. Confirmation of Minutes of Previous Meetings

That the Minutes and associated attachments of the Ordinary Council Meeting of the Shire of Exmouth held on 14 December 2023 are confirmed as a true and correct record of proceedings

8. Announcements/ Reports of Elected Members

Nil

9. Announcements by the Presiding Person without Discussion

Nil

10. Petitions/ Deputation/Presentations/ Submissions

Nil

11. Matters Arising from Committees of Council

Nil

12. Reports of Officers

EXECUTIVE SERVICES

12.1.1 EXTRAORDINARY ELECTION

| | |
|------------------------|--|
| File Reference | GV.EL.10 |
| Reporting Officer | Coordinator Governance |
| Responsible Officer | Chief Executive Officer |
| Date of Report | 12 January 2024 |
| Applicant/Proponent | Nil |
| Disclosure of Interest | Nil |
| Attachment(s) | 1. Correspondence from Western Australian Electoral Commission |

Purpose

1. That Council considers the two options presented in relation to the vacant office created.

Background

In accordance with 2.32 of the *Local Government Act 1995* there are various cases in which an extraordinary election occurs when an elected member:

- a) dies; or
 - b) resigns from the office; or
 - c) does not make the declaration required by section 2.29(1) within 2 months after being declared elected to the office; or
 - d) advises or accepts under section 2.27 that he or she is disqualified, or is declared to be disqualified by the State Administrative Tribunal acting on an application under section 2.27; or
 - e) (da) is disqualified by an order under section 5.113, 5.117 or 5.119 from holding office as a member of a council; or
 - f) (db) is dismissed under section 8.15L or 8.25(2); or
 - g) becomes the holder of any office or position in the employment of the local government; or
 - h) while holding an office of councillor, is elected to the office of elector mayor or president on the council.
2. When an extraordinary vacancy occurs, an extraordinary election must be conducted; the election day must be decided on and fixed within one month of the vacancy.

Comment

3. On the 21 December 2023 the Shire President was notified that Mr Kai Broender who was elected unopposed at the Local Government Election held 21 October 2023, will not make the declaration required by section 2.29(1) within the required timeframe after being declared to office.
4. The Western Australian Electoral Commission (WAEC) was notified of the vacancy.
5. The WAEC has provided the attached written agreement to conduct the extraordinary election as a postal election in accordance with section 4.20(4) of the *Local Government Act 1995*, on Friday 12 April 2024.
6. The WAEC has previously been responsible for conducting ordinary and extraordinary elections for the Shire in the past and it is recommended that Council declare the responsibility of the pending extraordinary election to the WAEC.

7. The process for Council to follow in terms of appointing the WAEC to be responsible for the conduct of the extraordinary election and for the election to be a postal election is as follows:
- Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the extraordinary election.
 - Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the extraordinary election will be as a postal election.

Consultation

8. Western Australian Electoral Commission
9. Chief Executive Officer

Statutory Environment

10. *Local Government Act 1995*

- section 2.32 – How extraordinary vacancies occur in offices elected by electors
- section 4.8 – Extraordinary Elections
- section 4.9 – Election Day for extraordinary elections
- section 4.20 – CEO to be the returning officer unless other arrangements made
- section 4.61 – Choice of methods of conducting election

Policy Implications

11. Nil

Financial Implications

12. Conducting an extraordinary election would be an unbudgeted expenditure requiring a budget amendment of \$23,636.36 (ex GST). The cost is based on the following assumptions:
 - 1,700 electors
 - Response rate of approximately 50%
 - Appointment of a Returning Officer; and
 - Count to be conducted at the Shire of Exmouth

Risk Management

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|--------------|------------|-------------|---------------|--|
| Compliance | Possible | Major | High | Engage the WAEC to conduct the Extraordinary Election by postal ballot |
| Reputational | Possible | Major | High | Engage the WAEC to conduct the Extraordinary Election by postal ballot which will be coordinated by a competent Returning Officer. |

Risk Matrix

| Consequence \ Likelihood | Insignificant (1) | Minor (2) | Moderate (3) | Major (4) | Catastrophic (5) |
|--------------------------|-------------------|--------------|--------------|--------------|------------------|
| Almost Certain (5) | Moderate (5) | High (10) | High (15) | Extreme (20) | Extreme (25) |
| Likely (4) | Low (4) | Moderate (8) | High (12) | High (16) | Extreme (20) |
| Possible (3) | Low (3) | Moderate (5) | Moderate (9) | High (12) | High (15) |
| Unlikely (2) | Low (2) | Low (4) | Moderate (6) | Moderate (8) | High (10) |
| Rare (1) | Low (1) | Low (2) | Low (3) | Low (4) | Moderate (5) |

Alternate Options

13. Nil

Strategic Alignment

14. This item is relevant to the Council's approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

| | |
|--------------------------------------|--|
| Social Governance & Leadership | Nurture a friendly, safe and inclusive community spirit Foster open, transparent & accountable leadership, working collaboratively and in partnership with our community and stakeholders 5.1 Forward-thinking leadership for efficient and sustainable operations 5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement 5.3 Council and administration plan and lead with good governance |
|--------------------------------------|--|

Voting Requirements

15. Absolute Majority

| | |
|--|--------------------|
| Officers Recommendation | Item 12.1.1 |
| That Council: | |
| 1. Declare, in accordance with section 4.20(4) of the <i>Local Government Act 1995</i> , the Electoral Commissioner to be responsible for the conduct of the extraordinary election. | |
| 2. Decide, in accordance with section 4.61(2) of the <i>Local Government Act 1995</i> that the method of conducting the extraordinary election will be as a postal election. | |
| 3. Approves a budget amendment of \$23,636.36 (ex GST) to the 2023/24 budget for the conduct of the extraordinary election process. | |

13. Elected Members Motions of which Previous Notice has Been Given

14. New Business of an Urgent nature introduced by Decision of Meeting

15. Matters to be considered Behind Closed Doors

16. Closure of Meeting