



11 OCTOBER 2019

Shire of Esperance

SPECIAL COUNCIL

NOTICE OF MEETING AND AGENDA

A Special Council meeting of the Shire of Esperance will be held at Council Chambers on 15 October 2019 commencing at 4pm to consider the matters set out in the attached agenda.

W M (Matthew) Scott

Chief Executive Officer

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Esperance for any act, omission or statement or intimation occurring during Council or Committee meetings. The Shire of Esperance 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 licence, any statement or intimation of approval made by a member or officer of the Shire of Esperance 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 Esperance. The Shire of Esperance warns that anyone who has any application lodged with the Shire of Esperance 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 Esperance in respect of the application.

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

Council is committed to a code of conduct and all decisions are based on an honest assessment of the issue, ethical decision-making and personal integrity. Councillors and staff adhere to the statutory requirements to declare financial, proximity and impartiality interests and once declared follow the legislation as required.

ATTACHMENTS

Please be advised that in order to save printing and paper costs, all attachments referenced in this paper are available in the original Agenda document for this meeting.



Disclosure of Financial, Proximity or Impartiality Interests

**Local Government Act 1995 – Section 5.65, 5.70 and 5.71 and Local Government
(Administration) Regulation 34C**

Agenda Briefing ☐

Ordinary Council Meeting ☐

Both Meetings ☐

Name of Person Declaring the Interest: _____

Position: _____ Date of Meeting: _____

This form is provided to enable members and officers to disclose an Interest in the matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Administration) Regulation 34C.

Interest Disclosed

Item No: _____

Subject: _____

Nature of Interest: _____

Type of Interest: Financial Proximity Impartiality

Interest Disclosed

Item No: _____

Subject: _____

Nature of Interest: _____

Type of Interest: Financial Proximity Impartiality

Interest Disclosed

Item No: _____

Subject: _____

Nature of Interest: _____

Type of Interest: Financial Proximity Impartiality

Signature: _____ Date: _____

Office Use Only:
Entered into interest Register: _____
Officer _____ Date _____



Declaration of Interest (Notes for Your Guidance)

*A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:*

- a) In a written notice given to the Chief Executive Officers before the Meeting or;
- b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- c) Preside at the part of the Meeting, relation to the matter or;
- d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

Notes on Financial Interest (For your Guidance)

*The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest** in a matter.*

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are expectations in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e sporting, social, religious ect, and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e, if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors and ratepayers, then the obligation to disclose that interest does not arise. Each case need to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **must** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) of the Local Government Act; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

Interests Affecting Proximity

- 1) For the purposes of this subdivision, 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;
 - 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.
- 2) In this section, land (the proposal land) adjoins a person's land if;
 - a) The proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - b) The proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - c) The proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- 3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

Interests Affecting Impartiality

Definition: An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

*A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;*

- a) In a written notice given to the Chief Executive Officers before the Meeting or;
- b) At the Meeting, immediately before the matter is discussed.

Impact of an Impartiality Closure

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

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SHIRE OF ESPERANCE

AGENDA

**SPECIAL COUNCIL MEETING
TO BE HELD IN COUNCIL CHAMBERS ON 15 OCTOBER 2019
COMMENCING AT 4PM**

1. OFFICIAL OPENING

2. ATTENDANCE

Members

Cr V Brown	President	Rural Ward
Cr N Bowman	Deputy President	Rural Ward
Cr J Parsons		Town Ward
Cr S McMullen		Town Ward
Cr S Payne		Town Ward
Cr L McIntyre		Town Ward
Cr R Padgurskis		Town Ward
Cr D Piercey, JP		Town Ward
Cr B Parker		Rural Ward

Shire Officers

Mr W M (Matthew) Scott	Chief Executive Officer
Mr S Burge	Director Corporate Resources
Mr M Walker	Director Asset Management
Mr T Sargent	Director External Services
Miss A McArthur	Administration Officer – Executive Services

Members of the Public & Press

3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

4. DECLARATIONS OF INTERESTS:

- 4.1 Declarations of Financial Interests – Local Government Act Section 5.60a**
- 4.2 Declarations of Proximity Interests – Local Government Act Section 5.60b**
- 4.3 Declarations of Impartiality Interests – Admin Regulations Section 34c**

5. PUBLIC QUESTION TIME

6. PURPOSE OF MEETING

Nil

7. MATTERS BEHIND CLOSED DOORS

Officer's Comment:

It is recommended that the meeting is behind closed doors for the following item, in accordance with section 5.23(2) of the Local Government Act 1995.

Item: 7.1

Proposed Drainage Works Gibson Road

CONFIDENTIAL ITEM

This report is considered confidential in accordance with the Local Government Act 1995, as it relates to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(d)).

8. CLOSURE