

# AGENDA

D2024/09391

## Special Meeting of Council 18 April 2024

### Notice of Meeting

Dear Councillors

I wish to advise that a Special Meeting of Council will be held on 18 April 2024 at the EMRC Administration Centre, 1st Floor, 226 Great Eastern Highway, Ascot WA 6104 commencing at 6:00pm.

The purpose of this meeting is to establish a Chief Executive Officer Recruitment Committee to assist Council with the recruitment of a new CEO.



Marcus Geister | Chief Executive Officer

15 April 2024

### Please Note

If any Councillor/officer has a query regarding a report item or requires additional information in relation to a report item, please contact the responsible officer (SOURCE OF REPORT) prior to the meeting.

The meeting will be audio recorded and available on the EMRC's website at [www.emrc.org.au](http://www.emrc.org.au).

Public question time will continue as usual and questions may be submitted electronically prior to the meeting, no later than 4.00pm on the day of the meeting to [CouncilEnquiry@emrc.org.au](mailto:CouncilEnquiry@emrc.org.au).



## **EMRC Council Members**

Cr Filomena Piffaretti	Chairperson	City of Bayswater
Cr Aaron Bowman	Deputy Chairperson	City of Swan
Cr Tallan Ames	EMRC Member	Town of Bassendean
Cr Paul Poliwka	EMRC Member	Town of Bassendean
Cr Michelle Sutherland	EMRC Member	City of Bayswater
Cr Luke Ellery	EMRC Member	Shire of Mundaring
Cr Doug Jeans	EMRC Member	Shire of Mundaring
Cr Jennifer Catalano	EMRC Member	City of Swan

## **EMRC Council Deputies**

Cr Kathryn Hamilton	EMRC Deputy Member	Town of Bassendean
Cr Giorgia Johnson	EMRC Deputy Member	City of Bayswater
Cr John Daw	EMRC Deputy Member	Shire of Mundaring
Cr Ian Johnson	EMRC Deputy Member	City of Swan



## **Special Meeting of Council 18 April 2024**

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**1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

**1.1 ACKNOWLEDGEMENT OF COUNTRY**

We wish to acknowledge the traditional custodians of the land, the Whadjuk people of the Noongar Nation and to pay our respects to elders past, present and emerging.

**2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

**3 DISCLOSURE OF INTEREST**

**4 ANNOUNCEMENTS BY THE CHAIRPERSON OR PRESIDING MEMBER**

**5 EMPLOYEE REPORTS**

**5.1 APPOINTMENT OF CHIEF EXECUTIVE OFFICER RECRUITMENT COMMITTEE FOR THE RECRUITMENT OF A NEW CHIEF EXECUTIVE OFFICER (D2024/09318)**

## 5.1 APPOINTMENT OF CHIEF EXECUTIVE OFFICER RECRUITMENT COMMITTEE FOR THE RECRUITMENT OF A NEW CHIEF EXECUTIVE OFFICER

D2024/09318

### PURPOSE OF REPORT

- The purpose of this report is for Council to:
  - ⇒ Establish a Chief Executive Officer Recruitment Committee (CEORC) to assist Council with the recruitment of a new CEO; and
  - ⇒ Delegate to the CEORC the power to engage an independent human resources consultant to assist in carrying out its functions.

### KEY POINT(S)

- The current CEO, Mr Marcus Geisler has tendered his resignation from his role as CEO of the EMRC, by the giving of three months' notice effective 8 April 2024.
- As a result, the position of CEO will become vacant, making it necessary to commence recruitment of a new CEO.
- It is proposed that a CEORC be established to assist Council with the recruitment process for and selection of a new CEO.
- It is proposed that the members of the recently disbanded Chief Executive Officer Performance Review Committee be appointed as members of the CEORC.
- The Terms of Reference for the CEORC are detailed within the attachment of this report.
- It is proposed that the recruitment process is outsourced to an external and independent human resources consultant (human resource professional, recruitment consultant, or recruitment agency) experienced in executive recruitment for local government.

