

TOWN OF COTTESLOE



SPECIAL COUNCIL MEETING

AGENDA

**SPECIAL COUNCIL MEETING
TO BE HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
6:15 PM Wednesday, 22 October 2025**

**The swearing in ceremony for the Mayor and new Councillors will take place at 6 pm prior
to the Special Council Meeting**

Town of Cottesloe

SPECIAL COUNCIL MEETING

Notice is hereby given that the next Special Council Meeting will be held in the Council Chambers, Cottesloe Civic Centre 109 Broome Street, Cottesloe on **22 October 2025** commencing at **6:15 PM**.

The **swearing in ceremony** for the Mayor and new Councillors will take place at **6 pm** prior to the Special Council Meeting

The business to be transacted is shown on the Agenda hereunder.

Yours faithfully,



Mark Newman
Chief Executive Officer

16 October 2025

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town for any act, omission, statement or intimation occurring during council meetings.

The Town of Cottesloe disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during council meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a council meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Town of Cottesloe during the course of any meeting is not intended to be and is not taken as notice of approval from the Town.

The Town of Cottesloe wishes to advise that any plans or documents contained within the agenda or minutes may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction.

Members of the public should note that no action should be taken on any application or item discussed at a council meeting prior to written advice on the resolution of Council being received.

All formal Council Meetings will be audio visual recorded and livestreamed and will be publicly available via the Town of Cottesloe's website or social media platform.

Agenda and minutes are available on the Town's website www.cottesloe.wa.gov.au



Town of Cottesloe

DISCLOSURE OF INTERESTS

Agenda Forum ☐

Ordinary Council Meeting ☐

Special Council Meeting ☐

Name of Person Declaring an interest

Position

Date of Meeting

This form is provided to enable members and officers to disclose an Interest in the matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 34C.

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial ☐

Proximity ☐

Impartiality ☐

INTEREST DISCLOSED

Item No

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Nature of Interest

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Financial ☐

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Proximity ☐

Impartiality ☐

DECLARATION

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

DISCLOSURE OF INTERESTS

Notes for Your Guidance

IMPACT OF A FINANCIAL INTEREST (s. 5.65. & s. 67. Local Government Act 1995)

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- a. In a written notice given to the Chief Executive Officer before the Meeting or;
- b. At the Meeting immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- a. Preside at the part of the Meeting relating to the matter or;
- b. Participate in, or be present during, any discussion or decision making procedure relative to the matter, unless and to the extent that, the disclosing member is allowed to do so under *Section 5.68* or *Section 5.69* of the *Local Government Act 1995*.

INTERESTS AFFECTING FINANCIAL INTEREST

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest in a matter**.

1. A Financial Interest, pursuant to s. 5.60A or 5.61 of the *Local Government Act 1995*, requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are expectations in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e sporting, social, religious etc, and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e, if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors and ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **must** be given when the matter arises in the Agenda, and immediately before the matter is discussed. Under s. 5.65 of the *Local Government Act 1995* failure to notify carries a penalty of \$10 000 or imprisonment for 2 years.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) of the *Local Government Act 1995*; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the *Local Government Act 1995*, with or without conditions.

INTERESTS AFFECTING PROXIMITY (s. 5.60b Local Government Act 1995)

1. For the purposes of this subdivision, a person has a proximity interest, pursuant to s.5.60B of the Local Government Act 1995, in a matter if the matter concerns;
 - a. a proposed change to a planning scheme affecting land that adjoins the person's land; or
 - b. a proposed change to the zoning or use of land that adjoins the person's land; or
 - c. a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
2. In this section, land (the proposal land) adjoins a person's land if;
 - a. The proposal land, not being a thoroughfare, has a common boundary with the person's land; or
 - b. The proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - c. The proposal land is that part of a thoroughfare that has a common boundary with the person's land.
3. In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

INTERESTS AFFECTING IMPARTIALITY

Definition: An interest, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- a. In a written notice given to the Chief Executive Officers before the Meeting or;
- b. At the Meeting, immediately before the matter is discussed.

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest exist.

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1 MAYOR AND ELECTED MEMBER’S DECLARATION OF OFFICE

Section 2.29 of the *Local Government Act 1995* prescribes the requirements to be met when the newly elected mayor and councillors to make the declaration of office.

