



SHIRE OF
MERREDIN
INNOVATING THE WHEATBELT

Minutes

Special Council Meeting

Held in Council Chambers
Corner King & Barrack Street's, Merredin
Tuesday, 13 April 2021
Commencing 5.30pm



Common Acronyms Used in this Document	
CBP	Corporate Business Plan
CEACA	Central East Accommodation & Care Alliance Inc
CSP	Community Strategic Plan
CWVC	Central Wheatbelt Visitors Centre
DCEO	Deputy Chief Executive Officer
EA	Executive Assistant to CEO
EMCS	Executive Manager of Corporate Services
EMDS	Executive Manager of Development Services
EMES	Executive Manager of Engineering Services
GECZ	Great Eastern Country Zone
LGIS	Local Government Insurance Services
LPS	Local Planning Scheme
MCO	Media and Communications Officer
MoU	Memorandum of Understanding
MRCLC	Merredin Regional Community and Leisure Centre
SRP	Strategic Resource Plan
T/CEO	Temporary Chief Executive Officer
WALGA	Western Australian Local Government Association
WEROC	Wheatbelt East Regional Organisation of Councils



Shire of Merredin Special Council Meeting

Contents

1. Official Opening	5
2. Record of Attendance / Apologies and Leave of Absence	5
3. Public Question Time	5
4. Disclosure of Interest	5
5. Applications of Leave of Absence	5
6. Petitions and Presentations	5
7. Confirmation of Minutes of Previous Meetings	5
8. Announcements by the Person Presiding without discussion	6
9. Matters for which the Meeting may be closed to the public	6
19.1 Completion of CEO Recruitment and Selection Process (December 2020)	12
19.2 Recruitment of Chief Executive Officer	15
10. Receipt of Minutes of Committee Meetings	6
11. Recommendations from Committee Meetings for Council consideration	6
12. Officer's Report – Development Services	6
13. Officer's Report – Engineering Services	6
14. Officer's Reports – Corporate and Community Services	6
15. Officer's Reports – Administration	7
15.1 Adoption of Standards for CEO Recruitment, Performance and Termination	7
16. Motions of which Previous Notice has been given	11
17. Questions by Members of which Due Notice has been given	11
18. Urgent Business Approved by the Person Presiding of by Decision	11
19. Matters Behind Closed Doors	12
19.1 Completion of CEO Recruitment and Selection Process (December 2020)	12
19.2 Recruitment of Chief Executive Officer	15
20. Closure	20

Shire of Merredin
Special Council Meeting
5:30pm Tuesday, 13 April 2021



1. Official Opening

The President acknowledged the Traditional Owners of the land on which we meet today and paid her respects to the Elders past, present and emerging. The President then welcomed those in attendance and declared the meeting open at 5.32pm.

2. Record of Attendance / Apologies and Leave of Absence

Councillors:

Cr JR Flockart	President
Cr MD Willis	Deputy President
Cr RA Billing	
Cr AR Butler	
Cr LN Boehme	
Cr PR Patroni	
Cr MJ McKenzie	
Cr RM Manning	
Cr PM Van Der Merwe	

Staff:

M Dacombe	T/CEO
A Brice	EA

Members of the Public: Nil

Apologies: Nil

Approved Leave of Absence: Nil

3. Public Question Time

Nil

4. Disclosure of Interest

Refer to the heading of Item 19.1.

5. Applications of Leave of Absence

Nil

6. Petitions and Presentations

Nil

7. Confirmation of Minutes of Previous Meetings

Nil

8. Announcements by the Person Presiding without Discussion

The President made mention of the recent passing of the Duke of Edinburgh:

"Deepest condolences to her Majesty the Queen and family on the passing of his Royal Highness the Duke of Edinburgh.

A life in public service, a partner in life to the Queen for 78 years, a father, grandfather and great grandfather."

