



Agenda

Special Council Meeting

1 August 2023

Notice of Meeting

Notice is hereby given that the next Special Council Meeting of the Shire of Exmouth will be held on 1 August 2023, in the Bundegi Board Room, Ningaloo Centre, 2 Truscott Crescent, Exmouth commencing at 4.30 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

1 August 2023

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.

No responsibility whatsoever is implied or accepted by the Shire of Exmouth for any act, omission, statement or intimation occurring during the Council/Committee meetings or during formal/informal conversations with staff. The Shire of Exmouth disclaims any liability for any loss whatsoever and however caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

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.

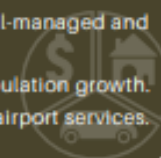
- Establish Exmouth as a clean and green town.
- Prepare Exmouth for changing environmental conditions.
- Increase awareness of sustainability and environmental issues.



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.](#)

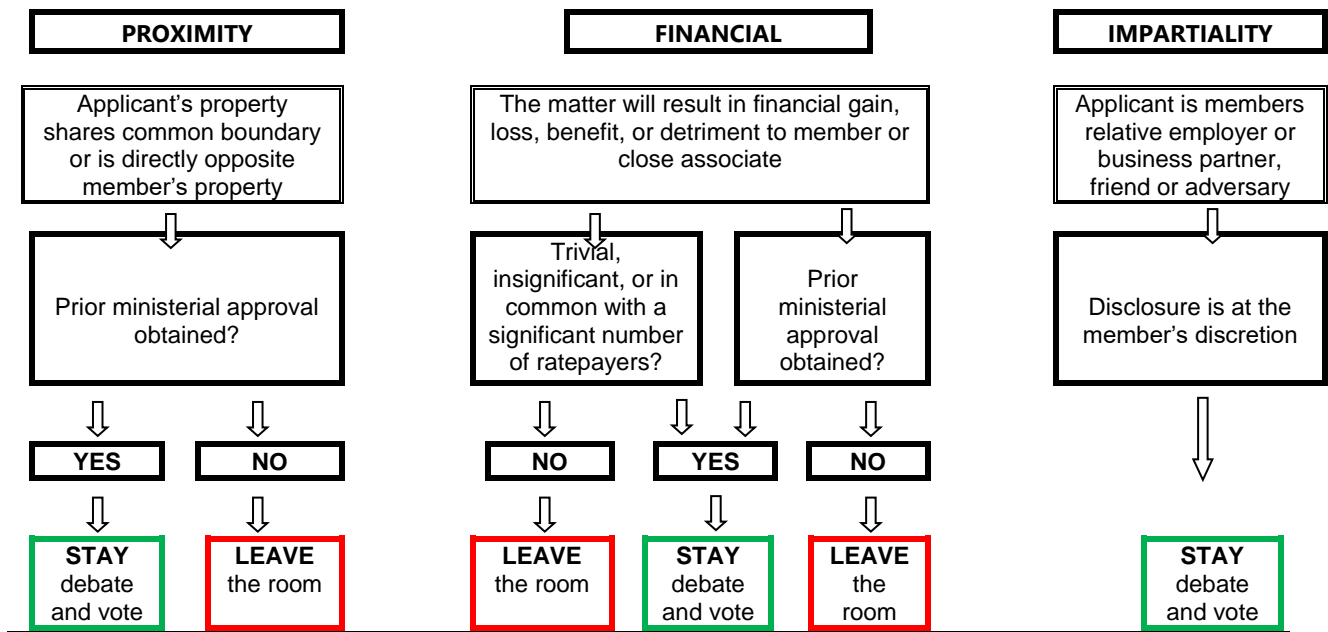
- **Note 1** - Elected Members/ Committee Members/Employees refer to the Disclosure of Interest Declaration card when disclosure is being read out at Council or Committee Meeting.
- **Note 2:** For Ordinary meetings of the Council, elected members and employees are requested to submit this completed 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.....	8
8.1.1	CHANGING THE METHOD OF ELECTION OF SHIRE PRESIDENT.....	8
9.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	13
10.	PETITIONS/ DEPUTATION/PRESENTATIONS/ SUBMISSIONS	13
11.	MATTERS ARISING FROM COMMITTEES OF COUNCIL.....	13
12.	REPORTS OF OFFICERS.....	13
13.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	13
14.	NEW BUSINESS OF AN URGENT NATURE.....	13
15.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS.....	13
16.	CLOSURE OF MEETING	13

1. Declaration of Opening and Announcements

2. Attendance, Apologies and Approved Leave of Absence

Councillor D (Darlene) Allston	Shire President
Councillor J (Jackie) Brooks	Deputy Shire President
Councillor H (Heather) Lake	
Councillor D (David) Gillespie	
Councillor M (Matthew) Niikkula	
Mr Ben Lewis	Chief Executive Officer
Mr Chris McNamara	Deputy CEO/Community and Economic Growth
Mr Gollie Coetzee	Executive Manager Corporate Services
Ms Michelle Head	Minute Taker

Leave of Absence

Councillor M (Mark) Lucas	
Mr Mike Richardson	Executive Manager Infrastructure Services

3. Response to Previous Public Questions Taken on notice

Nil.

