

# Special Council Meeting

2 February 2022

Commencing at 10.30am

# Agenda

## Notice of Meeting

To: The President and Councillors

A Special Council Meeting of the Shire of Toodyay will be held in the Council Chambers at the Shire of Toodyay, 15 Fiennes Street, Toodyay on the abovementioned date and time.

The Special Meeting of Council has been called by the Shire President in accordance with section 5.4 of the *Local Government Act 1995*.

The Special Meeting of Council is for the purpose of considering options following the resignation of a councillor and all matters related thereto.

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.

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## **TABLE OF CONTENTS**

<b>1.</b>	<b>DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS</b>	<b>1</b>
<b>2.</b>	<b>RECORDS OF ATTENDANCE</b>	<b>1</b>
	<b>2.1 APOLOGIES</b>	<b>1</b>
<b>3.</b>	<b>DISCLOSURE OF INTERESTS</b>	<b>1</b>
<b>4.</b>	<b>PUBLIC QUESTIONS (relating to the purpose of the meeting)</b>	<b>1</b>
<b>5.</b>	<b>PUBLIC SUBMISSIONS (relating to the purpose of the meeting)</b>	<b>1</b>
<b>6.</b>	<b>PURPOSE OF THE MEETING AND SHIRE OFFICER REPORTS</b>	<b>1</b>
	<b>9.3.1 Councillor Representation</b>	<b>1</b>
<b>7.</b>	<b>CLOSURE OF MEETING</b>	<b>5</b>

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**THERE ARE NO PUBLIC ATTACHMENTS**


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<b>Shire President</b>	<b>Councillors</b>	
Cr Rosemary Madacsi	Cr Ben Bell	Cr Charmaine Duri
<b>Deputy Shire President</b>	Cr Phil Hart	Cr Steve McCormick
Cr Beth Ruthven	Cr Mick McKeown	Cr Susan Pearce
	Cr Danielle Wrench	

## **PRELIMINARIES**

All meeting attendees are requested to be reminded of the following:

1. COVID-19 restrictions and safe physical distancing measures.
  2. Mobile phones should be switched off.
  3. Please familiarise yourself with the location of the exit doors in case of an emergency.
  4. The meeting will be livestreamed and the use of recording devices in the Council Chambers is not allowed.
  5. Councillors are requested to activate their microphones when addressing the meeting and deactivate them once finished speaking.
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**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Presiding Member is to run through the Preliminaries on the previous page of the Agenda, and to declare the Special Meeting of Council open.

**2. RECORDS OF ATTENDANCE**

**2.1 APOLOGIES**

**3. DISCLOSURE OF INTERESTS**

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

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

**6. PURPOSE OF THE MEETING AND SHIRE OFFICER REPORTS**

**9.3.1 Councillor Representation**

Date of Report:	17 January 2022
Applicant or Proponent:	Shire of Toodyay
File Reference:	ICR81767/ICR82064/MEM1
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	Nil

**PURPOSE OF THE REPORT**

To consider and resolve the implications of the vacant office resulting from the resignation of an elected member.

**BACKGROUND**

On Sunday 15 January 2022, Cr Bell submitted a formal resignation as an elected member of the Shire of Toodyay, effective immediately.

Cr Bell is currently listed as a Primary Member on the Bush Fire Advisory Committee.

He was also nominated as a Delegate for the Development Assessment Panel.

Council is requested to consider the following:

- Allowing the vacant Councillor office to remain unfilled subject to the approval of the Electoral Commissioner;
- Nomination of another Councillor to the Bush Fire Advisory Committee; and
- Nomination of a Delegate to the Development Assessment Panel.

## **COMMENTS AND DETAILS**

When a Councillor resigns from office, sections 4.8, 4.9 and 4.10 of the *Local Government Act 1995* (the Act) prescribe the process for an extraordinary election regarding filling the vacant office.

Section 4.16 of the Act *Postponement of elections to allow consolidation* modifies the operation of sections 4.8, 4.9 & 4.10 in relation to holding of extraordinary elections.