2.29 Declaration

- (1) A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.
- (2) A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.
- (3) A declaration required by this section is to be taken or made before a prescribed person.
- (4) A person who acts in an office contrary to this section commits an offence.

a. Prescribed form

Form 7, *Declaration by elected member of council*, in Schedule 1 of the Local Government (Constitution) Regulations 1998, is the prescribed form referred to in s.2.29(1):

Form 7.	Declaration by elected member of council	[r. 13(1)(c)]
<i>Local Government Act 1995</i>		
Local Government (Constitution) Regulations 1998		
Declaration by elected member		
I,		
of ¹		
having been elected to the office of ² mayor/deputy mayor/president/deputy president/councillor of the ³,		
declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the code of conduct adopted by the ³ under section 5.104 of the <i>Local Government Act 1995</i> .		
Declared at on		
by		
Before me:		
1	Insert your residential address.	
2	Delete those that do not apply.	
3	Insert the name of the local government.	

b. Prescribed person

The newly elected mayor and councillors will make declarations of office before Mr Peter Browne OAM JP, a *prescribed person*, for the purposes of compliance with s.2.29(3).

2 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

I would like to begin by acknowledging the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

3 DISCLAIMER

The Presiding Member directed the public's attention to the Disclaimer.

4 ATTENDANCE**Elected Members**

Mayor _____	
Cr Michael Thomas	Cr _____
Cr Katy Mason	Cr _____
Cr Jeffrey Irvine	Cr _____
Cr Sonja Heath	Cr _____

Officers

Mr Mark Newman	Chief Executive Officer
Mrs Vicki Cobby	Director Corporate and Community Services
Mr Shaun Kan	Director Engineering Services
Mr Steve Cleaver	Director Development and Regulatory Services
Ms Jacquelyne Pilkington	Governance and Executive Office Coordinator
Ms Magdalena Domanska	Executive Services Officer

4.1 APOLOGIES**4.2 APPROVED LEAVE OF ABSENCE****4.3 APPLICATIONS FOR LEAVE OF ABSENCE**

5 DECLARATION OF INTERESTS

6 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7 PUBLIC QUESTION TIME

7.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

7.2 PUBLIC QUESTIONS

8 PUBLIC STATEMENT TIME

9 PRESENTATIONS

9.1 PETITIONS

9.2 PRESENTATIONS

9.3 DEPUTATIONS

10 REPORTS**10.1 REPORTS OF OFFICERS****EXECUTIVE SERVICES****10.1.1 ELECTION OF DEPUTY MAYOR AND COUNCIL SEATING PLAN**

Directorate: Executive Services
Author(s): Kate Jones, Governance Coordinator
Authoriser(s): Mark Newman, Chief Executive Officer
File Reference: D25/55520
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

This report addresses:

- (a) Filling the office of deputy mayor by:
 - i. explaining the procedure that applies to how the office of deputy mayor is to be filled; and
 - ii. providing the form of the declaration a councillor must take if elected to fill the role of deputy mayor.
- (b) Council's seating plan.

OFFICER RECOMMENDATION IN BRIEF

As the processes discussed in this report are legislative, there is no officer recommendation.

BACKGROUND

Local government elections to fill the vacancies of mayor and four councillors at the Town of Cottesloe were held on Saturday, 18 October, 2025.

The Town of Cottesloe has an elector mayor. In these circumstances, the first matter Council is to deal with at its first meeting after a local government ordinary election, is to fill the office of deputy mayor (Sch 2.3, cl 7.1)).

OFFICER COMMENT**1. Filling the office of deputy mayor***Procedure to be followed*

The *Local Government Act 1995 (Act)*, prescribes how the office of deputy mayor is to be filled after an ordinary election. Unless otherwise stated, statutory references that follow are references to relevant parts of the Act.

Council is to elect a councillor (other than the mayor) to fill the office of deputy mayor (Sch 2.3, cl 8(1)).

