



12 OCTOBER 2021

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 18 October 2021 commencing at 5pm to consider the matters set out in the attached agenda.

S Burge

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.

RECORDINGS

The Meeting will be video recorded. The recording will be made publicly available as soon as practical following the meeting.

DISCLOSURE OF INTERESTS



Agenda Briefing ☐

Ordinary Council Meeting ☐

Special Meeting ☐

Name of Person Declaring an 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 1995 and Local Government (Administration) Regulations 1996 34C.

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial ☐

Proximity ☐

Impartiality ☐

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial ☐

Proximity ☐

Impartiality ☐

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial ☐

Proximity ☐

Impartiality ☐

DECLARATION

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Signature

Date

DISCLOSURE OF INTERESTS

Notes for Your Guidance



IMPACT OF A FINANCIAL INTEREST (s. 5.65. & s. 67. Local Government Act 1995)

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 Officer 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:

- a. Preside at the part of the Meeting relating to the matter or;
- b. Participate in, or be present during, any discussion or decision making procedure relative to the matter, unless and 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*.

INTERESTS AFFECTING FINANCIAL INTEREST

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, pursuant to s. 5.60A or 5.61 of the *Local Government Act 1995*, 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 etc, 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 needs to be considered.
4. If in doubt declare.
5. As stated 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. Under s. 5.65 of the *Local Government Act 1995* failure to notify carries a penalty of \$10 000 or imprisonment for 2 years.
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 1995*; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the *Local Government Act 1995*, with or without conditions.



INTERESTS AFFECTING PROXIMITY (s. 5.60b Local Government Act 1995)

1. For the purposes of this subdivision, a person has a proximity interest, pursuant to s.5.60B of the Local Government Act 1995, 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.
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; or
 - 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, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, 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 DISCLOSURE

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 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.

TABLE OF CONTENTS

1.	OFFICIAL OPENING	8
2.	ATTENDANCE	8
2.1	Swearing in of Elected Members of Council	8
3.	APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE	8
4.	DECLARATIONS OF INTERESTS:	9
4.1	Declarations of Financial Interests – Local Government Act Section 5.60a	9
4.2	Declarations of Proximity Interests – Local Government Act Section 5.60b	9
4.3	Declarations of Impartiality Interests – Admin Regulations Section 34c	9
5.	PUBLIC QUESTION TIME	9
6.	PURPOSE OF MEETING	10
6.1	Election of Shire President, Deputy Shire President and Seating Allocations	10
7.	CLOSURE	12

SHIRE OF ESPERANCE

AGENDA

SPECIAL COUNCIL MEETING TO BE HELD IN COUNCIL CHAMBERS ON 18 OCTOBER 2021 COMMENCING AT 5PM

1. OFFICIAL OPENING

The Shire of Esperance acknowledges the Nyungar and Ngadju people who are the Traditional Custodians of this land and their continuing connection to land, waters and community. We pay our respects to Elders past, present and emerging and we extend that respect to other aboriginal Australians today

2. ATTENDANCE

2.1 Swearing in of Elected Members of Council

The swearing in of all newly Elected Councillors will be facilitated by Brett Thorpe JP, per Form 7 of the *Local Government (Constitution) Regulations*.

_____	Town Ward
_____	Town Ward
_____	Town Ward
_____	Town Ward

Members

Cr I Mickel, AM JP	Rural Ward
Cr J O'Donnell	Town Ward
Cr J Obourne	Town Ward
Cr R Chambers	Town Ward
Cr W Graham	Rural Ward

Shire Officers

Mr S Burge	Chief Executive Officer
Mr M Walker	Director Asset Management
Mrs H Phillips	Director External Services
Mrs F Baxter	Director Corporate & Community Services
Miss E Hegney	Executive Assistant
Miss S Hawke	Trainee Administration Assistant – Executive Services

Members of the Public & Press

3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

4. DECLARATIONS OF INTERESTS:

4.2 Declarations of Financial Interests – Local Government Act Section 5.60a

4.3 Declarations of Proximity Interests – Local Government Act Section 5.60b

4.4 Declarations of Impartiality Interests – Admin Regulations Section 34c

5. PUBLIC QUESTION TIME

6. PURPOSE OF MEETING

Item: 6.1

Election of Shire President, Deputy Shire President and Seating Allocations

Author/s Sofie Hawke Trainee Administration Assistant - Executive Services

Authorisator/s Shane Burge Chief Executive Officer

File Ref: D21/30204

Applicant

Internal

Location/Address

The Shire of Esperance, Windich Street, Esperance

Strategic Implications

Strategic Community Plan 2017 - 2027

Community Leadership

Community confidence and trust in Council

Provide transparent and accountable leadership

Attachments

A¹. Council Seating Plan

6.1 Election and Declaration of Shire President

The Chief Executive Officer will advise of any nominations received in writing for the position of Shire President in order of receipt. If there is only one (1) nomination received, then the nominee will be appointed Shire President. If more than one (1) nomination is received, a secret ballot will be conducted as per schedule 2.3 of the Local Government Act 1995, and the Shire President is appointed based on the result of the secret ballot. Once appointed, the Shire President will assume the chair and preside over the remainder of the meeting.