**RECOMMENDATION(S)**

That Council:

1. By absolute majority in accordance with s.5.8 of the *Local Government Act 1995* establishes a Chief Executive Officer Recruitment Committee, with Terms of Reference forming the Attachment of this report and the Committee be disbanded upon the signing by all parties of a contract of employment for the position of Chief Executive Officer of the Eastern Metropolitan Regional Council.
2. By absolute majority in accordance with s.5.10 of the *Local Government Act 1995*, the following Councillors be appointed to the Chief Executive Officer Recruitment Committee:

<b>Participant Local Government</b>	<b>Council Member</b>
Town of Bassendean	Cr .....
City of Bayswater	Cr .....
Shire of Mundaring	Cr .....
City of Swan	Cr .....

3. By absolute majority in accordance with s.5.16 of the *Local Government Act 1995* delegates to the Chief Executive Officer Recruitment Committee the power to engage an independent human resources consultant to assist in carrying out its functions, following a request for quote process.
4. Requests the CEO undertake a request for quote process for the appointment of an independent human resources consultant in relation to the recruitment of a new CEO.
5. Requests the CEO to attend to any administrative matters such as the consultancy brief to give effect to Council's instructions.
6. Approves the first meeting of the Chief Executive Officer Recruitment Committee be held on Thursday 9 May 2024 commencing at 5:30pm at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway Ascot.

**SOURCE OF REPORT**

Chief Executive Officer

## BACKGROUND

- 1 The current CEO, Mr Marcus Geisler has tendered his resignation from his role as Chief Executive Officer (CEO) of the EMRC, by the giving of three months' notice effective 8 April 2024.
- 2 Due to this, it is necessary to commence the recruitment of a new CEO.
- 3 The *Local Government Legislation Amendment Act 2019* included a requirement for model standards covering the recruitment and selection, performance review and termination of employment of local government Chief Executive Officers (CEOs).
- 4 The relevant legislation covering the advertising and appointment of a local government CEO is contained within Part 5 Division 4 of the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.
- 5 The specific documentation that guides the recruitment and appointment process includes:
  - Relevant sections of the *Local Government Act 1995* (s.5.36, s.5.39, s.5.40); and
  - Relevant sections of the *Local Government (Administration) Regulations 1996* (r.18A, r.18B, r.18E, r.18F).

## REPORT

- 6 The role of the CEO includes CEO's legislated powers and functions as well as their role as the head of the administrative arm of a local government.
- 7 Consequently, selecting and appointing a CEO is an important decision of Council.
- 8 This should be underpinned by an effective recruitment and selection process. The process should be seen as being professional, confidential, and transparent, and be designed to attract suitably qualified and experienced candidates. In light of the importance of the position to the EMRC it is considered that the process of identifying a suitable replacement should be commenced as a matter of priority.
- 9 The *Local Government Act 1995* ("the Act") s.5.36 prescribes that a local government is to employ a Chief Executive Officer and in accordance with the *Local Government (Administration) Regulations 1996*, the selection and appointment process to be applied to a CEO position must be approved by Council prior to the position being advertised.

### Role of Council

- 10 In accordance with s.5.36 of the Act, Council is not to employ a person to the position of CEO unless they believe that the person is suitably qualified for the position and Council must also be satisfied with the provisions of the proposed employment contract.
- 11 Section 5.39A of the Act states that the regulations must prescribe the model standards for local governments in relation to the recruitment of CEOs. Regulation 18FA of the *Local Government (Administration) Regulations 1996* prescribes that Schedule 2 of the same regulations sets out the model standards for the recruitment of CEOs

