

- 10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
- 11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL

**OCM2223/090 - COUNCIL RESOLUTION (Procedural Motion)**

**MOVED Cr KV Johnston / Cr JN Germain**

**That the urgent business of item 11.1.1 be considered at this meeting.**

**CARRIED 8/0**

*Cr Wayne Tapscott declared an interest in the following item as it directly related to his position of Office of Councillor.*

*Council considered the level of interest, and determined there was no financial interest, however declared Cr Tapscott would abstain from voting on the recommendation and was permitted to remain in the Chambers.*

**11.1.1 RESIGNATION OF OFFICE OF COUNCILLOR – WAYNE TAPSCOTT**

<b>PROPOSED MEETING DATE:</b>	21 December 2022
<b>PROPONENT:</b>	Cr Wayne Tapscott
<b>LOCATION:</b>	Pingrup
<b>AUTHOR:</b>	Adam Seiler – Chief Executive Officer
<b>REPORTING OFFICER:</b>	Adam Seiler – Chief Executive Officer
<b>FILE NO:</b>	
<b>ASSESSMENT NO:</b>	Nil
<b>ATTACHMENTS:</b>	Letter of Resignation – Wayne Tapscott.pdf
<b>DISCLOSURE OF INTEREST:</b>	N/A

**PURPOSE**

Formal receipt of the letter of resignation from Cr Wayne Tapscott, with effect Sunday 1<sup>st</sup> February 2023

**BACKGROUND.**

The Chief Executive Officer received correspondence from Cr Tapscott on Sunday 18<sup>th</sup> December 2022.

**COMMENT**

Cr Tapscott has provided notice of resignation to come into effect 1 February 2023, in accordance with section 2.32 (b) of the *Local Government Act 1995* and expects to remain in the district for a short period post this time, however will have significantly reduced commitments when the sale process of his rural property is finalised.

In accordance with the *Local Government Act 1995* the following section is relevant to the resignation and the 2023 Ordinary Bi-Annual elections:

**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 January in 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.

(3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow \* the regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

\* Absolute majority required.

(4A) Subsection (3) applies —

(a) if —

(i) the office is for a district that has no wards; and

(ii) at least 80% of the number of offices of member of the council in the district are still filled;

or

(b) if —

(i) the office is for a ward for which there are 5 or more offices of councillor; and

(ii) at least 80% of the number of offices of councillor for the ward are still filled.

For the purposes of reference, the Saturday 21 January 2023 relates to 4.17(a) above.

Cr Tapscott's term was originally scheduled to conclude 18 October 2025, with Crs Crosby, Borgward, Jury and Holey, assuming they remain in office, will become vacant on 21 October 2023.

With the conclusion of the Elected Member Representation Review on Friday 9 December 2022 receiving zero submissions, Council has the opportunity to proceed.

It would be pragmatic to transition under a voluntary reform pathway to either:

- 7 Councillors, with the four expiring positions reduced to three vacancies for election of a four-year term to October 2027, and,

Application is made to the Electoral Commission to hold the extraordinary election to fill Cr Tapscott's vacancy at the Ordinary Election in 2023 with a two-year term expiring October 2025;

or

- 6 Councillors with application made to the Electoral Commission to hold the vacant position over to October 2023 whilst the Chief Executive Officer makes application to the Department of Local Government, Sport and Cultural Industries (DLGSC) to transition to a membership base of six Councillors in effect from October 2023;

**STATUTORY IMPLICATIONS**

*Local Government Act 1995 section 4.17 Cases in which vacant offices can remain unfilled.*

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS .**

Nil

**STRATEGIC IMPLICATIONS****Community Strategic Plan 2017-2027**

Civic Leadership Objective – Continually enhance the Shire’s organisational capacity to service the needs of our community

**RISK IMPLICATIONS**

Nil

**VOTING REQUIREMENT**

Absolute Majority

<b>OCM2223/091 - COUNCIL RESOLUTION (Officer Recommendation)</b>
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**MOVED Cr JN Germain / Cr DP Gray**

That Council:

1. Accept the resignation from the Office of Councillor from Cr Wayne Tapscott with effect Sunday 1 February 2023 and formally acknowledge same.
2. In accordance with *Local Government Act 1995 section 4.17 Cases in which vacant offices can remain unfilled*, seek approval from the Electoral Commissioner to allow the vacancy to remain unfilled.
3. Make formal application to the Department of Local Government, Sport and Cultural Industries (DLGSC) to transition to a membership base of six Councillors with effect from October 2023;

**CARRIED BY ABSOLUTE MAJORITY 7/0**