



Shire of
Serpentine
Jarrahdale

Special Council Meeting Confirmed Minutes

5pm

Monday, 11 July 2022

Purpose: Consideration of the following reports:

1. Outcome of the Invalidity Complaint into the 2021 Local Government Election in the North Ward – Presentation of Reasons for Decision
2. Invalidity Complaint Determination regarding Costs
3. Consideration of Date and Method of the Fresh Election for the North Ward

Contact Us

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In Person

Shire of Serpentine Jarrahdale
6 Paterson Street, Mundijong WA 6123
Open Monday to Friday 8.30am-5pm (closed public holidays)



www.sjshire.wa.gov.au



Councillor Attendance Register

In accordance with the 11 April 2022 Ordinary Council Meeting, Council Resolution OCM067/04/22, clause 1 – “That Council requests the Chief Executive Officer maintain a Councillor Attendance Register recording Councillor Attendances at Ordinary Council Meetings, Special Council Meetings, Q & A briefings for Ordinary Council Meetings, Q & A briefings for Special Council Meetings, Councillor Workshops held for Project Briefings, Councillor Workshops held for Budget Preparations and Policy Concept Forums”.

Council 1 July 2022 –

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Vacant	Cr Dagostino	Cr Duggin	Vacant	Cr Strange	Cr Strautins
04/07/22	PCF	✓	✓	✓		A	✓		✓	A

Council October 2021 – 30 June 2022

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Singh	Cr Strange	Cr Strautins
27/06/22	PCF	✓	✓	✓	✓	✓	✓	✓	A	✓
20/06/22	OCM	✓	✓	A	✓	✓	✓	✓	✓	✓
15/06/22	SCM	✓	✓	✓	✓	✓	✓	EPNG	✓	✓
13/06/22	Q & A (OCM)	A	✓	✓	✓	✓	✓	A	✓	✓
08/06/22	WORKSHOP (CBP)	✓	✓	✓	✓	✓	✓	✓	✓	✓
30/05/22	WORKSHOP (Budget)	✓	✓	✓	A	✓	✓	✓	✓	✓
23/05/22	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
16/05/22	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
11/05/22	Q & A cont. (OCM)	✓	✓	✓	A	A	✓	A	✓	A
09/05/22	Q & A (OCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
02/05/22	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/04/22	WORKSHOP (Rates / LTFFP / Fees and Charges)	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/04/22	WORKSHOP (PMO / Draft Facilities Plan)	✓	A	✓	✓	A	✓	✓	✓	A
20/04/22	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓



Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Singh	Cr Strange	Cr Strautins
19/04/22	Q & A (SCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
11/04/22	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
28/03/22	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/03/22	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
28/02/22	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
21/02/22	OCM	✓	✓	A	✓	✓	✓	✓	✓	✓
07/02/22	PCF	✓	✓	✓	A	A	✓	✓	A	✓
13/12/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
06/12/21	SCM	✓	✓	A	✓	✓	✓	✓	✓	A
29/11/21	PCF	✓	✓	A	✓	✓	✓	✓	✓	✓
22/11/21	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
15/11/21	OCM	✓	✓	✓	✓	A	✓	✓	✓	✓
10/11/21	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
01/11/21	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
01/11/21	SCM	✓	✓	✓	✓	A	✓	✓	✓	✓
25/10/21	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
25/10/21	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
18/10/21	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓

A – Apology

LoA – Leave of Absence

NA – Non Attendance

EPNG – Electronic Participation Not Granted



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The purpose of this Special 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 of the provisions of the *Local Government Act 1995* (section 5.25(1)(e)) and Council's *Standing Orders Local Law 2002 (as Amended)* – Part 14, Implementing Decisions. No person should rely on the Resolutions made by Council until formal advice of the Council Resolution is received by that person.

The Shire of Serpentine Jarrahdale 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.

At the 20 June 2022 Ordinary Council Meeting, Council resolved that Council and Committee Meetings will be audio recorded in accordance with Council Policy. If you are asking a public question or making a statement or deputation to the meeting this will be audio recorded. Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed.



Minutes of the Special Council Meeting of the Shire of Serpentine Jarrahdale held in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong, on Monday, 11 July 2022.

The Shire President, Councillor Rich declared the meeting open at 5pm and welcomed Councillors, Staff and members of the gallery and acknowledged that the meeting was being on the traditional land of the Noongar People and paid her respects to the Traditional Owners, Elders Past, Present and Emerging.

The Shire President, Councillor Rich advised members of the gallery that the meeting is being audio recorded, in accordance with Council Policy. If you are asking a public question or making a statement or deputation to the meeting this will be audio recorded. Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed.

Minutes

1. Attendances and apologies (including leave of absence):

1.1 – Leave of Absence Request (SJ3765)	
Councillor	Councillor Strautins
Disclosure of Officers Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Background

An application for a Leave of Absence, in accordance with section 2.25 of the *Local Government Act 1995*, was received via email from Councillor Dean Strautins at 6pm, 29 June 2022, for the period 30 June 2022 to 1 August 2022, inclusive, because of:

- the duration of time outside of Australia; and
- the continuing uncertainty with the pandemic which may impact international borders in Australia or overseas.

Comment

In accordance with section 2.25 of the *Local Government Act 1995*:

- (1) *A council may, by resolution, grant leave of absence, to a member.*
- (2) *Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister, unless all of the meetings are within a period of 3 months.*
- (3) *The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting.*

Under the *Local Government Act 1995*, Council may grant a leave of absence, however, a leave of absence is customarily granted for extended periods of departure, where a member is expected to miss three or more ordinary meetings.



Should a leave of absence be granted in this instance, Councillor Strautins will be recorded as an apology for the meetings missed.

Options and Implications

The provisions of the *Local Government Act 1995* provide two practical options to Council.