### **Selection Panel and Independent Person**

- 12 Local governments are required to establish a selection panel to conduct and facilitate the recruitment and selection process.
- 13 The selection panel should be made up of elected members (the number of which is determined by the council) and must include at least one independent person.
- 14 The independent person cannot be a current elected member, human resources consultant or a staff member of the EMRC.
- 15 Examples of who the independent member could be include:
- former elected members or staff members of the local government;
  - former elected members (such as a Mayor or Shire President) or staff members of another local government;
  - a prominent or highly regarded member of the community; and
  - a person with experience in the recruitment of CEOs and senior executives
- 16 It is recommended that Council establish a CEO Recruitment Committee (CEORC) to undertake the role of the selection panel including all the administrative aspects of the recruitment process such as:
- The recruitment of an independent person to the Committee; and
  - Appointment of an external and independent human resources consultant.
- 17 The CEORC will coordinate the recruitment process and will be an effective mechanism for completing the selection and recruitment of the CEO in a timely manner.
- 18 The committee could be tasked with any or all of the following functions:
- To engage an external independent human resources consultant to facilitate the recruitment process;
  - To work collaboratively with the consultant to determine an appropriate interview and selection process and develop the position description, selection criteria and performance criteria for the role;
  - To facilitate the preparation of an appropriate contract of employment prior to advertising the position;
  - To determine how many applicants, it will interview;
  - To arrange the preferred applicant(s) to attend Council for an interview and/or presentation prior to a decision to appoint being made by Council; and
  - To keep Council informed of the progress of the recruitment process by reporting to Council meetings.
- 19 The EMRC officers will provide administrative support and guidance on the completion of appropriate documentation and reports to Council to ensure the recruitment and selection process meets EMRC and statutory requirements.
- 20 It is also recommended that the Committee be disbanded upon the signing by all parties of a contract of employment for the position of Chief Executive Officer of the EMRC.
- 21 Industry practice suggests that a committee set up for the purpose of recruiting a CEO would ideally consist of no more than 5 to 6 members, including the Chairperson and Deputy Chairperson.



22 The EMRC Chairperson and Deputy Chairperson were members of the recently disbanded Chief Executive Officer Performance Review Committee (CEOPRC) and it is proposed that those CEOPRC members be appointed members of the CEORC with appropriate terms of reference and delegated power forming the attachment to this report.

23 It should be noted that in accordance with s.5.10(4) of the Act, if at a meeting of the council, a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

24 If this is approved, then the composition of the CEORC will be:

<b>Council Members</b>	<b>Participant Local Government</b>
Town of Bassendean	Cr Ames
City of Bayswater	Cr Piffaretti
Shire of Mundaring	Cr Ellery
City of Swan	Cr Bowman

25 Alternatively, there is the option for Council to seek nominations from all Councillors who wish to be members of the CEORC.

26 As it is a requirement to have at least one independent person as a member of the selection panel, it is also proposed that an independent person be appointed following a recruitment process.

27 An independent person is classified to be a person who is required to be appointed by absolute majority to be a member of the committee in accordance with s.5.10(1) of the Act.

28 In accordance with s.5.17 of the Act, any power or duty that requires and decision of an absolute majority of Council cannot be delegated. As a result, any appointment of the independent person(s) will be required to be tabled at a future Council meeting.

### **Outsourcing the Recruitment Process**

- 29 One of the first decisions to be made by Council is whether to handle the recruitment in-house or appoint an independent external recruitment agency to coordinate the recruitment and selection process.
- 30 In accordance with the Department of Local Government, Sport and Cultural Industries' Local Government Operational Guidelines<sup>1</sup>, "a member of the human resources team within a local government should not be involved in the recruitment of a new CEO."
- 31 It also states that "...a local government should seek independent advice from a human resources consultant where the council lacks the capacity or expertise to facilitate the recruitment and selection process (or any aspect of it)." While the EMRC has the capacity and expertise to facilitate this process, the fact that it cannot be a member of the human resources team will restrict the internal resources available to Council.
- 32 As a result, it is recommended that an external and independent human resource consultant be appointed.
- 33 The appointment of an external and independent human resources consultant would ensure that sufficient resources are allocated specifically to the recruitment process and would enable the process to be strengthened with an executive search element.
- 34 The consultant can be an independent human resource professional, recruitment consultant or recruitment agency.
- 35 Generally, specialist recruitment consultants provide a professional and confidential service and possess a wide range of knowledge and skills in executive recruitment. Council had previously utilised the services of an external recruitment consultant to fill the current CEO's role.
- 36 An independent human resources consultant could be involved in any or all of the following aspects of the recruitment and selection process:
- development or review of the Job Description Form (JDF)
  - development of selection criteria
  - development of assessment methods in relation to the selection criteria
  - drafting of the advertisement
  - executive search
  - preliminary assessment of the applications
  - shortlisting
  - drafting questions for interview
  - coordinating interviews
  - preparing the selection summary assessment and recommendation
  - arranging for an integrity check and/or police clearance
  - assisting Council in preparing the employment contract.

