



City of **Perth**

Reports Under Separate Cover

Ordinary Council Meeting

30 July 2024

Notice of Meeting

To the Lord Mayor and Councillors

The next Ordinary Council Meeting will be held on Tuesday, 30 July 2024 in the Council Chamber, Level 9, 27 St Georges Terrace, Perth commencing at 5:00pm.

Michelle Reynolds

Chief Executive Officer

26 July 2024

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16. Chief Executive Officer Reports

16.2 2024 Extraordinary Election

Responsible Officer	Michelle Reynolds – Chief Executive Officer
Voting Requirements	Absolute Majority
Attachments	Attachment 16.2A – Written agreement from the Electoral Commissioner to conduct the 2024 extraordinary election ↓

Purpose

To determine the method and date of conducting an extraordinary election to fill a vacancy on Council following the resignation of Councillor Brent Fleeton.

Recommendation

That Council:

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 extraordinary election;
 2. DECIDES, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the method of conducting the extraordinary election will be as a postal election.
 3. APPROVES the Extraordinary Election date as Friday 18 October 2024 in accordance with section 4.9(1)(b) of the *Local Government Act 1995* for a term expiring 18 October 2025.
 4. APPROVES an amendment to the 2024/25 Annual Budget (as adopted) to allocate \$85,455 from the Municipal Surplus for the purpose of conducting an Extraordinary Election to fill the vacancy on Council created by the resignation of Councillor Brent Fleeton.
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Background

1. Councillor Brent Fleeton has resigned from his position on the City of Perth Council, effective from 5.30 pm on 31 August 2024.
2. Councillor Fleeton was elected on the 16 October 2021 and is currently (and will be at the time his resignation becomes effective) in the third year of his term (term will expire on 18 October 2025).
3. An extraordinary vacancy on Council is created when an elected member resigns from the office (section 2.32(b) of the *Local Government Act 1995* (the Act)), and an extraordinary election must be held when the office of a councillor becomes vacant (section 4.8 of the Act).
4. There is no opportunity for Council to allow this vacancy to remain until the next local government election to be held in October 2025. The earliest date for an office to become vacant and remain vacant until the Ordinary Elections to be held in October 2025 (with the approval of the Electoral Commissioner) would be the third Saturday in October 2024 (section 4.17(2) of the Act).
5. The Election Day for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with (the process requires up to 70 days after the election notice is published) but, unless the Electoral Commissioner approves, it cannot be later than four months after the vacancy occurs (section 4.9(2) of the Act).
6. A vacancy is regarded for the purposes of the extraordinary election as occurring when the CEO receives the notice of resignation (15 July 2024), even if the resignation takes effect on a later day (section 4.10 of the Act).

Discussion

7. Elections can be held in one of two ways:
 - a. A postal election where electors mail their ballot through the post or deliver it in person. Postal elections must be conducted by the Electoral Commissioner, or
 - b. An 'in-person' election where a polling booth would be operated in the City. This would need to be conducted by the local government.
8. Council is required to determine the method by which the extraordinary election will be conducted, whether to appoint a person, other than the CEO, to be the returning officer and whether to declare the Electoral Commissioner to be responsible for the election (sections 4.20 and 4.61 of the Act).
9. The Electoral Commissioner has been responsible for the conduct of previous elections for the City of Perth.
10. The Electoral Commissioner has provided written agreement to conduct a postal extraordinary election to fill the vacancy and provided a cost estimate of \$70,455 including GST (**Attachment A**).
11. The 18 October 2024 is the recommended date for the City of Perth 2024 Extraordinary Election, this date allows enough time for the electoral requirements to be complied with.

Consultation

12. The administration has consulted with the Western Australian Electoral Commission (the WAEC) to clarify the options available, costs estimate, and the agreement and availability of the WAEC to undertake the election.

Decision Implications

13. If Council supports the recommendation, the Electoral Commissioner will be responsible for the City's 2024 extraordinary election which will be held as a postal election.

Strategic, Legislative and Policy Implications

Strategy	
Strategic Pillar (Objective)	A Well-Governed City
Related Documents (Issue Specific Strategies and Plans):	Nil.

Legislation, Delegation of Authority and Policy	
Legislation:	Part 4 – 'Elections and other polls' of the <i>Local Government Act 1995</i> .
Authority of Council/CEO:	Council
Policy:	Nil.

Financial Implications

14. The Electoral Commissioner has indicated that the estimated cost of the extraordinary election is **\$70,455** (inc GST) which is based on the following assumptions:
- 16,866 electors;
 - response rate of approximately 35%;
 - appointment of a non-local Returning Officer; and
 - count to be conducted at your office using CountWA.

Costs **not** included in the estimate:

- non-statutory advertising (ie additional advertisements in community newspapers and promotional advertising);
 - any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns matter;
 - local government staff members to issue replacement votes; and
 - the cost of any casual staff to assist the Returning Officer on election day or night.
15. A further \$15,000 will be allocated for 'costs not included in the estimate'.

16. This provides a total cost of \$85,455 for the extraordinary election. The conduct of an extraordinary election is currently unbudgeted for. A budget amendment is proposed for Council's consideration.

Further Information

Nil.



WESTERN AUSTRALIAN
Electoral Commission

Ms Michelle Reynolds
Chief Executive Officer
City of Perth
Council House
PERTH WA 6000

Dear Michelle,

**Councillor vacancy – Local Government Extraordinary Election –
Written Agreement**

I refer to a letter dated 24 July 2024 in which you accept the Western Australian Electoral Commission's Cost Estimate for the 2024 Local Government Extraordinary Election and commit to take it to your next council meeting on the 30 July 2024.

For the purposes of section 4.20(4) of the *Local Government Act 1995*, this letter constitutes my written agreement to be responsible for the conduct of the local government extraordinary election for the City of Perth **subject to** your Council passing the following two motions (**unchanged**):

1. declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and
2. decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the extraordinary election will be as a postal election.

For the Commission to conduct the extraordinary election as a postal election, your Council will then need to pass the above two motions (**unchanged**) by an absolute majority upon receipt of this letter.

Once the Council passes the abovementioned motions, please forward confirmation to the Commission to the email address below.

If you have further queries, please contact lgelections@waec.wa.gov.au.

Yours sincerely,

A handwritten signature in blue ink that reads 'R Kennedy'.

Robert Kennedy
ELECTORAL COMMISSIONER
24 July 2024