Option 1

That Council GRANT the leave of absence application made by Councillor Strautins for the period 30 June 2022 to 1 August 2022, inclusive.

Option 2

That Council DOES NOT GRANT the leave of absence application made by Councillor Strautins for the period 30 June 2022 to 1 August 2022, inclusive.

Attachments (available under separate cover)

Nil.

Voting Requirements: Simple Majority

Officer Recommendation

For Council's consideration.

SCM015/07/22

COUNCIL RESOLUTION

Moved Cr Dagostino, seconded Cr Byas

That Council GRANT the leave of absence application made by Councillor Strautins for the period 30 June 2022 to 1 August 2022, inclusive.

CARRIED UNANIMOUSLY 6/0



1.2 - Attendances and apologies

Attendees:

Councillors: M Rich.....Presiding Member
D Atwell
M Byas
M Dagostino
T Duggin
L Strange

Officers: Mr P Martin.....Chief Executive Officer
Ms H Sarcich.....Deputy CEO / Director Community and
Organisational Development
Mr A TrosicDirector Development Services
Mr F SullivanDirector Corporate Services
Mr R NajafzadehDirector Infrastructure Services
Dr K ParkerManager Governance and Strategy
Ms M Gibson.....Governance Officer – Council and Committees
(Minute Taker)

Leave of Absence: Councillor D Strautins

Apologies: Nil.

Observers: Members of the Public – 7
Staff members – 1

2. Public question time:

2.1 Public questions

No public questions were submitted in writing prior to the meeting.

Presiding Member, Councillor Rich asked if there were any public questions from the floor at 5:03pm.

Public question time commenced at 5:03pm.

Mr Shaye Mack, Byford WA 6122

Question 1

As the Shire has not yet obtained court transcripts, I am curious to know if any of our Councillors are aware of the Lacuna in legislation argued on the 1st day of the trial. This Lacuna provides an issue where fraud is present. Given our Shire now has a recent history of fraud dating back to 2017 with the campaign of disgraced former Councillor Barry Urban, what is Council doing to ensure the integrity of the electoral process, should any complaints be made which need an investigation?

Response (Shire President)

The Shire President advised the question will be taken on notice. In accordance with Council Policy 1.1.3 – Public Question and Public Statement Time – Ordinary Council Meeting, a written response will be provided.



Presiding Member, Councillor Rich asked if there were any further public questions from the floor at 5:08pm. No further public questions were asked.

Public question time concluded at 5:08pm.

3. Public statement time:

No public statements were submitted in writing prior to the meeting.

Presiding Member, Councillor Rich asked if there were any public statements from the floor at 5:08pm.

Public statement time commenced at 5:08pm.

Mr Robert Coales, Byford WA 6122

Made a statement supporting the decision made by the Court and the Officer's Recommendation for an in-person election.

Presiding Member, Councillor Rich asked if there were any further public statements from the floor at 5:09pm. No further public statements were made.

Public statement time concluded at 5:09pm.

4. Petitions and deputations:

Nil.

5. Declaration of Councillors and Officers interest:

Nil.



6. Receipt of reports:

6.1 Reports

6.1.1 – Outcome of the Invalidity Complaint into the 2021 Local Government Election in the North Ward – Presentation of Reasons for Decision (SJ3929)	
Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Chief Executive Officer
Disclosure of Officer's Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is to enable Council to:

1. note the findings of the reasons for decision in the matter of Shire of Serpentine Jarrahdale (1st complainant) and Shaye Luke Mack (2nd complainant), and Electoral Commissioner of Western Australia (Intervener), Gurdeep Singh (1st interested party) and Robert Coales (2nd interested party); and
2. make a determination regarding the obtaining of transcripts following receipt of estimates for the costs of those transcripts and note information regarding court adjournments requested by Council.

Relevant Previous Decisions of Council

<p><i>Special Council Meeting – 10 November 2021 – SCM079/11/21 - COUNCIL RESOLUTION</i></p> <p><i>That Council:</i></p> <ol style="list-style-type: none">1. <i>NOTES the legal advice obtained by the Shire of Serpentine Jarrahdale related to the 2021 Ordinary Local Government Election contained in CONFIDENTIAL attachments 3 and 4 and the response from the Western Australian Electoral Commission contained in attachment 2.</i>2. <i>RESOLVES that in accordance with section 4.80 of the Act that an invalidity complaint is made pertaining to the 2021 ordinary local government election in the Shire of Serpentine Jarrahdale North Ward.</i>3. <i>REQUESTS the Chief Executive Officer use the Council Report for item 6.1.1 as supporting material for the complaint, plus any other factual information, together with a Form 53C.</i>



Special Council Meeting – 15 June 2022 - SCM014/06/22 - COUNCIL RESOLUTION

That Council:

- 1. RESOLVES a position that the question of the awarding costs in the Invalidity Complaint into the 2021 Local Government Election in the North Ward be determined following submissions by the parties to the Magistrate after a ruling on the Invalidity Complaint is made.*
- 2. REQUESTS the Chief Executive Officer make a request to the Court for any available transcripts.*
- 3. REQUESTS the Chief Executive Officer provide information to Council regarding explanations for Court adjournments when a report is presented to Council on consideration of costs.*

Background

On 1 July 2022, the Court of Disputed Returns constituted by the Magistrates Court of Western Australia declared the result of the October 2021 Serpentine Jarrahdale Council election for the North Ward to be invalid.

The ruling means that from 1 July 2022, the two individuals sworn in as Councillors in 2021 to represent the North Ward are no longer Councillors.

The Court of Disputed Returns ruling occurred following complaints under section 4.81 of the *Local Government Act 1995* (the Act) from the Shire of Serpentine Jarrahdale and an unsuccessful candidate in the 2021 North Ward election. As an invalidity complaint, the Court was restricted to considering the question of whether the election was valid. The Court did not constitute an investigation under section 4.96 of the Act into electoral misconduct.