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<sup>1</sup> Local Government Operational Guidelines – CEO Recruitment and Selection, Performance Review and Termination, May 2022.

- 37 It is recommended that a suitably experienced human resource professional, recruitment consultant or recruitment agency, preferably with experience in executive recruitment for local government, be engaged to complete this assignment. The independent human resources consultant will be required to have a current employment agent licence under the *Employment Agents Act 1976 (WA)*.
- 38 The consultant is not to be directly involved in determining which applicant should be recommended for the position, as their role is not one of decision-maker. Only Council can make the decision about who to appoint to the position of CEO, drawing upon advice from the CEORC.
- 39 One of the tasks assigned to the CEORC is to engage an external and independent human resources consultant to facilitate the recruitment process. It is recommended that the CEORC be granted delegated powers to engage an external and independent human resources consultant to assist in carrying out its functions.
- 40 To assist this process, a consultancy brief will be prepared by EMRC Officers and a Request for Quotation (RFQ) will be advertised.

**STRATEGIC/POLICY IMPLICATIONS**

- 41 Council Policy 2.1 provides for the establishment of the Chief Executive Officer Recruitment Committee.  
  
Reporting on EMRC Strategic Policy implications align with the revised Strategic Plan 2017-2027 and the Sustainability Strategy:  
  
Target - Sustainability integrated into management processes

**FINANCIAL IMPLICATIONS**

- 42 An allowance has been provided in 2023/2024 annual budget for the recruitment of senior employees. A similar amount will be allowed for in the preparation of the draft 2024/2025 annual budget to factor the costs that will arise as part of the recruitment process now likely to roll over into the new financial year.
- 43 There are no direct financial implications arising from the establishment of the recruitment committee.

**RISK MANAGEMENT**

<b>Risk – One of the fundamental roles of Council being the recruitment of the local government’s CEO is not fulfilled in accordance with principles of merit, equity and transparency</b>		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Moderate	Unlikely	Moderate
<b>Action/Strategy</b>		
➤ Establishing a recruitment process, structure and resourcing to ensure the recruitment of a suitable new CEO		



**MEMBER COUNCIL IMPLICATIONS**

<b>Member Council</b>	<b>Implication Details</b>
Town of Bassendean	} Nil
City of Bayswater	
Shire of Mundaring	
City of Swan	

**ATTACHMENT(S)**

Terms of Reference Chief Executive Officer Recruitment Committee (D2024/09344)

**VOTING REQUIREMENT**

Absolute Majority

**RECOMMENDATION(S)**

That:

1. Council by absolute majority in accordance with s.5.8 of the *Local Government Act 1995* establishes a Chief Executive Officer Recruitment Committee, with Terms of Reference forming the attachment of this report and the Committee be disbanded upon the signing by all parties of a contract of employment for the position of Chief Executive Officer of the Eastern Metropolitan Regional Council.
2. Council by absolute majority in accordance with s.5.10 of the *Local Government Act 1995*, the following Councillors be appointed to the Chief Executive Officer Recruitment Committee:

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Shire of Mundaring	Cr .....
City of Swan	Cr .....

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4. Requests the CEO undertake a request for quote process for the appointment of an independent human resources consultant in relation to the recruitment of a new CEO.
5. Requests the CEO to attend to any administrative matters such as the consultancy brief to give effect to Council's instructions.
6. Approves the first meeting of the Chief Executive Officer Recruitment Committee be held on Thursday 9 May 2024 commencing at 5:30pm at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway Ascot.

**COUNCIL RESOLUTION(S)**

MOVED

SECONDED



## Terms of Reference

### Chief Executive Officer Recruitment Committee

#### 1. Objectives of the Committee

- 1.1 The Chief Executive Officer Recruitment Committee (CEORC) is a formally appointed committee of Council and is responsible to that body.