Section 4.17 (4A) of the Act states that if an office of a Councillor is for a district that has no wards and at least 80% of the number of offices of members of the Council in the district are still filled, then the Council can allow, with the approval of the Electoral Commissioner, the vacancy created by a resignation to remain unfilled in accordance with Section 4.17(3).

The current reforms proposed by the Minister for Local Government include a recommendation for smaller local governments to reduce their Councillor numbers. Furthermore, Council has indicated a desire to investigate reducing the required number of offices for elected members from 9 to 7. If Council chooses to allow the current vacancy to remain unfilled until the next ordinary elections in 2023, there is an opportunity to commence this process.

Officers propose that Council seeks the approval of the Electoral Commissioner to allow the vacancy to remain unfilled until the 2023 ordinary elections or the implementation of the Minister's proposed reforms, whichever is the sooner.

### *Bush Fire Advisory Committee*

The purpose of the Bush Fire Advisory Committee is to provide advice to the Council on matters pertaining to obligations within the Bush Fires Act and the organising, managing, resourcing and training of volunteer bush fire brigades.

This Committee is a mandated Committee established under Part V, Section 67 of the *Bush Fires Act 1954* and does not have any delegated authority. Meetings are held quarterly and membership includes representatives from relevant State government agencies and Shire Toodyay Volunteer Bush Fire Brigades along with two Councillors as primary members and one deputy Councillor member.

Council is requested to nominate a primary member to replace Cr Bell.

### *Development Assessment Panel*

Development Assessment Panels (DAPs) have operated in Western Australia since 2011 and are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge. There are five panels covering the State. The current structure is a transitional arrangement to a future

model of no more than three panels, as outlined in the *Action Plan for Planning Reform*. Council nominates two primary delegates and two deputy delegates to be on this Panel. Training is provided for delegates.

Council is requested to nominate a delegate to replace Cr Bell.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

The Western Australian Electoral Commission (WAEC) is the lead State agency for electoral services in WA. The WAEC also plays a key role in local elections. Advice was sought from the Manager of Election Events at the WAEC.

### **Strategic:**

A key objective in the Shire of Toodyay Strategic Community Plan is Governance and the way the Shire leads and operates; a Council that engages with the community and provides good governance on behalf of the community.

### **Policy related:**

In relation to the appointment of a nominee to the BFAC or to the DAP the Council Policy M.7 *Council Delegates Roles and Responsibilities* is to be considered.

### **Financial:**

The cost of an extraordinary election would be approximately \$22,000. This has not been budgeted for.

If Council requests and receives approval to allow the position to remain unfilled until the 2023 ordinary elections, a saving of approximately \$23,000 over the 22-month period would be realised.

### **Legal and Statutory:**

#### ***Local Government Act 1995***

#### **4.8. Extraordinary elections**

- (1) *If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held.*
- (3) *An election under this section is called an **extraordinary election**.*

#### **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.*

#### **4.17. 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.*

#### **Risk related:**

The risk of having the vacant position remain unfilled is considered low.

#### **Workforce related:**

Appointment of another Councillor to the BFAC and the DAP involves Officer time by way of informing the BFAC, updating the website, and informing the A/Senior Policy and Project Officer from the Office of the Director General, Department of Planning, Lands and Heritage in relation to that nomination.

#### **VOTING REQUIREMENTS**

Absolute Majority

#### **OFFICER'S RECOMMENDATION 1**

That Council:

1. Requests the Chief Executive Officer seek the approval of the Electoral Commissioner to allow the elected member vacancy created by Cr Bell's resignation to remain unfilled until the ordinary elections to be held in October 2023 or the implementation of the Minister's relevant proposed local government reforms, whichever is the sooner.
2. Notes that in accordance with section 4.17(4) of the *Local Government Act 1995*, 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.



## **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER'S RECOMMENDATION 2**

That Council:

1. Nominates Cr \_\_\_\_\_ as a Primary Delegate on the Bush Fire Advisory Committee.
2. Nominates Cr \_\_\_\_\_ as Delegate on the Development Assessment Panel.
3. Requests the CEO to inform the Department of Planning, Lands and Heritage of Council's delegate to the Development Assessment Panel.

## **7. CLOSURE OF MEETING**