The Court has ruled that a fresh election be held under section 4.81(3) of the Act. Under 4.15 of the Act, the date of the election is to be held on a date set by the Court. The Court will set a date for the election after receiving submissions from the Shire and the Western Australian Electoral Commission. The setting of the election date is dealt with in a separate paper.

Until that election is held, the Shire of Serpentine Jarrahdale's Council will comprise the five Councillors elected in 2019, a Councillor elected in 2021 in the North West Ward, a Councillor elected in 2021 in the South Ward and two vacant positions in the North Ward, to be filled at a fresh election held at a date set by the Magistrate. During this time, the number of positions on Council remains nine with an Absolute Majority under 1.4 of the Act continuing to be at least five Councillors in favour of a given motion.

Community / Stakeholder Consultation

Policy Concept Forum

Meeting Date	4 July 2022
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Duggin, Cr Strange



Statutory Environment

Part 4, Division 10 of the Act deals with the validity of elections. Some of the relevant provisions of the legislation include:

- Section 4.15 of the Act states that all polls needed for a fresh election after an election is declared invalid is to be held on the day fixed by the Court of Disputed Returns.
- Section 4.82 of the Act provides that there is no appeal from a decision of a Court of Disputed Returns.
- Regulation 86 of the *Local Government (Elections) Regulations 1997* states that if the Court makes a declaration other than rejecting the invalidity complaint, the Returning Officer, as soon as practicable, is to give local public notice in a form that conveys the effect of the declaration and to provide to the Minister a report in a form that conveys the effect of the declaration. In this case the Returning Officer is the Western Australian Electoral Commission.

Section 49 of the *Acts Interpretation Act 1984* states that where a written law confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the functions of the office.

As such all decisions made by Council in the period between the declaration of the 2021 Ordinary Local Government Election and the determination by the Court are not impacted. This position is supported by the Department of Local Government, Sport and Cultural Industries.

Comment

The reasons for the Court's decision are set out in the written decision. The written decision is provided in **attachment 1** for Council to note.

When the matter was previously considered by Council at the 15 June 2022 Special Council Meeting, Council resolved to:

- request that the Chief Executive Officer make a request to the Court for any available transcripts;
- request that the Chief Executive Officer provide information to Council regarding explanations for Court adjournments when a report is presented to Council on consideration of costs.

Transcripts

In relation to transcripts, the Shire's legal representatives estimate that the cost of the 140 pages of transcripts from the proceedings of the Court would be \$2,765. This is an estimate only and the actual cost may be greater or less than this estimate.



Officers recommend that Council does not proceed with requesting to obtain the transcripts for the following reasons:

- the written reasons for the decision published in **attachment 1** detail the rationale for the Court's decision and provide a summary of evidence provided;
- the costs associated with the Shire's legal action has been significant and exceeded estimates owing to the complexity and duration of proceedings. Purchasing the transcripts would be an additional cost that would be subtracted from the Shire's limited legal budget;
- aside from the directions hearings which were held under stricter COVID-19 rules, the majority of Court sessions have been held in open court;
- there are outstanding questions associated with the capacity of the Shire to re-publish the transcripts as a result of Copyright Law;
- the written reasons for the decision published in **attachment 1** provide sufficient information to inform Council regarding whether the Court has made a determination under Regulation 87 of the *Local Government (Election) Regulations 1997* regarding whether it has been proved to the Court that a candidate or candidate's agent has contravened Part 4 of the Act;
- Council has received regular updates on the progress of the matter and received a briefing from Officers who attended the hearings;
- the transcripts would not assist the performance of the Shire's functions;
- the transcripts are available for purchase by any other parties interested; and
- Officers recommend that the purchasing of the transcripts at a value of approximately \$2,700 would not be consistent with the general function of the local government to provide for the good government of the district.

Reasons for adjournments

In relation to the reasons for adjournment, the following summary of the sessions of the Court is provided:

- At the first directions hearing on 7 December 2021 held at the Armadale Court, the Magistrate introduced himself as the likely convenor of the Court of Disputed Returns, and he took appearances from each of the interested parties. At that time there were appearances for Mr Mack and the Shire as the complainants, for the Western Australian Electoral Commission as the intervener; and for Mr Singh as the first interested party.
- At that first directions hearing, a further direction was made that the matter proceeds essentially by way of Form 32A Statements of Evidence, anticipating that those Statements of Evidence would be later taken as formal evidence at any hearing of the Court of Disputed Returns.
- There was no significant substantive step taken on 25 January 2022 appearance at the Armadale Court, but the Magistrate then indicated that the proceedings may well continue in the Perth Magistrates Court.



- On 11 April 2022, a directions hearing was held at the Perth Magistrates Court. There was no significant substantive step taken, but the Magistrate set the matter down for a hearing on 4 May 2022 in the Perth Magistrates Court.
- On 3 May 2022, evidence from all witnesses who had provided Form 32A Statements was taken formally. There was some examination and cross-examination of witnesses, including Officers from the Western Australian Electoral Commission and an Officer from the Shire of Serpentine Jarrahdale.

Mr Singh was required to give evidence orally and to be available for cross-examination. He had however left Australia and was in New York where there was an approximately 12 hour time difference. As the proceedings did not reach the point of cross-examination of Mr Singh, considering that, after the luncheon adjournment, the hour in New York was after 12 midnight, the Court accepted Mr Singh's counsel's submission that it was too late for Mr Singh to be expected to be subjected to cross-examination, and the proceedings were adjourned to 5 May 2022.