4. Public Question Time

Nil

5. Declarations of Interest

Nil

6. Applications for Leave of Absence

Nil

7. Confirmation of Minutes of Previous Meetings

Nil

8. Announcements/ Reports of Elected Members

8.1.1 Changing the Method of Election of Shire President

File Reference	GV.CO.0 /GV.EL.9
Reporting Officer	Shire President
Responsible Officer	As above
Date of Report	1 August 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	Nil

Purpose

1. That Council amend the election process for the appointment of Shire President by a vote of the electors of the Shire of Exmouth.

Background

2. The State Government has embarked on a significant review of the *Local Government Act 1995*. The reform is aimed at ensuring local governments better serve residents and ratepayers. The proposed reforms are based on six (6) main themes:
 1. Earlier intervention, effective regulation and stronger penalties
 2. Reducing red tape, increasing consistency and simplicity
 3. Greater transparency and accountability
 4. Stronger local democracy and community engagement
 5. Clearer roles and responsibilities
 6. Improved financial management and reporting
3. Under theme 4, Stronger local democracy and community engagement, the following changes have been made:
 - Direct election of the Mayor of President
 - Preferential voting
 - Consistent number of Elected Members
 - No wards for small local governments
 - Reforms to ensure valid candidate and voter eligibility
 - Community engagement charter
4. Under the reform, it is a mandatory requirement for local governments classified as a class 1 or 2 (band 1 or 2 under the current Salaries and Allowance Tribunal determination) to elect the mayor or president through a vote by the electors (popularly elected).
5. The intent behind this change is to allow all electors in large local governments to be able to vote directly for the Mayor of President, giving ratepayers more power to choose the leadership of their council.
6. This change comes into effect at the next local government ordinary election in October 2023.
7. However, these changes are not mandatory for local governments classified as class 3 or 4 (band 3 or 4 under the Salaries and Allowances Tribunal determination) of which the Shire of Exmouth is a band 3.

8. Included in this theme is the consistent numbers of elected members. The aim is to increase consistency of elected members on any council. This will be set based upon the population within the local government and will be applied as follows:
 - Population of up to 5,000 – 5, 6 or 7 councillors (including the President)
 - Population between 5,000 and 75,000 – 5 – 9 councillors (including the Mayor/President)
 - Population above 75,000 – 9 – 15 councillors (including the Mayor)

Comment

9. The mayor or president is in a position of leadership and heightened responsibility on the council. In larger local governments it is appropriate that they be elected by and accountable to the electors of the entire local government.
10. As the Shire of Exmouth is a band 3 council, there it is not a mandatory requirement for the President to be elected directly by the community.
11. The Shire's goal for Governance and Leadership is to foster open, transparent and accountable leadership. This was highlighted in the consultation process during the Community Strategic Plan.
12. As the Shire of Exmouth has a population base of less than 5,000, the Shire can have between 5 – 7 elected members including the President.
13. It is intended as part of this agenda item that the publicly elected president be in addition to the existing six elected members.
14. Given the Shire has made multiple submissions to the Salaries and Allowances Tribunal to be increased to a band 2, applying the proposed changes to the election process is another step towards a band 2.
15. In addition, the current proposed state election boundary changes have the Shire of Exmouth proposed to be in the Pilbara District which are currently all band 1 and 2 Councils, commencing to adopt the processes for band 2 would further assist the Shire's push to be upgraded.

Consultation

16. In consultation with the Local Government Advisory Board regarding the process to amend the method of election, they have advised the following:

Section 2.11(2) of the Local Government Act 1995 (the Act) provides that the council of a local government may resolve, by absolute majority, to change the method of filling the office of the President from an election by council method to election by electors method.

In accordance with section 2.13 of the Act, this council decision has effect in relation to filling the office of President at the next ordinary elections of the local government held after the decision is made (i.e. 2023 elections if the decision is made within timeframes required for running the election).

Such a council decision would have the effect of adding 1 to the total number of council member offices (6 councillors + 1 President elected by electors).

This proposed decision does not require a submission to the Local Government Advisory Board or otherwise a decision of the Minister for Local Government.