#### 2. Responsibilities

- 2.1 To exercise the powers and functions of Council in respect to the recruitment and selection of the Chief Executive Officer in accordance with the requirements of the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996* as amended from time to time.

#### 3. Duties

- 3.1 The obligations of the Committee are as follows:

- a) Seeking expressions of interest and quotations from external recruitment agencies to assist the Committee to carry out its functions.
- b) Delegated power to engage an independent recruitment agency to assist the Committee to carry out its functions.
- c) Keeping Council informed of the progress of the recruitment process by reporting back to Council.
- d) Using the independent recruitment agency to assist it in its functions to:
  - Define and scope the services and techniques of the recruitment;
  - Assist with a review of the position requirements and the development of the position description for the role;
  - Prepare draft Key Performance Indicators for the position of Chief Executive Officer;
  - Construct the remuneration package to be offered for the position;
  - Advertise for the position of Chief Executive Officer;
  - Review the form and content of the contract to be offered to the preferred candidate;
  - Shortlist and interview suitable candidates;
  - Conduct background, reference, and qualification checks of candidates;
  - Provide written reports to Council on the preferred candidates and the outcome of the interviews; and
  - In conjunction with the consultant, make recommendations on the preferred candidate(s) for the position of Chief Executive Officer, together with the proposed terms and conditions relevant to the appointment.
- e) Arranging for the preferred candidate(s) to attend Council for a presentation / interview prior to the recommendation of appointment being considered by Council.
- f) Negotiate the terms of the contract and performance indicators in accordance with Council's resolution.

#### **4. Membership**

4.1 The Committee will comprise of Councillor members and independent persons.

#### **5. Meetings**

5.1 The Committee shall hold regular meetings at such times and on such days as the Council may determine by resolution.

5.2 Additional meetings will be convened at the discretion of the Chairperson.

#### **6. Operating Procedures**

6.1 All meetings of the Committee are to be conducted in accordance with the *Local Government Act 1995*, associated Regulations and the *EMRC Meeting Procedures Local Law 2023*.

6.2 A quorum for a meeting of the Committee shall be at least 50% of the number of offices (whether vacant or not) of member of the Committee.

##### **6.3. Voting**

(a) All decisions of the Committee shall be made on the basis of a simple majority decision of the members present or, if another kind of majority has been prescribed by regulations for the particular kind of decision, by that kind of majority.

(b) If the decision results in a tied vote, the person presiding is to cast a second vote.

(c) Persons other than Committee members are not entitled to cast a vote.

(d) All other aspects related to voting procedure shall be consistent with relevant sections of the *EMRC Meeting Procedures Local Law 2023*.

6.4 Other EMRC staff may attend meetings, at the discretion of the Chief Executive Officer, to provide advice and information when required.

6.5 Additional persons, including consultants may be invited at the discretion of the Chief Executive Officer to provide advice and information as required.

#### **7. Reporting**

7.1 The Committee shall after every meeting forward the minutes of that meeting to the next Ordinary Meeting of Council, including a report explaining any specific recommendations.

7.2 The item of Council business referred to in relation to this is to be treated as confidential in accordance with s.5.23(2) of the *Local Government Act 1995*, r.14(2) of the *Local Government (Administration) Regulations 1996*, *EMRC Meeting Procedures Local Law 2023* and Council Policy 1.5 Meeting Agenda/Minutes – Confidential Items.

#### **8. Delegated Power**

8.1 The Committee has delegated power to engage an independent human resources consultant.

8.2 All other matters are to be referred to Council for consideration.

## 9. Life of the Committee

- 9.1 The CEO Recruitment Committee will be automatically disbanded upon the signing by all parties of a contract of employment for the position of Chief Executive Officer.

### Related Documentation

Policy 1.5	Meeting Agenda / Minutes – Confidential Items
Policy 2.1	Committees of Council
Policy 4.1	Chief Executive Officer Appointment and Performance Review
<i>EMRC Meeting Procedures Local Law 2023</i>	
EMRC Code of Conduct	

### Administration

#### Adopted/Reviewed by Council

18 April 2024

#### Next Review

As required

#### Responsible Officer

Chief Executive Officer





**6      DECLARATION OF CLOSURE OF MEETING**