- On 5 May 2022, the parties attended, and Mr Singh was available, but the Court was not able to find an orderly, and the Court was bound to follow a policy which precluded the possibility of any hearing, where there is no orderly available, if any person appearing at the hearing was not a legal practitioner. As no orderly had been found by approximately the time for the luncheon adjournment, the matter was adjourned to 2 June 2022 without any further evidence being taken.
- On 2 June 2022, Mr Singh was available in person, and gave his evidence and was cross-examined. Thereafter submissions were made by Mr Mack, and on behalf of the other three parties. At the conclusion of submissions, the Magistrate reserved his decision, indicating that he expected his decision to be available within the period of approximately one month.
- On 1 July 2022, the Magistrate made his ruling and after discussions with parties, agreed that a date for a new election and orders related to costs would be determined following receipt of submissions within 21 days of the ruling.

Options and Implications

Option 1

That Council:

1. NOTES the findings of the reasons for the decision in the matter of Shire of Serpentine Jarrahdale (1st complainant) and Shaye Luke Mack (2nd complainant), and Electoral Commissioner of Western Australia (Intervener), Gurdeep Singh (1st interested party) and Robert Coales (2nd interested party), as contained in **attachment 1**;
2. RESOLVES NOT TO PROCEED with the obtaining of transcripts following the receipt of estimates for the costs of those transcripts; and
3. NOTES the information provided in this report regarding explanations for Court adjournments, as requested by Council.



Option 2

That Council:

1. NOTES the findings of the reasons for decision in the matter of Shire of Serpentine Jarrahdale (1st complainant) and Shaye Luke Mack (2nd complainant), and Electoral Commissioner of Western Australia (Intervener), Gurdeep Singh (1st interested party) and Robert Coales (2nd interested party), as contained in **attachment 1**;
2. RESOLVES TO PROCEED with the obtaining of transcripts following receipt of estimates for the costs of those transcripts; and
3. NOTES the information provided in this report regarding explanations for Court adjournments as requested by Council.

Option 1 is recommended.

Conclusion

The invalidity complaint and subsequent ruling that the election in the North Ward is invalid is a significant matter for the Shire. In the first instance, the written decision is presented to Council for information.

Attachments (available under separate cover)

- **6.1.1 - attachment 1** – Written decision – Court of Disputed Returns 2021 (E22/8355)

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

At the time of writing this report, the cost to the Shire of the invalidity complaint to date have been approximately \$83,798 (ex GST). This figure accounts to the period ending 31 May 2022. The total costs will be known when all invoices related to the matter are received and processed.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There may be concerns within the community that the Shire has not sought to obtain the transcripts.		Reputation	Rare	Insignificant	LOW	
2	There may be concerns within the community that the Shire has expended funds to obtain the transcripts.		Reputation	Rare	Insignificant	LOW	

Voting Requirements: Simple Majority

SCM016/07/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Byas

That Council:

1. **NOTES** the findings of the reasons for the decision in the matter of Shire of Serpentine Jarrahdale (1st complainant) and Shaye Luke Mack (2nd complainant), and Electoral Commissioner of Western Australia (Intervener), Gurdeep Singh (1st interested party) and Robert Coales (2nd interested party), as contained in attachment 1;
2. **RESOLVES NOT TO PROCEED** with the obtaining of transcripts following the receipt of estimates for the costs of those transcripts; and
3. **NOTES** the information provided in this report regarding explanations for Court adjournments, as requested by Council.

CARRIED UNANIMOUSLY 6/0



6.1.2 – Invalidity Complaint Determination regarding Costs (SJ3929)	
Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Chief Executive Officer
Disclosure of Officer's Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is to be enable Council to resolve a position in relation to costs, noting that a final determination will be made by the Court.

Relevant Previous Decisions of Council

<p><i>Special Council Meeting – 15 June 2022 - SCM014/06/22 - COUNCIL RESOLUTION</i></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"><i>1. RESOLVES a position that the question of the awarding costs in the Invalidity Complaint into the 2021 Local Government Election in the North Ward be determined following submissions by the parties to the Magistrate after a ruling on the Invalidity Complaint is made.</i><i>2. REQUESTS the Chief Executive Officer make a request to the Court for any available transcripts.</i><i>3. REQUESTS the Chief Executive Officer provide information to Council regarding explanations for Court adjournments when a report is presented to Council on consideration of costs.</i>
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Background

The Court of Disputed Returns constituted by the Magistrates Court of Western Australia has declared the result of the October 2021 Serpentine Jarrahdale Council election for the North Ward to be invalid.

The ruling means that from 1 July 2022, the two individuals sworn in as Councillors in 2021 to represent the North Ward are no longer Councillors.

The Court of Disputed Returns ruling occurred following complaints under section 4.81 of the *Local Government Act 1995* (the Act) from the Shire of Serpentine Jarrahdale and an unsuccessful candidate in the 2021 North Ward election. As an invalidity complaint, the Court was restricted to considering the question of whether the election was valid. The Court did not constitute an investigation under section 4.96 of the Act into electoral misconduct.



Community / Stakeholder Consultation

Policy Concept Forum

Meeting Date	4 July 2022
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Duggin, Cr Strange

Statutory Environment

Regulation 87 of the *Local Government (Election) Regulations 1997* (the Election Regulations) states that:

- (1) *The Court can make any order as to costs that the magistrate thinks just but an order cannot be made for the payment of costs by a candidate other than the person who made the invalidity complaint unless it is proved to the Court that the candidate, or the candidate's agent, has contravened Part 4 of the Act.*
- (2) *An order for costs can be enforced as an order of a court of summary jurisdiction.*

Part 4 of the Act relates to the conduct of elections and includes 12 divisions, including, but not limited to, Division 11 which relates to Electoral Offences.

The legislation only permits the Magistrate to make an order related to the Court costs. There are no provisions in the Act enable the Court to make an order related to the costs of the previous election or the fresh election.

Comment

Under Regulation 87 of the Election Regulations, the Court can make an order as to costs that the Magistrate thinks just but an order cannot be made for the payment of costs by a candidate other than the person who made the invalidity complaint unless it is proved to the Court that the candidate, or the candidate's agent, has contravened Part 4 of the Act.'

