



NOTICE OF MEETING

**SPECIAL MEETING OF COUNCIL
CONSIDERING**

Mayoral Vacancy to Remain Unfilled

Members of Council are advised that a meeting will be held in the Council Chambers 83 Mandurah Terrace, Mandurah on:

Monday 11 November 2024 at 5.30pm

CASEY MIHOVLOVICH
Chief Executive Officer
7 November 2024

AGENDA

1. OPENING OF MEETING AND ANNOUNCEMENT OF VISITORS

Members of the public are advised that the Council Meeting will be recorded in accordance with the City's Recording of Council Meetings Policy. By being present at this meeting, members of the public consent to the City of Mandurah recording and subsequently publishing their voice on the City's website. Please note that members of the public images will not be captured by the recording. For further information on the Recordings of Council Meetings please click here. [Recording of Council Meetings](#)

2. ACKNOWLEDGEMENT OF COUNTRY

3. APOLOGIES

4. IMPORTANT NOTE

Members of the public are advised that any decisions made at the meeting tonight, can be revoked, pursuant to the *Local Government Act 1995*. Therefore, members of the public should not rely on any decisions until formal notification in writing by Council has been received.

5. AMENDMENT TO STANDING ORDERS

Modification to *Standing Orders Local Law 2016* - electronic attendance at meeting.

6. PUBLIC QUESTION TIME

Public Question time provides an opportunity for members of the public to ask a question of Council. For more information regarding Public Question Time please visit the City's website mandurah.wa.gov.au or telephone 9550 3787.

7. PRESENTATIONS

8. DEPUTATIONS

Any person or group wishing to make a Deputation to Council regarding a matter listed on this agenda for consideration must complete an application form. For more information regarding making a deputation please visit the City's website mandurah.wa.gov.au or telephone 9550 3787.

9. DECLARATIONS OF FINANCIAL, PROXIMITY AND IMPARTIALITY INTERESTS**10. QUESTIONS FROM ELECTED MEMBERS (WITHOUT DISCUSSION)**

10.1 Questions of which due notice has been given

10.2 Questions of which notice has not been given

11. REPORTS

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12. CONFIDENTIAL ITEMS

Nil

13. CLOSE OF MEETING

1	SUBJECT:	Request to the Electoral Commissioner: Mayoral Vacancy to Remain Unfilled
	DIRECTOR:	Business Services
	MEETING:	Special Council Meeting
	MEETING DATE:	11 November 2024

Summary

The Chief Executive Officer (CEO) has received Mayor Rhys Williams resignation from his Office of Mayor effective 27 January 2025. In accordance with Section 4.16 of the *Local Government Act 1995*, the Council may, with approval from the Western Australian Electoral Commissioner allow the vacancy of the Office of the Mayor to remain unfilled until the Local Government Election on 18 October 2025.

Council is requested to approve the CEO making this request. An alternative option for Council is to hold an extraordinary election, noting the cost and resource impost on the City of Mandurah.

Council is also requested to support an increase to the training and clothing allowance for Councillor Caroline Knight, Deputy Mayor for the 2024/2025 financial year, to align with the allowance provided for the Office of the Mayor.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G. 29/6/19 25 June 2019 Seek the approval of the Electoral Commissioner to allow the Ward vacancy to remain unfilled, until the Local Government ordinary Election Day in October 2019.

Background

Mayor Rhys Williams resignation letter states:

I am writing to formally announce my intention to resign from the position of Mayor of the City of Mandurah, effective January 27, 2025.

Serving this community that I love as Mayor has been an immense honour, one for which I will always be deeply grateful. I am proud of the progress we have made together over the past seven years, working to shape a successful future for our city.

I extend my heartfelt thanks to our incredible staff, partners, and community members for their dedication, hard work, and commitment during my time as Mayor. As we always say, we are so fortunate to live in a place that is both so special today, and one that has such an exciting future ahead of it.

Casey, I am particularly grateful to you, our Executive team, my Council colleagues, and those who have previously served in these roles throughout my tenure. Your partnership has been invaluable in delivering an ambitious agenda for Mandurah.

During the transition phase and beyond, I remain fully committed to supporting the ongoing success of our Council and community.

For clarity, my final Council meeting will be in December, and my last official duty as Mayor will be conducting the Citizenship ceremony at the Australia Day celebrations.

