

# Shire of Koorda

# AGENDA

**Notice is hereby given that a Special Meeting of Council will be held in the Council Chambers, 10 Haig Street, Koorda commencing at 5.00pm on Monday, 23 March 2020.**



Darren Simmons  
Chief Executive Officer



# DISCLOSURE OF INTEREST

## ✦ WRITTEN

- Prior to meeting
- CEO to advise Presiding Person
- Reported to meeting immediately before item discussed
- Standard form may be used

## ✦ VERBAL

- No round robin at start of meeting
- Advise immediately before item discussed

## ✦ TO BE DISCLOSED

- Nature of interest
- Extent if vote on participation held.



## SHIRE OF KOORDA

# DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Koorda for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire of Koorda disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

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

The Shire of Koorda warns that anyone who has any application lodged with the Shire of Koorda must obtain and should only rely on **written confirmation** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Koorda in respect of the application.

To be read aloud if any member of the public is present.

Signed



DJ Simmons  
**CHIEF EXECUTIVE OFFICER**

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## 1 **DECLARATION OF OPENING**

In accordance with the provisions of the *Local Government Act 1995*, the Chief Executive Officer will declare the meeting open and preside until the election of the Shire President.

## 2 **ANNOUNCEMENT OF VISITORS**

## 3 **RECORD OF ATTENDANCE**

- 3.1 ***Record of Attendance:***
- 3.2 ***Apologies:***
- 3.3 ***Approved Leave of Absence:***

## 4 **QUESTION TIME FOR THE PUBLIC**

(Please note: Being a special meeting of Council, any questions must relate to the purpose of the meeting being:

1. Election and subsequent declaration to office of the new Shire President; and
2. Consider options for the conduct of an extraordinary election for the vacancy on Council.

- 4.1 ***Response to Previous Public Questions Taken on Notice***
- 4.2 ***Public Question Time Open***
- 4.3 ***Public Question Time Closed***

## 5 ELECTION OF PRESIDENT

*If a ballot is required to decide the position of President, it will be conducted as if a normal Council Election (as per Schedule 2.3. of the Local Government Act 1995).*

### **ELECTION OF SHIRE PRESIDENT (SCHEDULE 2.3)**

Nominations are to be lodged in writing to the CEO, indicating consent of the nominee if made by another Councillor, prior to or at the Meeting. (Proforma nomination form attached).

? nominations for Shire President were received; Cr ??

<u>Ballot</u>	<u>Results</u>
Name ?	
Name ?	

The Chief Executive Officer declared Cr ??? duly elected to the position of Shire President for the next two (2) year period.

Cr ? made the declaration of Office of President before the CEO, Mr Darren Simmons JP #29381

The Chief Executive Officer to vacate the chair.  
Shire President to take the chair

(Please note:

In accordance with Clause 7(3) of Schedule 2.3 of the *Local Government Act 1995*, if the deputy president is elected president, the resulting extraordinary vacancy in the office of deputy president is to be filled as the next matter dealt with at this meeting).

## 6. APPOINTMENT OF REPLACEMENT DELEGATES

*That Council resolve, by an absolute majority vote, that the following replacement appointments be made arising from the resignation of Cr Ricky Storer:*

- **Works Committee** – three (3) members

### ***Currently***

Cr G Storer  
Cr BG Cooper  
Cr FJ Storer  
Deputy Cr JM Stratford

### ***Replacement Appointment***

Cr

- **Management Review Committee** – three (3) members

### ***Currently***

Shire President by policy/convention/s.5.10(4)  
Deputy President, Cr JM Stratford by policy  
Cr PL McWha, by appointment  
Deputy Cr BG, Cooper by appointment

### ***Replacement Appointment***

Cr

- **Audit Committee** – three (3) members

### ***Currently***

Shire President by policy/convention/s.5.10(4)  
Cr JM Stratford, by appointment  
Cr PL McWha, by appointment  
Deputy Cr BG Cooper, by appointment

### ***Replacement Appointment***

Cr

**NEWROC (usually President)**

***Replacement Appointment***

**Cr**

**Regional Road Sub Group**

***Replacement Appointment***

**Cr**

**GECZ WALGA**

***Replacement Appointment***

**(President & Deputy President Policy)**

**Cr**

**Cr JM Stratford**

**Deputy CEO**

**CEACA**

***Replacement Appointment***

**Cr/CEO**

**LEMC**

**Chair (Usually President)**

***Replacement Appointment***

**Cr**

**(Deputy) Cr G Storer**

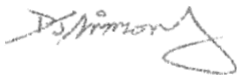
**MID-WEST/WHEATBELT JOINT DEVELOPMENT ASSESSMENT PANEL**

***Replacement Appointment***



## 7. EXTRAORDINARY ELECTION FOR VACANCY ON COUNCIL

### **Section 5.23 – Applicability**

<b>Location:</b>	Koorda
<b>Portfolio:</b>	<b>Governance, Administration and Finance</b> Cr JM Stratford
<b>File Reference:</b>	ADM 0370
<b>Disclosure of Interest:</b>	No Interest declared by CEO
<b>Author:</b>	Darren Simmons, Chief Executive Officer
<b>Signature of CEO</b>	
<b>Attachment:</b>	Nil