The Magistrate's decision does not make a finding that a candidate or candidate's agent contravened Part 4 of the Act. Accordingly, Officers do not believe that the required conditions of Regulation 87 that could result in an order for the payment of costs by a candidate as it has not been proved to the Court that a candidate or the candidate's agent has contravened Part 4 of the Act.

However, Council may wish to advocate that the Shire's Court costs are met by those persons named in the Magistrate's written decision as being convicted of stealing mail.

The discretion to award costs in Regulation 87 is expressed in very broad terms and would appear to enable this scenario. However, it would be unusual if a costs order could be made and enforced against a person who was not a party to an invalidity complaint, and who did not appear in any capacity at the Court of Disputed Returns hearing. This would appear to contravene principles of natural justice in that the persons convicted of stealing were not heard during the invalidity complaint. It also may not be viewed by the Court as a proportional response.

A determination regarding costs may be made by the Magistrate in writing following submissions being received from the parties without a hearing. The lack of a hearing and



opportunity to mount a verbal case in favour of Council's position would seem to decrease the likelihood of a determination other than each party meeting its own costs.

That said, Officers recommended that Council commence an invalidity complaint as a result of the conviction for stealing mail, including ballot packages during the 2021 local government election in the North Ward with the Court agreeing that the election was invalid as a result of this theft. Officers now recommend that Council resolve a position that the Shire's costs be paid by the persons named in the written reasons for decision as being responsible for the theft of mail.

The State Solicitor's Office position has been that all parties including the State Government should meet their own costs.

Again, the legislation only permits the Magistrate to make an order related to the Court costs. There are no provisions in the Act to enable the Court to make an order related to the costs of the previous election or the fresh election. Officers have not explored in depth any legal options for recovery of costs associated with the 2021 election or fresh election as this would involve additional legal expenses and preliminary enquiries have not identified any viable options to recover costs associated with the actual election.

Options and Implications

Option 1

That Council:

1. RESOLVES a position that the Shire's Court costs be met by the persons named in the written reasons for decision as being responsible for the theft of mail; and
2. REQUESTS that the Chief Executive Officer present this position to the Court of Disputed Returns and in the event that the Court does not concur, that the position of the State Solicitor's Office is presented.

Option 2

That Council:

1. RESOLVES a position that each party meets its own costs in relation to this matter; and
2. REQUESTS that the Chief Executive Officer present this position to the Court of Disputed Returns.

Option 1 is recommended.

Conclusion

As noted above, Officers recommended that Council commence an invalidity complaint as a result of the conviction for stealing mail, including ballot packages during the 2021 local government election in the North Ward with the Court agreeing that the election was invalid as a result of this theft. Officers now recommend that Council resolve a position that the Shire's costs be paid by the persons named in the written reasons for decision as being responsible for the theft of mail.

Attachments (available under separate cover)

Nil.



Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

At the time of writing this report, the cost to the Shire of the invalidity complaint to date have been approximately \$83,798 (ex GST). This figure accounts to the period ending 31 May 2022. The total costs will be known when all invoices related to the matter are received and processed.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Criticism from the community as a result of the Shire being required to meet its own costs despite the action being no fault of the Shire.		Reputation	Likely	Minor	MODERATE	
2	The Court may look unfavourably on the request and result in a counter claim.		Financial	Possible	Minor	LOW	



Voting Requirements: Simple Majority

Officer Recommendation

That Council:

1. RESOLVES a position that the Shire's Invalidation Court costs be met by the persons named in the written reasons for decision as being responsible for the theft of mail; and
2. REQUESTS that the Chief Executive Officer present this position to the Court of Disputed Returns and in the event that the Court does not concur, that the alternative position of the State Solicitor's Office is presented.

MOTION

Moved Cr Dagostino, seconded Cr Duggin

That Council:

1. RESOLVES a position that the Shire's Invalidation Court costs be met by the persons named in the written reasons for decision as being responsible for the theft of mail;
2. REQUESTS that the Chief Executive Officer present this position to the Court of Disputed Returns; and
3. REQUESTS its legal advisors to submit to the Court that the Court award appropriate costs incurred by all parties other than Mr Singh due to the adjournments of 3 May 2022 and 5 May 2022.

SCM017/07/22

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Atwell

That the Council DEFER the matter to the July Ordinary Council Meeting.

CARRIED 3/3

The Presiding Member used her casting vote and voted FOR the motion



6.1.3 – Consideration of Date and Method of the Fresh Election in the North Ward (SJ3929)

Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Chief Executive Officer
Disclosure of Officer's Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is to enable Council to:

1. set a preferred date for the fresh election in the North Ward noting that a final determination of the election date will be set by the Court in accordance with section 4.81(3) of the *Local Government Act 1995*;
2. consider the method by which the fresh election in the North Ward is to be conducted (subject to point 3); and
3. consider seeking the written agreement of the Western Australian Electoral Commissioner under section 4.20(4) of the Act to conduct the election, if Council wishes to amend its 2018 determination that all elections up to 31 December 2023 will be postal elections and instead, subject to first obtaining the written agreement of the Western Australian Electoral Commissioner, determine that the fresh election shall be a voting in person election.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 26 November 2018 – OCM128/11/18 - COUNCIL RESOLUTION

That Council:

1. *In accordance with section 4.20(4) of the Local Government Act 1995, declares by an absolute majority, that the WA Electoral Commissioner be responsible for all Local Government Elections for the Shire of Serpentine Jarrahdale together with any other elections or polls which may be required between now and 31 December 2023;*
2. *In accordance with section 4.61(2) of the Local Government Act 1995, determines by an absolute majority, that the method of conducting all elections for the Shire of Serpentine Jarrahdale between now and 31 December 2023 will be as postal elections;*



3. *Notes that resolutions 1 and 2 above are not a binding contract with the WA Electoral Commissioner and nothing shall prevent Council from revoking the decision at any time before 31 December 2023.*

Background

The Court of Disputed Returns constituted by the Magistrates Court of Western Australia has declared that the result of the October 2021 Serpentine Jarrahdale Council election for the North Ward to be invalid.