6.2 Election and Declaration of Deputy Shire President

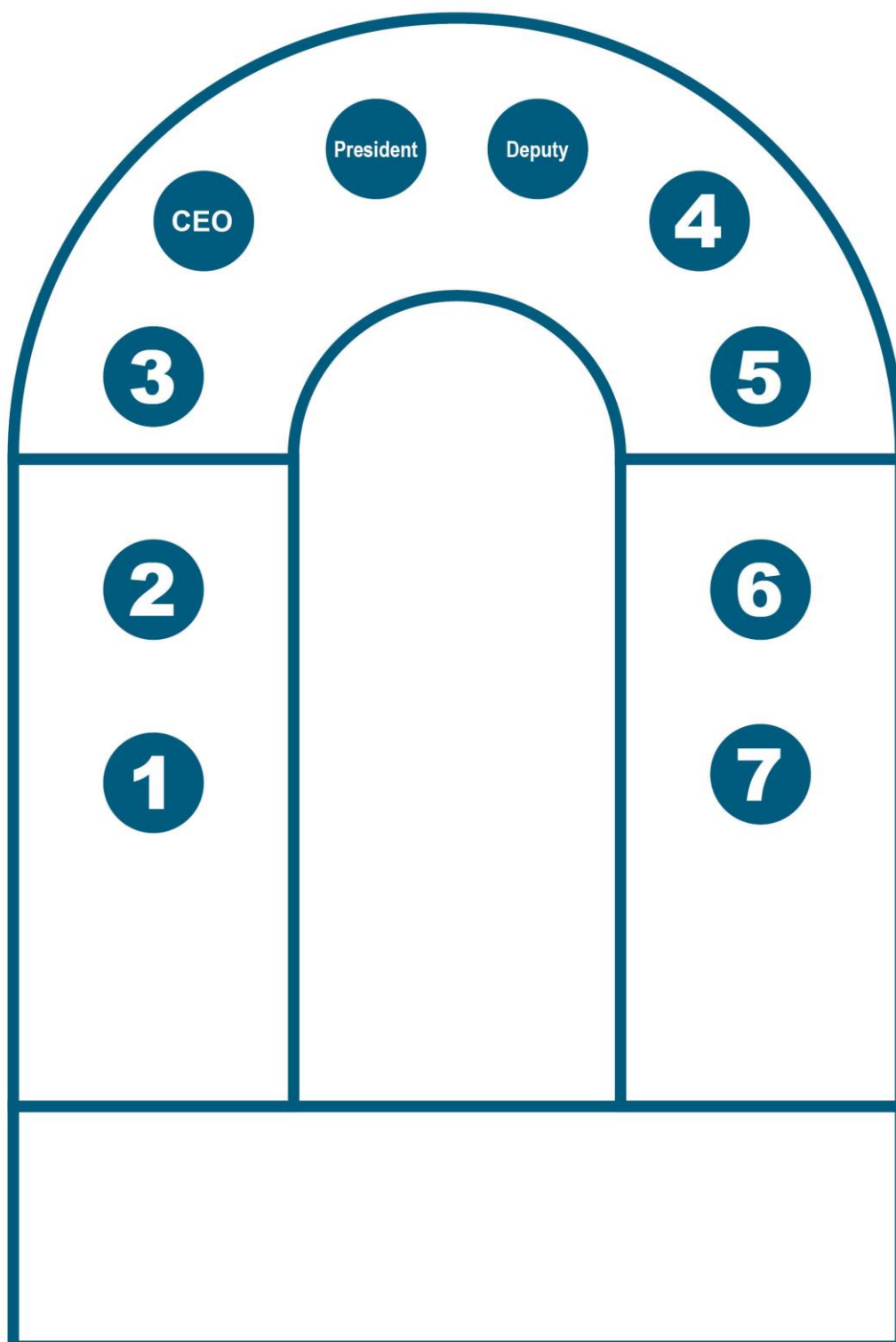
The Shire President will advise of any nominations received in writing for the position of Deputy Shire President in order of receipt. If there is only one (1) nomination received, then the nominee will be appointed Deputy Shire President. If more than one (1) nomination is received, a secret ballot will be conducted as per schedule 2.3 of the Local Government Act 1995, and the Deputy Shire President is appointed based on the result of the secret ballot.

6.3 Allocation of Council Seating

As per 8.2 (1) of the *Shire of Esperance Standing Orders Local Law*, at the first meeting held after each Ordinary Election, the CEO is to allot by a ballot process a position at the Council Table to each Councillor.

The Shire President and Deputy Shire President will not be included in the allotment of seats, as these are determined by their respective appointment of office.

Council Seating Arrangement



7. CLOSURE