



## Minutes of Special Council Meeting

held on

**Monday 11 November 2024, 5.30PM**

**in the Council Chamber, 83 Mandurah Terrace Mandurah**

### PRESENT:

|            |                         |                                      |
|------------|-------------------------|--------------------------------------|
| MAYOR      | R WILLIAMS              |                                      |
| COUNCILLOR | J SMITH                 | COASTAL WARD (Electronic attendance) |
| COUNCILLOR | B POND                  | COASTAL WARD                         |
| COUNCILLOR | J CUMBERWORTH           | COASTAL WARD                         |
| COUNCILLOR | A KEARNS                | EAST WARD                            |
| COUNCILLOR | D WILKINS               | EAST WARD                            |
| COUNCILLOR | S WRIGHT                | EAST WARD                            |
| COUNCILLOR | C KNIGHT [Deputy Mayor] | NORTH WARD                           |
| COUNCILLOR | P JACKSON               | NORTH WARD                           |
| COUNCILLOR | A ZILANI                | NORTH WARD                           |
| COUNCILLOR | D SCHUMACHER            | TOWN WARD                            |
| COUNCILLOR | P ROGERS                | TOWN WARD                            |
| COUNCILLOR | R BURNS                 | TOWN WARD                            |

|     |                |  |
|-----|----------------|--|
| MS  | C MIHOVILOVICH | CHIEF EXECUTIVE OFFICER                |
| MRS | T JONES        | DIRECTOR BUSINESS SERVICES             |
| MS  | J THOMAS       | DIRECTOR PLACE AND COMMUNITY           |
| MR  | M HALL         | DIRECTOR BUILT AND NATURAL ENVIRONMENT |
| MS  | J WEBER        | MANAGER GOVERNANCE AND LEGAL SERVICES  |
| MRS | L BARKER       | MINUTE OFFICER                         |

## **1. OPENING OF MEETING AND ANNOUNCEMENT OF VISITORS**

Prior to commencement of this meeting Elected Member and other attendee connections by electronic means were tested and confirmed.

The Mayor declared the meeting open at 5.30pm and announced that the Council Meeting is being 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 recording and subsequently publishing their voice on the City's website. The Mayor noted that members of the public are not subject to video recording and only their voice will be captured.

## **2. ACKNOWLEDGEMENT OF COUNTRY**

Mayor Williams acknowledged that the meeting was being held on the traditional land of the Bindjareb people and paid his respect to their Elders past and present.

## **3. APOLOGIES**

Nil

## **4. DISCLAIMER**

The Mayor advised that the purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the *Local Government Act 1995* (Section 5.25(e)) and the *City of Mandurah Standing Orders 2016* (Section 13.1(1)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The City of Mandurah expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

## 5. AMENDMENT TO STANDING ORDERS

### SP. 1/11/24 STANDING ORDERS LOCAL LAW 2016

The Mayor advised the meeting that the *City of Mandurah Standing Orders Local Law 2016* will be modified to ensure Councillor J Smith can participate in and follow the meeting as it progresses.

#### MOTION

Moved: Councillor P Rogers

Seconded: Councillor D Schumacher

That Council suspend the operation of the following provisions of the *City of Mandurah Standing Orders Local Law 2016* for the duration of this meeting to ensure Councillor Smith who is attending online can follow and participate in the meeting as it progresses:

1. Standing Order 7.2 Members to occupy own seats whilst present in meeting room. Relevant only for Elected Members attending the Council Chambers.
2. Agree under Standing Orders 8.1(1) and 12.2, that instead of requiring a show of hands, a vote will be conducted by exception with the Presiding Member calling for those Members against each motion. If no response is received the motion will be declared carried and minuted accordingly.
3. Reiterate the requirement as per Standing Order 7.3 for Members to advise the Presiding Member when leaving or entering the meeting at any time.

CARRIED: 13/0

FOR: Cr P Rogers, Cr D Schumacher, Mayor R Williams, Cr J Smith, Cr B Pond, Cr J Cumberworth, Cr A Kearns, Cr D Wilkins, Cr S Wright, Cr C Knight, Cr P Jackson, Cr A Zilani, Cr R Burns

AGAINST: Nil

## 6. PUBLIC QUESTION TIME

Nil

## 7. PRESENTATIONS

Nil

## 8. DEPUTATIONS

Nil

## 9. DECLARATION OF INTERESTS

- 9.1 Councillor C Knight declared a financial interest in Minute SP. 2/11/24 Request to the Electoral Commissioner: Mayoral vacancy to remain unfilled due to her being the recipient of the increase in the training and uniform allowance.

## 10. QUESTIONS FROM ELECTED MEMBERS

### Questions of which due notice has been given

Nil

### Questions of which notice has not been given

Nil

*Councillor C Knight declared a financial interest and vacated the chambers at 5.33pm*

## 11. REPORTS

### **SP. 2/11/24 REQUEST TO THE ELECTORAL COMMISSIONER: MAYORAL VACANCY TO REMAIN UNFILLED**

#### 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.

#### Officer 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.

#### Council Resolution

#### **MOTION**

**Moved:** Mayor R Williams  
**Seconded:** Cr D Schumacher

#### **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.**

**CARRIED:** 12/0

**FOR:** Mayor R Williams, Cr D Schumacher, Cr J Smith, Cr B Pond, Cr J Cumberworth, Cr A Kearns, Cr D Wilkins, Cr S Wright, Cr P Jackson, Cr A Zilani, Cr P Rogers, Cr R Burns

**AGAINST:** Nil

*Councillor C Knight re-entered the chambers at 5.42pm*

**12. CONFIDENTIAL ITEMS**

Nil

**13. CLOSE OF MEETING**

There being no further business, the Mayor declared the meeting closed at 5.42pm.

CONFIRMED ..... (MAYOR)

**Attachments to Special Council Meeting Minutes:  
11 November 2024 Council Reports**

Confirmed



**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](http://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](http://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**

| <b>No.</b> | <b>Item</b>   | <b>Page<br/>No</b> | <b>Note</b> |
|------------|---|--------------------|-------------|
| 1          | Request to the Electoral<br>Commissioner: Mayoral Vacancy to<br>Remain Unfilled | 3 - 8              |             |

**12. CONFIDENTIAL ITEMS**

Nil

**13. CLOSE OF MEETING**

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|          |                      |   |
|----------|----------------------|---|
| <b>1</b> | <b>SUBJECT:</b>      | Request to the Electoral Commissioner: Mayoral Vacancy to Remain Unfilled |
|          | <b>DIRECTOR:</b>     | Business Services   |
|          | <b>MEETING:</b>      | Special Council Meeting   |
|          | <b>MEETING DATE:</b> | 11 November 2024  |

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## 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*

| <b>Item</b> | <b>Kind of office</b>        | <b>How elected</b>  | <b>Term begins</b>  | <b>Term ends</b>   |
|-------------|------------------------------|---|---|--|
| 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 —<br>(a) the day on which the poll is held; or<br>(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.**