The ruling means that from 1 July 2022, the two individuals sworn in as Councillors in 2021 to represent the North Ward are no longer Councillors.

The Court of Disputed Returns ruling occurred following complaints under section 4.81 of the *Local Government Act 1995* (the Act) from the Shire of Serpentine Jarrahdale and an unsuccessful candidate in the 2021 North Ward election. As an invalidity complaint, the Court was restricted to considering the question of whether the election was valid. The Court did not constitute an investigation under section 4.96 of the Act into electoral misconduct.

The Court has ruled that a fresh election be held under section 4.81(3) of the Act. Under 4.15 of the Act, the date of the election is to be held on a date set by the Court. The Court will set a date for the election after receiving submissions from the Shire and the Western Australian Electoral Commission (WAEC).

There is no means to defer the fresh election.

In November 2018, Council resolved that all local government elections for the Shire of Serpentine Jarrahdale together with any other elections or polls which may be required between now and 31 December 2023 will be conducted by the WAEC and will be conducted as postal elections.

This resolution means that unless Council resolves otherwise, the fresh election in the North Ward will be conducted by the WAEC as a postal election. Given the circumstances that resulted in the North Ward election being declared invalid, it is considered appropriate for the method of the election to be presented to Council for consideration.

Community / Stakeholder Consultation

Policy Concept Forum

Meeting Date	4 July 2022
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Duggin, Cr Strange

Officers have also met with representatives of the WAEC and Department of Local Government, Sport and Cultural Industries to map out the way forward.



Statutory Environment

There are two considerations for Council at this time:

- the date of the fresh election
- the method by which the election is to be held.

Date of fresh election

In respect to the election date, section 4.15 of the Act states that a poll needed for a fresh election after an election is declared invalid is to be held on the day fixed by the Court of Disputed Returns. The legislation sets out a timetable that must be met in respect to an election. These tasks which have set dates in the legislation include:

- public notice periods
- calling for nominations
- close of rolls
- close of nominations and drawing of places on the ballot paper
- preparation of electoral roll, including owners and occupiers roll.

This means at least 90 days is required to hold an election.

Method of fresh election

In respect to the method by which an election is to be held:

- section 4.20 of the Act provides that the CEO is the Returning Officer in a local government election unless written approval is first obtained from the Western Australian Electoral Commissioner; and
- section 4.61 of the Act provides that elections can be held either as a postal election or a voting in person election. Under 4.61(4) of the Act only the WAEC may conduct a postal election.

Electronic voting is not an option provided for in the legislation and while the Minister has flagged its possible introduction in the future, the availability of electronic voting is not expected in the foreseeable future.

Comment

There are two considerations for Council at this time:

- the date of the fresh election
- the method by which the election is to be held.

Date of fresh election

As noted above, the Court will set the date for the fresh election after receiving submissions from the WAEC and Shire. The date of the election will need to meet the minimum timetable for election events set out in legislation.

Following discussions with the WAEC, Officers recommend that the fresh election be held on Saturday 22 October 2022. This is the earliest, practical date for an election.



If Saturday, 22 October 2022 was selected, the following key dates would apply:

3 August 2022	Last day to gain agreement from the Western Australian Electoral Commission to conduct the election (if change of method was pursued)
27 August 2022	Last day to give State-wide public notice of the closing date and time for enrolments
2 September 2022	Close of rolls
8 September 2022	Nominations open
15 September 2022	Nominations close
22 October 2022	Election day
24 October 2022	Swearing-in

The rationale for holding the fresh election on Saturday, 22 October 2022 is that it:

- provides sufficient time to meet the legislative timetable set out in the Act and associated regulations
- provides sufficient time for Council to revise the election method if it chooses
- occurs after the 17 October 2022 Ordinary Council Meeting which would otherwise mean that Councillors elected at the fresh election would not have the opportunity to ask questions about items to be considered at that meeting
- enables Councillors elected at the fresh election to receive an induction prior to attending a Council meeting.

Following the election, Councillors would be sworn in on 24 October 2022 and receive an induction. It is proposed that a 1½ day induction akin to that provided following the 2021 Ordinary Local Government Election is provided albeit without the component that was provided by an external entity.

The method by which the election is to be held

The Shire has already resolved through a November 2018 resolution under section 4.61 of the Act to hold all elections up to December 2023 as postal elections conducted by the WAEC.

If Council wished to hold the fresh election as a postal election no further action is required.

However, if the Council wishes for the election to be a voting in person election it would need to:

1. obtain written agreement from the Western Australian Electoral Commission; and
2. at a subsequent meeting of Council, following receiving written agreement from the Western Australian Electoral Commission Council, resolve under section 4.20(4) of the Act for the Western Australian Electoral Commission to conduct the fresh election and resolve that the fresh election be conducted as a voting in person election. This would need to occur before 3 August 2022 to meet a 22 October 2022 election date.



Given the circumstances that resulted in the 2021 election in the North Ward being declared invalid, Council may wish to consider running the fresh election as a voting in person election.

If Council wished to proceed with this option, Officers do not consider that this would constitute a technical revocation under Regulation 10 of the *Local Government (Administration) Regulations 1996* because the resolution would constitute a new decision/direction and is not a revoking or alteration of the decision made in November 2018.

In considering options for the method of election, Officers make the following observations:

Participation rate

While direct comparisons owing to the differences between local government districts such as geography, population and demographics are difficult, in general terms, postal elections have a greater participation rate than in person elections. Essentially, a comparison is difficult because no urban local government with a population comparable to the Shire has held a voting in person election in recent years.