Comment

In accordance with Section 4.17 of the *Local Government Act 1995* (the Act), the Council can request the Western Australian Electoral Commissioner to allow the vacancy of the Office of the Mayor to remain unfilled until the next Local Government Election if the resignation has been received after the third Saturday in October in the year before the election year in which the term of office would have ended. The CEO has received the resignation from Mayor Rhys Williams on 4 November 2024, effective 27 January 2025.

Council is now requested to consider the following options:

Option A

Council resolves to request the approval of the Western Australian Electoral Commissioner to allow the vacancy of the Office of the Mayor to remain unfilled until the Local Government Election on 18 October 2025.

Comment: It is recommended that the Office of the Mayor remains unfilled as the Local Government Election on 18 October 2025 is a Mayoral Election.

Should Council approve this Option, the Deputy Mayor can act as the Mayor in accordance with Section 5.34 of the Act, where the Office of the Mayor is vacant, the Deputy Mayor may perform the functions of the Mayor. In accordance with Section 5.34(2)(b) of the Act, if the Deputy Mayor decides they are available and willing to perform the functions of Mayor then the Deputy Mayor will perform all functions of the Mayor.

Councillor Knight, Deputy Mayor has advised that she is available and willing to perform the functions of the Mayor. In the event that Council support Option A and the Western Australian Electoral Commissioner approves the Officer of the Mayor to remain unfilled until the next Local Government Election, Councillor Knight will commence all functions of the Mayor on 28 January 2025 with a term ending 18 October 2025.

Councillor Knight will be paid the full allowance of the Mayor in accordance with the Salaries and Allowances Tribunal Local Government Chief Executive Officers and Elected Members Determination. In addition, to support Councillor Knight's transition to performing all Mayor functions, Council is requested to approve an increase to the training budget to a maximum of \$8,000 for the 2024/2025 Financial Year and an increase to clothing allowance to a maximum of \$1,000, to align with the allowance provided for the Office of the Mayor. The additional investment will provide Councillor Knight media and crisis communication training which is required as the Mayor is the spokesperson of the City of Mandurah.

Option B

Council resolves to hold an extraordinary election for the Office of the Mayor, to be held on 31 May 2025, and appoints the Western Australian Electoral Commission (WAEC) to conduct the extraordinary election (postal election).

Comment: An informal quote for conducting an extraordinary election for the Office of the Mayor has been provided by WAEC with an indicative cost of \$240,000. However, it is unlikely that WAEC can conduct an extraordinary election for the City until after 29 May 2025 due to capacity constraints associated with the State Government Election occurring next year.

If Council elects to hold an extraordinary election, the recommended date would be Saturday 31 May 2025 by postal vote. Council should note that the appointment to the Office of the Mayor would be for a period of less than 5 months as the office would become vacant at the Local Government Election held on 18 October 2025.

An alternative option is for the City to conduct the extraordinary election; however, this is not recommended due to resource constraints and the oversight and management of risks associated with the election process.

On 20 September 2024, WAEC wrote to the local government sector advising of their limited capacity to support local governments with the extraordinary election process. The City received correspondence from WAEC on 20 September 2024 advising that due to the critical State election preparation period of mid-December 2024 to the end of May 2025, it would not be able to provide support to local governments who require an extraordinary election.

Statutory Environment

4.8 Extraordinary elections

- (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, except if the vacancy is filled under Schedule 4.1A or 4.1B.*
- (3) *An election under this section is called an extraordinary election.*

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.*
- (3) *If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —*
 - (a) *fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and*
 - (b) *advise the CEO of the day fixed.*

4.10 Extraordinary election can be held before resignation has taken effect

If a member resigns —

- (a) *the vacancy is to be regarded for the purposes of sections 4.8(1) and 4.9 as occurring when the CEO receives the notice of resignation even if the resignation takes effect on a later day; but*
- (b) *the election day fixed for the extraordinary election cannot be earlier than one month before the resignation actually takes effect.*

4.16 Postponement of elections to allow consolidation

- (1) *This section modifies the operation of sections 4.8, 4.9 and 4.10 in relation to the holding of extraordinary elections.*

(4) *If a member's office becomes vacant under section 2.32 —*

- (a) *after the third Saturday in October in the year before an election year; but*
- (b) *before the third Saturday in July in that election year,*

the council may, with the approval of the Electoral Commissioner, fix the ordinary elections day in that election year as the day for holding any poll needed for the extraordinary election to fill that vacancy.

4.17 Cases in which vacant offices can remain unfilled

(2) *If a member's office becomes vacant under section 2.32 —*

- (a) *after the third Saturday in October in the year before 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.

