

5.3.5 Arrangements for an Extraordinary Election

Ward:	-	Date:	04 October 2016
Precinct:	-	File Ref:	SC2639
Attachments:	1 – Proposed extraordinary election timeline from WA Electoral Commission. 2 – Letter and cost estimate from the Western Australian Electoral Commission		
Tabled Items:	Nil		
Reporting Officers:	T Evans, Manager Governance and Risk		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:**That Council:**

1. **FIXES** in accordance with Section 4.9(1) of the *Local Government Act 1995* the date of the extraordinary election for the vacant South Ward Councillor to be on Friday 6 January 2017; and
2. **RESOLVES BY ABSOLUTE MAJORITY** to:
 - a) **DECLARE** in accordance with Section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner be responsible for the conduct of the extraordinary election;
 - b) **NOMINATE** in accordance with Section 4.61(2) of the *Local Government Act 1995*, the method of conducting the election will be as a postal election;
 - c) **APPROVE** in accordance with section 6.8(1) the unbudgeted expenditure of \$36000 for the carrying out of the extraordinary election.

PURPOSE OF REPORT:

To consider Council's options in relation to the extraordinary vacancy for a South Ward Councillor.

BACKGROUND:

Following the resignation of Cr Laine McDonald on 21 September 2016, it is necessary for the City to make arrangements to hold an extraordinary election, pursuant to s4.8(1) of the *Local Government Act 1995* (the Act). The resignation has occurred before the third Saturday in January of an election year, which means that there is no avenue for the City to postpone or consolidate the election (s4.16) or to leave the vacancy unfilled.

DETAILS:**Setting an Election Date**

In order to hold an extraordinary election, the City must first set a date for the election, and it must do so within one month of the vacancy occurring (s.4.9(1)). The City is obliged to hold an extraordinary election within 4 months of a vacancy occurring (s.4.9 (2)). However, the election must take place a minimum of 80 days after the appointment of a returning officer. Consequently, the extraordinary election must be held between 6 January and 20 January 2017 unless an extension is granted by the Electoral Commissioner.

An election timeline has been developed by the WA Electoral Commission and included as **Attachment 2**. The timeline shows that 6th January 2017 may be the best date to hold the election on. Holding it on this date will ensure that the closure of the electoral roll (17/11/2016) and the closure date for nominations (23/11/2016) will occur prior to the Christmas period.

Furthermore, it will ensure that election packages will be mailed out on 9/12/2016, a week prior to schools breaking up for the holidays.

Returning Officer

The City must also decide who to appoint as the returning officer for the election. Under section 4.20 of the Act, the CEO is to be the returning officer unless other arrangements are made and Administration strongly recommend that other arrangements are made so as to not place undue burden on the CEO.

Council has the option of appointing any suitably qualified person as returning officer (s4.20(2)). Otherwise, the Council can declare the Electoral Commissioner be responsible for the conduct of the election. In either case, prior written approval from the Electoral Commissioner is required before such a decision can be made.

Following a request to the WA Electoral Commission for a quotation to conduct this extraordinary election, they have responded with a cost estimate for conducting the election of \$36000, shown in **Attachment 2**. The WA Electoral Commission operate a full cost recovery model and have based this estimate on:

- \$12,000 electors;
- Use of Australia Post's priority mail service;
- Response rate of approximately 30%;
- Appointment of a local Returning Officer; and
- The Count being conducted at Vincent.

The letter notes that this is an estimate only and the actual cost of the election will be charged.

Method of Conducting the Election

Pursuant to section 4.61 of the Act, The City is required to choose whether to conduct the election as a postal election or a "voting in person election". Postal elections are the norm and are generally more cost effective. Furthermore an in person election held in close proximity to the Christmas period is likely to result in a low turnout. Finally, it is a condition of the Electoral Commission that, if they are running the election, it must be held as a postal election.

CONSULTATION/ADVERTISING:

Administration have consulted with the Electoral Commission on the timeline and requirements to run the extraordinary election.

The necessary consultation and advertising required to run the election is set out in Part 4 of the Act and will be the responsibility of the returning officer.

LEGAL/POLICY:

Local Government Act 1995, Part 4, Division 4;

- Section 4.9 (1) - Council must fix a date for an extraordinary election at a meeting held within one month of the vacancy occurring. That is to say, no later than 20 October 2016.
- Section 4.9 (2) - The election day fixed for an extraordinary election cannot be later than 4 months after the vacancy occurs, unless the Electoral Commissioner approves or section 4.10(b) applies. That is to say, no later than 20 January 2017.
- Section 4.20 (4) - A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election.
- Section 4.61 (2) - The local government may decide* to conduct the election as a postal election.

*(absolute majority required)

RISK MANAGEMENT IMPLICATIONS:

Low: The holding of elections is highly regulated by the *Local Government Act 1995*, consequently, there is a risk of the City being non-compliant if it does not act expediently to arrange the extraordinary election.

STRATEGIC IMPLICATIONS:

Not applicable.

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The WA Electoral Commission have provided a cost estimate of \$36,000 to run the election, which has not been budgeted for 2016/17. It is requested that Council approve this as unbudgeted expenditure, pursuant to section 6.8(1)(b) of the Act.

COMMENTS:

Council can seek approval from the WA Electoral Commission to extend the timeframe for holding the extraordinary election beyond the 4 months' timeframe allowed. However, extensions are only granted in exceptional circumstances. In the absence of specific grounds, it would be unlikely that the Commission would grant such an extension.