The last election held by in person voting at the Shire was in 1997. According to the WAEC, the participation rate for the approximately 3,900 electors in the district at the time was 28 per cent. In 1999, the first election in the Shire that used postal voting, the participation rate was 46 per cent. In subsequent years the participation rate across all local governments has declined including at the Shire.

The following table shows the participation rates at elections in the North Ward over the last decade according to the WAEC's website:

Year	Participation rate
2021	29.7%
2019	24.1%
2017	30.7%
2013	22.5%
2011	29.7%

According to the WAEC, the participation rate from a voting in person election at the Shire would be approximately 18 per cent. The WAEC has provided this estimate based on their knowledge of voting patterns across Australia. Given that the unique circumstances in holding a fresh election, while this estimate may be informative, the actual participation rate could be very different. While participation rates are statistically lower, a case can be made that as voting is currently voluntary people wishing to vote will cast a vote if they wish to regardless of the voting method.

Cost

The WAEC has prepared ballpark estimates of cost for a postal election and in person election. The cost estimates for a voting in person election are based on two polling places.

The costs of a postal election are estimated to be approximately \$30,000. The cost of a voting in person election is estimated to be approximately \$22,000.



The costs of a voting in person election are lower comparatively, owing to the costs associated with postage which have increased in recent years. With a postal election, election packages must be prepared and mailed to every eligible elector. As noted above, approximately 70% of these packages are never used but must be provided and paid for.

Nevertheless, as voter participation is expected to be higher in a postal vote, the cost per vote of an in person vote is forecast to be greater.

The costs of a voting in person election above do not factor the costs of venue hire. This could amount to several thousand dollars which may make the cost difference between the two methods negligible.

A voting in person election is likely to be more resource intensive from an Officer perspective due to aspects such as the creation of a postal voting register required by Regulation 40 of the *Local Government (Elections) Regulations 1997*. As Officers have not conducted a voting in person election before, greater investment will be required to ensure that each step required in a voting in person election is successfully performed. Additional marketing of the election being a voting in person election would be required as electors may not be aware that the election is being conducted in person and may wait for a postal package that would not be forthcoming.

Election integrity

The events of the 2021 local government election in the North Ward have demonstrated the importance of maintaining the integrity of the electoral system. Neither postal voting nor in person voting is immune to fraud. Holding an election in person would prevent the irregularities that occurred in the North Ward in 2021. That said, postal voting has operated effectively in Western Australia and other Australian jurisdictions successfully for many years and the WAEC has indicated that it continues to support postal voting as an effective election method.

Given the importance of restoring confidence in the election system which is fundamental to the good governance of local government, Officers are concerned that a re-doing of a postal election method would be susceptible to criticism and challenged. In this intense climate and with the understandable level of scepticism it would be difficult to prove that a postal election was not compromised even if it had not been.

Officers recommend that in the event that postal voting was continued to be pursued that a campaign with the WAEC was pursued to remind people to have their postal details match their electoral registration.

Continuity

A change in the election method may confuse electors who are familiar with the postal voting system and be unaware of the requirement to vote in person. However, in person voting is the method used for State and Federal Elections and thus is a method of voting familiar to electors.

Early and absent voting

Under section 4.67 of the Act an early or absent vote may be cast in circumstances set out in legislation. With a voting in person election there remains a risk that if isolation requirements continue through 2022 that a person who is required to isolate due to the public health emergency and is unable to access an early or absent vote may be unable to vote.



If the election date was set as 22 October 2022, early voting would be open from the point of a state-wide public notice being issued by the Returning Officer of the election which would be no later than 3 October 2022 and could be as early as 22 September 2022.

Providing provision for early voting would require resourcing through the deployment of trained Officers at a polling place in the North Ward to be determined at a later date. This can be accommodated within existing resources through a reprioritisation of the Shire governance and capacity building initiatives. These resource demands would also exist in the event of postal voting where provision for the issuing of replacement packages needs to occur.

Postal voting at in person elections

Under Regulation 37 of the *Local Government (Elections) Regulations 1997* a person may apply to receive a postal vote even if the election is to be held in person.

Under Regulation 42 of the *Local Government (Elections) Regulations 1997*, the Returning Officer is to send an election package to each elector whose application to receive a postal vote has been accepted.

This means that postal voting at a voting in person election is available to community members who may not be able to access in person voting for any reason.

The lessening importance of mail

In societal terms, Officers suggest that physical mail has become less important to many in the community. The frequency of mail services has declined and with the expansion of direct debit, correspondence such as utilities bills and bank statements, are less likely to be sent via physical mail. With the exception of driver's licence renewal, vehicle registration and rates most government transactions can be performed electronically and don't occur via post.

With this change, community members may be less likely to check their mail regularly and may not expect or see their postal vote packages. The decline of the importance of mail may be one of the reasons for the decline in voter participation since postal voting was introduced in the 1990s.

Location of the polling place

Section 4.62 of the Act requires that there is at least one polling place in the ward that is open between 8am and 6pm on election day unless the Returning Officer determines that it is not necessary or not practicable. In the event that Council wishes to pursue a voting in person election, a prominent, accessible location in the North Ward would be selected as the polling place.

A determination of the number and location of polling places would be made through engagement with the WAEC with the goal of ensuring voter participation is maximised while ensuring the integrity of the election process.

Experience in other local governments

The events of the North Ward are the first instance that the Shire is aware of in Western Australian history where the theft of election packages has resulted in an election result being declared invalid.



Almost every local government conducts elections via postal vote. The largest local government to hold in person votes was previously the Shire of Manjimup (approximately 6,400 electors) which moved in 2017 to postal voting.