9. Matters for Which the Meeting may be Closed to the Public

19.1 Completion of CEO Recruitment and Selection Process (December 2020)

19.2 Recruitment of Chief Executive Officer

10. Receipt of Minutes of Committee Meetings

Nil

11. Recommendations from Committee Meetings for Council Consideration

Nil

12. Officers' Reports - Development Services

Nil

13. Officers' Reports - Engineering Services

Nil

14. Officers' Reports – Corporate and Community Services

Nil

15. Officer’s Reports - Administration

15.1 Adoption of Standards for CEO Recruitment, Performance and Termination

<h1>Administration</h1> 	
Responsible Officer:	Mark Dacombe, T/CEO
Author:	Mark Dacombe, T/CEO
Legislation:	<i>Local Government Act 1995</i>
File Reference:	Nil
Disclosure of Interest:	Nil
Attachments:	Attachment 15.1A - Local Government Regulation Amendments 2021 Guidance Note WALGA Attachment 15.1B - Existing Policy 2.30 Attachment 15.1C - Draft Policy 2.30 Shire of Merredin Standards for CEO Recruitment Performance and Termination

Purpose of Report

Executive Decision

Legislative Requirement

Background

The State Government has passed an amendment to the Local Government Act 1995 and put in place new Regulations requiring all local governments to adopt mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

The new regulations came into effect on 3 February 2021 and are required to be adopted by 3 May 2021.

Comment

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021;
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021; and
- Local Government (Model Code of Conduct) Regulations 2021.

Key features of the regulations relating to recruitment, selection, performance review and early termination of local government Chief Executive Officers include the requirements to:

- establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of CEO;
- establish a performance review process by agreement between the local government and the CEO; and
- conduct a recruitment and selection process where an incumbent CEO has held the position for a period of ten or more consecutive years on expiry of the CEO's contract.

In addition, requirements for advertising vacant CEO positions have been updated to align with amendments to state-wide public notice provisions.

Local governments are required to prepare and adopt the Model Standards within three months of these regulations coming into effect (by 3 May 2021). Until such time as a local government adopts the Model Standards (with or without minor permitted variations), the regulations apply.

Policy Implications

WALGA recommends that the new standards are adopted as a Council Policy thus ensuring that the Council periodically reviews their adopted position, within the regular policy review framework. In the Shire of Merredin case the CEO Standards would replace existing Policy 2.30 Chief Executive Officer Employment and Review Policy.

Local Governments are able to include in their adopted CEO standards additional provisions that are not inconsistent with the Model Standards. WALGA advises that local governments should exercise caution in adopting additional provisions, as the Council will be required to certify, by absolute majority, that a recruitment or termination process was undertaken in accordance with the adopted CEO standards.

It is proposed that the Council adopt the Model Standards without additional provisions and that, in undertaking the current recruitment process, the Council specifies the specific processes that it will adopt by resolution to give effect to the CEO Standards. This will be a separate agenda item.

Statutory Implications

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act 1995, Section 5.39B;
- Local Government (Administration) Amendment Regulations 2021; and
- Local Government (Administration) Regulations 1996.

5.39B, States:

“Adoption of model standards

- (1) *In this section —*
model standards means the model standards prescribed under section 5.39A(1).
- (2) *Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt* standards to be observed by the local government that incorporate the model standards.*
**Absolute majority required.*
- (3) *Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend* the adopted standards to incorporate the amendments made to the model standards.*
**Absolute majority required.*
- (4) *A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.*
- (5) *The model standards are taken to be a local government’s adopted standards until the local government adopts standards under this section.*
- (6) *The CEO must publish an up-to-date version of the adopted standards on the local government’s official website.*
- (7) *Regulations may provide for —*
 (a) *the monitoring of compliance with adopted standards; and*
 (b) *the way in which contraventions of adopted standards are to be dealt with”.*

	Strategic Implications
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➤	Strategic Community Plan	
	Priorities and Strategies for Change	N/A
➤	Corporate Business Plan	
	Key Action:	N/A
	Directorate:	
	Timeline:	

	Sustainability Implications
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➤	Strategic Resource Plan	
	Nil	
➤	Workforce Plan	
	Directorate:	Nil
	Activity:	Nil
	Current Staff:	Nil
	Focus Area:	Nil
	Strategy Code:	Nil

Strategy: Nil

Implications: Nil

Risk Implications

Failure to adopt the model standards is a breach of the Local Government Act 1995.

