



Special Meeting of Council

Agenda

16 April 2019

Commencing at 2.00pm

Notice is hereby given to Councillors that a Special Council Meeting 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:

1. Mapping out the Recruitment Process for a new CEO and matters related thereto; and
2. Receiving the resignation of Cr Brook and considering Electoral matters relating thereto.

Stan Scott
CHIEF EXECUTIVE OFFICER

10 April 2019

Shire of Toodyay

SPECIAL MEETING OF COUNCIL 16 APRIL 2019

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Shire of Toodyay

SPECIAL MEETING OF COUNCIL 16 APRIL 2019

AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The start time of the Special Meeting is scheduled for 2.00pm.

2. RECORDS OF ATTENDANCE/APOLOGIES

3. DISCLOSURE OF INTERESTS

Opportunity for Members wishing to disclose an interest

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

A public question can be made ad hoc, but it is preferred that notice be given.

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

A submission can be made ad hoc, but it is preferred that notice be given.

6. PURPOSE

This meeting was 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:

- 1. Mapping out the Recruitment Process for a new CEO and matters related thereto; and*
- 2. Receiving the resignation of Cr Brook and considering Electoral matters relating thereto.*

6.1 Elected Member resignation and Election Process
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Date of Report:	3 April 2019
Name of Applicant / Proponent/s:	P Richards, Australian Electoral Commission
File Reference:	IAM58269/ELT2
Author:	S Scott – CEO
Responsible Officer:	S Scott – CEO
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil

Nature of Council's Role in the matter:	Executive
Attachments:	1. Resignation of Cr Brook.
Voting Requirements:	Absolute Majority

PURPOSE OF THE REPORT

That Council, in accordance with the provisions of section 4.17(2) of the *Local Government Act 1995*, seek the permission of the Electoral Commissioner for the vacancy on Council to remain unfilled until the October 2019 Ordinary Election.

BACKGROUND

Cr Craig Brook submitted his resignation for his seat in West Ward. Cr Brook's term was due to expire in October 2019.

The Shire President requested that the CEO seek the views of the Electoral Commission as to whether the Commissioner would agree that the position would remain unfilled until the October 2019 Ordinary Election.

CONSULTATION

Mr Phil Richards, Manager of Election Events from the Western Australian Electoral Committee advised the CEO that "as the vacancy arose between the 3rd Saturday in January and the 3rd Saturday in July of the year when the term was to expire, all that is needed to be done is to write to the Electoral Commissioner advising him of the vacancy and that Council is requesting under section 4.17(2) of the *Local Government Act 1995*, the vacancy remain unfilled until the October 2019 elections.

Mr Richards indicated that as he would be writing the response to a letter to the Electoral Commissioner he would be agreeing to Council's request.

STRATEGIC IMPLICATIONS

A minimum of 80 days is required to call an extraordinary election. This means that the vacancy on Council could not be filled before mid-July. This means that any newly elected Councillor would attend only three Ordinary Council meetings before returning to the polls.

POLICY IMPLICATIONS

There are no adverse policy implications envisaged from this report.

FINANCIAL IMPLICATIONS

A quote has not been requested in regard to the running of an Extraordinary Election because in 2018 a quotation received from the Electoral Commissioner indicated that it would cost in the vicinity of \$12,500 including GST to run an Extraordinary Election. It was also noted at the time that Council might also incur some additional expenses, of approximately \$2,000, bringing the estimated total election cost to around \$14,500.

LEGAL AND STATUTORY IMPLICATIONS

4.17. Cases in which vacant offices can remain unfilled

- (1) If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and 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.
- (2) If a member's office becomes vacant under section 2.32 —
 - (a) after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but
 - (b) before the third Saturday in July in that election year,
the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, 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.
- (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.

[Section 4.17 amended: No. 49 of 2004 s. 31; No. 66 of 2006 s. 8; No. 17 of 2009 s. 12.]

RISK IMPLICATIONS (including DAIP)

There are no adverse risk implications envisaged from this report.

SOCIAL IMPLICATIONS

There are no adverse social implications envisaged from this report.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

There are no adverse economic implications envisaged from this report.

OFFICER COMMENT / DETAILS

On 3 April 2019 the CEO received advice from the Local Government Advisory Board that the Minister has accepted its recommendation that wards be abolished in the Shire of Toodyay. Council's decision that 4 existing Councillors serve out the balance of their terms as Councillor for the entire Shire will stand.

If an Extraordinary Election was held the new Councillor would serve three months as a West Ward Councillor before needing to seek re-election as a Councillor for the entire Shire.

OFFICER'S RECOMMENDATION

That Council, in accordance with the provisions of section 4.17(2) of the *Local Government Act 1995*, seek the permission of the Electoral Commissioner for the vacancy on Council to remain unfilled until the October 2019 Ordinary Election.

6.2 Recruitment Process and Options for appointment of new CEO

The Officer's Report for this item is confidential in accordance with Section 5.23 (2) (a) and (c) of the Local Government Act 1995, and will be distributed to Councillors under separate confidential cover.

7. CLOSURE OF MEETING

The Chairperson will close the meeting.