Recently, the Town of Cambridge resolved to hold one of its two extraordinary elections underway via in person voting (a second extraordinary election is being held via postal vote). In this case the Town resolved that the CEO would act as the Returning Officer. This option is not recommended. If Council wishes to explore this option, it is recommended that the wide-ranging implications of the CEO as Returning Officer be considered in a subsequent paper and that the election date be set in 2023 to enable consideration of the implications and investment required to ensure that Officers are equipped with the skills and capacity to conduct an election.

Engagement with the WAEC

Officers from the WAEC have indicated that the Electoral Commissioner will conduct either an in person or postal election as requested by the Shire. During engagement, the WAEC has identified that postal voting does result in higher voter turnout.

Future elections

Council's determination of the method for the fresh election in the North Ward presents a question as to the method of conducting future elections.

The term of the agreement with the WAEC expires in December 2023. In making a decision in the fresh election, Council is at the very least, signalling its intention to run the ordinary local government election in 2023 as an in person election.

The voter participation rate and other lessons learned from an in person fresh election would be informative to a future Council determination on the method for future elections. Future elections could be conducted in person with a polling place located in each ward in accordance with the provisions of the Act.

Electronic voting

Electronic voting provides a third method of voting but is not currently permitted by the Act. Officers note that the Minister's legislative reform proposes changes to the Act that would enable electronic voting to be introduced at a future date when the technology permits. Officers note that research has found high levels of community support for electronic voting across the country and view it as a preferred method once technology permits and as long as access to suffrage is maintained. As part of this process, Officers recommend that Council takes the opportunity to express interest to the Minister in electronic voting as part of the legislative reform program.



Options and Implications

Option 1

That Council:

1. RESOLVES that Saturday, 22 October 2022 is the preferred date of the fresh election in North Ward and REQUESTS that the Chief Executive Officer inform the Western Australian Electoral Commission and the Court of this resolution.
2. NOTES that the swearing-in of Councillors elected would occur on Monday, 24 October 2022 with an induction of Councillors elected occurring prior to the holding on the November 2022 Ordinary Council Meeting.
3. REQUESTS that the Chief Executive Officer seek the written agreement of the Western Australian Electoral Commissioner to conduct the fresh election in the North Ward as a voting in person election as defined in section 4.61 of the Act.
4. NOTES that a resolution to declare the Western Australian Electoral Commissioner responsible for the election under section 4.20(4) of the Act must be made before 3 August 2022 following the Western Australian Electoral Commissioner's written agreement sought in point 3.
5. REQUESTS that the Shire President write to the Minister to express interest in the Shire participating in electronic voting as soon as possible following the legislative reform program.

Option 2

That Council:

1. RESOLVES that Saturday, 22 October 2022 is the preferred date of the fresh election in North Ward and REQUESTS that the Chief Executive Officer inform the Western Australian Electoral Commission and the Court of this resolution.
2. NOTES that the swearing-in of Councillors elected would occur on Monday, 24 October 2022 with an induction of Councillors elected occurring prior to the holding on the November 2022 Ordinary Council Meeting.
3. REQUESTS that the Chief Executive Officer advise the Western Australian Electoral Commissioner that the Shire wishes to continue the arrangements set out in the November 2018 resolution that elections are to be conducted as postal elections conducted by the Western Australian Electoral Commission.

Option 1 is recommended.

Conclusion

The declaration of the 2021 election in the North Ward as invalid necessitates the holding of a fresh election. There is no opportunity to defer or not conduct this election. Officers working with the WAEC propose an election date of Saturday, 22 October 2022 as the first practical date where an election can be held. For the reasons set out in this paper Officers recommend that the fresh election be undertaken as a voting in person election.



Overall, Officers are supportive of a voting in person approach:

- with the availability of early voting and continued access to postal voting for those unable to vote in person through the provisions of Regulation 37; and
- access to a polling location in every ward that an election is taking place.

Attachments (available under separate cover)

Nil.

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources
Strategy 4.1.2	Maximise the Shire's brand and reputation in the community
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

As noted above, the costs associated with a voting in person election (\$22,000) are estimated by the WAEC to be less than those of a postal election (\$30,000). Both an in person and postal election may also have costs associated with securing a venue for a polling place. This could be several thousand dollars depending on the location.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That the decision to hold a voting in person election may result in lower participation rates and associated community concern.		Reputation	Likely	Moderate	SIGNIFICANT	
2	That the decision to hold a postal election may result in community concern relating to the integrity of the election.		Reputation	Likely	Moderate	SIGNIFICANT	



Voting Requirements: Simple Majority

SCM018/07/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Atwell

That Council:

- 1. RESOLVES that Saturday, 22 October 2022 is the preferred date of the fresh election in North Ward and REQUESTS that the Chief Executive Officer inform the Western Australian Electoral Commission and the Court of this resolution.**
- 2. NOTES that the swearing-in of Councillors elected would occur on Monday, 24 October 2022 with an induction of Councillors elected occurring prior to the holding on the November 2022 Ordinary Council Meeting.**
- 3. REQUESTS that the Chief Executive Officer seek the written agreement of the Western Australian Electoral Commissioner to conduct the fresh election in the North Ward as a voting in person election as defined in section 4.61 of the Act.**
- 4. NOTES that a resolution to declare the Western Australian Electoral Commissioner responsible for the election under section 4.20(4) of the Act must be made before 3 August 2022 following the Western Australian Electoral Commissioner's written agreement sought in point 3.**
- 5. REQUESTS that the Shire President write to the Minister to express interest in the Shire participating in electronic voting as soon as possible following the legislative reform program.**

CARRIED UNANIMOUSLY 6/0



7. Motions of which notice has been given:

Nil.

8. Urgent business:

Nil.

9. Closure:

There being no further business, the Presiding Member declared the meeting closed at 5:54pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 15 August 2022

..... Presiding Member – Councillor Rich

..... 19/08/2022 Date