The CEO:

- (a) is to receive nominations for deputy mayor before the first meeting of Council after an election, or during that meeting before the CEO announces that nominations are closed (Sch 2.3, cl 8(4));
- (b) is to conduct the election for deputy mayor by secret ballot as if councillors voting were electors voting at an election (Sch 2.3, cl 8(2) and (6));
- (c) is to have oral or written confirmation from a councillor, nominated for deputy mayor by another councillor, that they are willing to be nominated for the office (Sch 2.3, cl(5)); and
- (d) is to count votes; determine the result in accordance with Schedule 4.1 of the Act as if councillors were electors voting at an election; and declare and give notice of the result (Sch 2.3, cl(7) and (8)).

If the count results in equal votes for two or more candidates, the count is to be discontinued and adjourned for not more than seven days. Nominations can be withdrawn or made, before or when the meeting resumes. Councillors are to vote, and votes are to be counted, in the same way as they were during the first count (Sch 2.3, cl 9(1)-(4)).

Declaration

After the CEO declares the results of the election of the deputy mayor, the councillor elected to fill the role has to make a declaration, before a prescribed person, before acting in the office (s 2.29(2)-(3)).

A declaration made by a person elected to fill the role of deputy mayor is to make the declaration required by s2.29 of the Act before an authorised person (r.13(3) Local Government (Constitution) Regulations 1998).

Authorised persons include the CEO of a local government or a member of the council of a local government (Sch 2 *Oaths, Affidavits and Statutory Declarations Act 2005*).

The form of the declaration to be taken by a newly elected deputy mayor is:

Form 7 Declaration by elected member of council**[r.13(1)(c)]***Local Government Act 1995*

Local Government (Constitution) Regulations 1998

Declaration by elected member

I,

of ¹having been elected to the office of ²deputy mayor of the ³Town of Cottesloe

declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgement and ability, and will observe the code of conduct adopted by the ³Town of Cottesloe under section 5.104 of the *Local Government Act 1995*.

Declared at on

by

Before me:

¹ Insert your residential address² Delete those that do not apply³ Insert the name of the local government**2. Council's seating plan**

The Town's Local Government (Meeting Procedures) Local Law 2021 (**Meeting Procedures**) provides the following guidance as to how councillors are to be positioned at the council table.

At the first meeting after each election day the CEO is to allot by random draw, a position at the council table to each councillor. A call by a majority of councillors for a re-allotment of positions can be made. If a call is not made, the Meeting Procedures provide that councillors are to occupy the position allotted by the CEO when they are present at meetings (cl 7.1(1)-(2)).

ATTACHMENTS

Nil

CONSULTATION

No public consultation is required in relation to the subject matter of this report.

STATUTORY IMPLICATIONS

Filling to office of deputy mayor

Local Government Act 1995

Schedule 2.3 cl.7 – When council elects deputy mayor ..

Schedule 2.3 cl.8 – How deputy mayor .. is elected

Schedule 2.3 cl.9 – Votes may be cast a second time

Schedule 4.1 – How to count votes and ascertain the result of an election

Section 2.29 – Declaration

Local Government (Constitution) Regulations 1998

Regulation 13 – Oaths, affirmations and declarations

Schedule 1, Form 7

Oaths, Affidavits and Statutory Declarations Act 2005

Schedule 2 – Authorised witnesses for statutory declarations

Council seating plan

Local Government (Meeting Procedures) Local Law 2021

Clause 7.1 – Members to be in their proper places

POLICY IMPLICATIONS

There are no policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Council Plan 2023-2033*, specifically:

Priority Area 4: Our Leadership and Governance - Strategic leadership providing open and accountable governance.

This priority is delivered against by maintaining legislative compliance in the way the deputy mayor is elected and Council's seating plan is determined.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation. No internal resources have been used.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

RISK MANAGEMENT IMPLICATIONS

The process to fill the office of deputy mayor is prescribed in the legislation cited in this report. The risk of not following the prescribed process, is that the election of the deputy mayor could be challenged on procedural grounds. This could potentially impact on the legality of decisions Council subsequently makes. The risk is mitigated by ensuring the legislative process to fill the office of deputy mayor as prescribed, is followed.

The risk of the CEO allotting council positions at the council table that are unfavourable is mitigated by the opportunity provided in the Meeting Procedures for Council to re-allocate positions.

VOTING REQUIREMENT

Council is not required to vote as part of the process to elect the deputy mayor, other than to cast votes, or to determine a Council seating plan.

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

12.1 ELECTED MEMBERS

12.2 OFFICERS

13 MEETING CLOSURE