### **Background:**

On Wednesday, 11 March 2020, the CEO received a signed and dated letter of resignation from the Shire President, Cr Ricky Storer from his dual offices of Councillor (under section 2.32 of the *Local Government Act 1995*) and Shire President (under section 2.34 of the *Local Government Act 1995*) for the Shire of Koorda effective from the close of business (i.e. 4.30pm) on Thursday, 19 March 2020.

Council, at its meeting on 18 March 2020 subsequently resolved:

### *That Council:*

- 1. Notes Cr Ricky Storer's resignation as Shire President and Councillor for the Shire of Koorda;*
- 2. Acknowledges and thanks Cr Ricky Storer for his 15 years of dedicated service to the Shire, Koorda community and the local government sector; and*
- 3. Calls a special meeting of Council to be held on Monday, 23 March 2020 commencing at 5.00pm for the election and subsequent declaration to office of a new Shire President and to consider options for the conduct of an extraordinary election for the vacancy on Council arising from Cr Ricky Storer's resignation.*

### **Comment:**

At the Council Forum held on 18 March 2020, discussion ensued on the options available to Council in respect to whether the vacancy arising from Cr Ricky Storer's resignation should be filled as soon as possible or delayed until the October 2021 ordinary elections (subject to Electoral Commissioner approval), and whether, in light of the current COVID-19 (Coronavirus) crisis, the election is conducted as a postal rather than an in-person election.

There was consensus for the Shire to fill the vacancy as soon as possible under the postal election approach considering COVID-19 and as a trial of the alternative election methodology.

Council has received a cost estimate from Western Australian Electoral Commission (WAEC) for the extraordinary election if conducted as a postal ballot is \$11,000 including GST, which has been based on the following assumptions:

- 300 electors
- Response rate of approximately 50%
- Count to be conducted at the offices of the Shire of Koorda
- Appointment of a local Returning Officer

Costs not incorporated in this estimate include:

- non-statutory advertising (i.e. any additional advertisements in community newspapers and promotional advertising);
- any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns; and
- one local government staff member to work in the polling place on election day.

The WAEC is required by the Local Government Act 1995 to conduct local government elections on a full cost recovery basis and Council should note that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for charges is all materials at cost and a margin on staff time only.

The current procedure required by the Local Government Act 1995 is that WA Electoral Commissioner's written agreement has to be obtained before the vote by Council is taken to undertake a postal election. In providing the cost estimate to Council, the WA Electoral Commissioner has advised that to facilitate the process, Council can take his letter including the cost estimate as the WA Electoral Commissioner's agreement to be responsible for the conduct of the local government extraordinary election for the Shire of Koorda, in accordance with section 4.20(4) of the Local Government Act 1995. This agreement is subject to the proviso that the Shire of Koorda also wishes to have the election undertaken by the WAEC as a postal election.

### **Consultation**

Council Forum – 18 March 2020  
Deputy CEO

### **Statutory Environment:**

Local Government Act 1995

<b>Local Government Act 1995 Reference</b>
<b>2.32. How extraordinary vacancies occur in offices elected by electors</b>
The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —
(a) dies; or
(b) resigns from the office; or
(c) ...
<b>4.8. Extraordinary elections</b>

(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.

#### **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.

(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;

#### **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.

#### **4.20. CEO to be returning officer unless other arrangements 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.
* <i>Absolute majority required.</i>

**Policy Implications:**

Suspension of Policy A26 Local Government Elections

**Financial Implications:**

The \$11,000 estimate from WAEC is higher than a Shire-conducted in-person election however with the uncertainty of on-going service delivery associated with COVID-19, an in-person election may divert staff from other business operations, increase infection risk across the community and be at risk of having to be cancelled later.

It is worth noting that an unopposed postal election would be similar in cost to an unopposed in-person election.

**Strategic Implications:**

Shire of Koorda Strategic Community Plan 2018

Outcome 4.1 – To provide accountable and transparent leadership

**Voting Requirement:**

Absolute majority

**OFFICER RECOMMENDATION**

**That Council, by an absolute majority vote:**

- 1. Declares, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the Shire of Koorda extraordinary election together with any other elections or polls which may be required; and**
- 2. Decides, in accordance with section 4.61 (2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.**

**8. CLOSURE**

Signed .....

Presiding person at the meeting at which the minutes were confirmed

Date: 15 April 2020