4.6 Election day for ordinary elections

Any poll needed for an ordinary election is to be held on the day on which the previous term of office referred to in section 4.4(1) ends.

4.4 Ordinary elections

- (1) *When the term of office of an elector mayor or president or a councillor is going to end under the Table to section 2.28 an election to fill the office is to be held.*

2.28 Days on which terms begin and end

Item	Kind of office	How elected	Term begins	Term ends
1.	Electoral mayor or president	Elected at an inaugural election, or a section 4.11, 4.12, 4.13 or 4.14 election, in an election year	On the day after — (a) the day on which the poll is held; or (b) if no poll is held, the day on which a poll would have been held	On the third Saturday in October in the fourth year after the year in which the term began (but note sections 2.14 and 2.30)

5.34 When deputy mayors and deputy presidents can act

If —

- (a) *the office of mayor or president is vacant; or*
- (b) *the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,*

then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.

5.35 *Who acts if no mayor, president or deputy*

(1) *If the circumstances mentioned in section 5.34(a) or (b) apply and —*

- (a) *the office of deputy mayor or deputy president is vacant; or*
- (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*

and the mayor or president or deputy will not be able to perform the functions of the mayor or president for a time known to the council, then the council may appoint a councillor to perform during that time the functions of mayor or president, as the case requires.

(2) *If the circumstances mentioned in section 5.34(a) or (b) apply and —*

- (a) *the office of deputy mayor or deputy president is vacant; or*
- (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*

and a person has not been appointed under subsection (1), the CEO, after consultation with, and obtaining the agreement of, 2 councillors selected by the CEO, may perform the functions of mayor or president, as the case requires

Policy Implications

POL- GVN 08 Council Elected Member and CEO Training Professional Development, Travel and Events

Financial Implications

If Council resolves to hold an extraordinary election, the term of office would likely be for a period of less than 5 months, as the Office of the Mayor becomes vacant at the Local Government Election to be held on 18 October 2025. An informal quote for conducting an extraordinary election for the Office of the Mayor has been provided from WAEC with an indicative cost of \$240,000.

There is no financial implication associated with the increase to the training or clothing allowance as this is contained in the Budget 2024/2025.

Economic Implications

Nil.

Environmental Implications

Nil.

Risk Analysis

A decision by Council to hold an extraordinary local government election in May 2025, when the election for the Office of the Mayor is being conducted in October 2025 is likely to create a reputational risk due to the costs associated with doing so.

The alternative option is to approve the City of Mandurah to conduct the extraordinary election earlier in 2025, however this will create a significant burden on local government resources.

Strategic Implications

The following community outcomes from the City of Mandurah Strategic Community Plan 2024 – 2044 is relevant to this report:

Leadership:

- A clear and shared vision for Mandurah's future
- Sound decisions based on evidence and meaningful engagement
- Effective advocacy focused on the needs of the community and strong relationships with key stakeholders
- A committed, innovative, effective, and values driven Council and workforce

Conclusion

The CEO has received Mayor Rhys Williams resignation in relation to the Office of Mayor effective 27 January 2025. In accordance with the *Local Government Act 1995*, the Council can request the approval of the Western Australian Electoral Commissioner to allow the vacancy of the Office of the Mayor to remain unfilled until the Local Government Election on 18 October 2025.

Council is also requested to support an increase to Councillor Caroline Knight's training and clothing allowance for the 2024/2025 financial year, to align with the allowance provided for the Office of the Mayor to ensure she can carry out all functions of the Mayor appropriately.

Recommendation

That Council:

1. **Request the Western Australian Electoral Commissioner to allow the vacancy of the Office of the Mayor to remain unfilled until the Local Government Election on 18 October 2025.**
2. **Subject to approval by the Western Australian Electoral Commissioner to allow the vacancy to remain unfilled, notes that Councillor Caroline Knight (Deputy Mayor) will commence the performance of all functions of the Office of the Mayor on 28 January 2025 and will receive the Mayor Allowance in accordance with the Salaries and Allowances Tribunal Local Government Chief Executive Officers and Elected Members Determination.**
3. **Support an increase to the training allowance for the 2024/25 financial year to a maximum of \$8,000 to cover costs associated with attendance at training and development activities for Councillor Caroline Knight, to support her transition to performing all Mayor functions commencing 28 January 2025.**
4. **Support an increase to the clothing allowance to a maximum of \$1,000 for the 2024/25 financial year for Councillor Caroline Knight, to support her performing all Mayor functions commencing 28 January 2025.**