17. The WA Electoral Commission have advised the following in relation to the change of the election process:

- Should Council endorse the recommendation then formal notification will be required so the additional vacancy can be advertised when all advertising is undertaken on 23 August 2023.
- There would be two voting slips, a blue voting slip would be for the election of the President and the traditional green voting slip for councillor.
- A nominee can nominate for both President and councillor.
- The term for the President is four (4) years from this October election.
- A current councillor who is part way through their term, can nominate for President and if successful, they would vacate their substantive position as councillor and be sworn in a President. Their vacancy would be filled for the balance of the term by the first unelected nominee.
- The election of Deputy President will still be elected amongst the councillors at the first council meeting, (as the current process) using the preferential voting process.

Statutory Environment

18. *Local Government Act 1995*

2.11. Alternative methods of filling office of mayor or president

- (2) *A local government may change* the method of filling the office of mayor or president used by the local government from the election by the council method to the election by the electors method. * Absolute majority required.*

2.13. When new method takes effect

- (1) *A decision under section 2.11(2) to change to the election by electors method has effect in relation to the filling of the office of mayor or president at the next ordinary elections of the local government held after the decision is made and from then on until a change under section 2.11(4) to the election by the council method takes effect.*
- (2) *A change under section 2.11(4) to the election by the council method has effect in relation to the filling of the office of mayor or president at the first meeting of the council after the ordinary elections of the local government in the year in which the term of office of the incumbent mayor or president ends and from then on until a decision under section 2.11(2) to change to the election by electors method takes effect.*
- (3) *A decision under section 2.11(2) has no effect if it is made during, and a decision under section 2.12A(2) has no effect unless a poll resulting from it is held before, the period beginning on the 80th day before, and ending on, the ordinary election day in the year in which the term of office of the incumbent mayor or president ends.*
- (4) *A change made by regulations to the election by the electors method under section 2.12B(1)(b) has effect —*
- (a) *in accordance with regulations made as referred to in section 2.12B(2)(a); and*
 - (b) *from then on, subject to subsection (5).*
- (5) *If a local government ceases to be subject to regulations made for the purposes of section 2.12B(1)(a), the election by the electors method must nevertheless be used for filling the office of mayor or president until a change under section 2.11(4) to the election by the council method takes effect.*

Policy Implications

19. There are no policy implications, however, the Shire of Exmouth Meeting Procedures Local Law 2015 will need to be amended to reflect the proposed changes if endorsed by Council.

Financial Implications

20. The additional cost to council for an additional elected member would be approximately \$25,000 which would be made up of: \$13,624 in sitting fees; New member essential training at approximately \$5000 plus flight and accommodation; IT and communications.

21. This has not been included in the current adopted budget and would need to be amended at the budget review in February.

Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial – There will be an increased cost to council if Council endorsed the recommendation	Almost Certain	Minor	Moderate	Council would need to consider the increased cost which would need to be considered as part of the budget review process in February
Reputational – By not endorsing the recommendation, there could be reputation risk that Council is not being open and transparent	Possible	Minor	Moderate	Council can mitigate the transparency process by making audio recordings of the council meetings public.

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

22. That Council choose not to approve the recommendation to elect the Shire President through a vote by the electors and continue with the current process.

Strategic Alignment

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

Social	<p>Nurture a friendly, safe and inclusive community spirit</p> <p>1.1 Improve local community and visitor experiences.</p> <p>1.2 Ensure a full suite of services to meet the needs of families and individuals at all ages and stages of life</p> <p>1.3 Building Community cohesion and connectedness</p>
Natural Environment	<p>Embrace natural sensitivities and promote positive change</p> <p>2.1 Establish Exmouth as a clean and green town</p> <p>2.2 Prepare Exmouth for changing environmental conditions</p> <p>2.3 Increase awareness of sustainability and environmental issues</p>
Built Environment	<p>Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry</p> <p>3.1 Infrastructure and assets are well-managed and maintained</p> <p>3.2 Plan and cater for increased population growth</p> <p>3.3 Revitalisation and expansion of airport services</p>
Economy	<p>Enhance a robust, resilient and diversified economy that champions innovation</p> <p>4.1 Increase opportunities for smart and sustainable business ideas</p> <p>4.2 Establish Exmouth as a vibrant, welcoming and environmentally aware destination</p> <p>4.3 Promote Exmouth as a thriving economy based on its regional strength as a global environmental hotspot</p>

Governance &
Leadership

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

24. Absolute Majority

Shire Presidents Recommendation

Item 8.1.1

That Council APPROVE to amend the election process for the appointment of Shire President by a vote of the electors of the Shire of Exmouth.

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

Nil

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

Nil

14. New Business of an Urgent Nature

Nil

15. Matters to be considered Behind closed Doors

Nil

16. Closure of meeting