Financial Implications

It is possible that the model standard will add some costs to the process of recruiting a CEO and managing performance. It is likely also to add some time to the process, as any variations (no matter how seemingly insignificant or minor) to the proposed contract to be offered, have to be agreed by resolution of the Council.

Voting Requirements

Simple Majority

Absolute Majority

Officers Recommendation / Resolution

Moved: Cr Patroni

Seconded: Cr Boehme

82710

That Council;

- 1. Rescinds existing Policy 2.30 Chief Executive Officer Employment and Review Policy; and**
- 2. Adopts new Policy 2.31 Mandatory Standards for CEO Recruitment, Performance and Termination being the WALGA Model Policy Template attached as 15.1C.**

CARRIED 9/0

16. Motions of which Previous Notice has been given

Nil

17. Questions by Members of which Due Notice has been given

Nil

18. Urgent Business Approved by the Person Presiding of by Decision

Nil

Council Resolution

Moved: Cr Boehme

Seconded: Cr Willis

82713

That Council return from Behind Closed Doors at 5:57pm and that the resolutions being passed in the confidential session be confirmed in open meeting.

CARRIED 9/0

19.2 Recruitment of Chief Executive Officer

Administration



Responsible Officer:	Mark Dacombe, T/CEO
Author:	Mark Dacombe, T/CEO
Legislation:	<i>Local Government Act 1995</i>
File Reference:	Nil
Disclosure of Interest:	Nil
Attachments:	Attachment 19.2A - Application Package

Purpose of Report

Executive Decision

Legislative Requirement

Background

The Council is required to appoint a Chief Executive Officer. The process initiated in December 2020 has just been completed with a recommendation from the Selection Panel not to make an appointment. The purpose of this item is to initiate a new process.

The new process is required to fully comply with the Standards for Recruitment of CEOs (The Standards). The Council has at this meeting adopted the Standards which nevertheless now apply regardless of whether or not they are adopted by the Council.

Comment

In accordance with the Standards the Council is required to determine the following matters:

Determination of selection criteria and approval of job description

The recommendation of the previous Selection Panel is that the selection criteria and job (position) description remain unchanged from that previously adopted by the Council and contained in the attached application package.

Advertising Requirements

The Council must ensure that it complies with Section 5.36(4) of the Act and Regulation 18A of the Local Government (Administration) Regulations. The draft advertisement contained in the attached application package complies with the relevant provisions.

Establishment of the selection panel for employment of CEO

The Council must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.

The selection panel must comprise:

- a) Council members (number to be determined by the Council)
- b) At least 1 independent person.

The previous policy provided for the full Council to comprise the selection panel. This reflects the Councillors' desire that all Councillors are involved in the process. It is important to note that the Selection Panel must be the same for the entire process to be in line with good practice and public sector standards. This approach is to ensure fairness to the candidates and to ensure a consistent assessment process.

It is open to the Council to set the criteria to use to select the independent person. This may be an open or closed process. The Council could advertise for Expressions of Interest or could invite a person to undertake this role. There is no requirement for the person to be a local resident. The Council may not appoint:

- a) A council member
- b) An employee of the local government
- c) A human resources consultant engaged by the local government.

All members of the selection panel must enter into confidentiality agreements and must disclose any interests that could impact on their participation in the process.

The independent person is a full member of the panel and should participate in each step of the panel's process. It is suggested that the person should have; some knowledge of the local government and in particular have an understanding of the Council's strategic direction, an understanding of recruitment and selection processes, and be respected in the community, business or the local government sector. The person must be seen to be truly independent.

The Council needs to consider remuneration for the role of the independent person.

The role of the Selection Committee will be to:

- a) Assess each applicant's knowledge, experience, qualifications and skills against the selection criteria;
- b) Prepare a short-list of applicants for interview;
- c) Undertake the interviews and assess further each shortlisted applicant's knowledge, experience, qualifications and skills against the selection criteria;
- d) Provide to the Council:
 - i) a summary of the selection panel's assessment of each applicant;
 - ii) the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position.

The Selection Panel must act in accordance with the provisions of the Standards.

Recruitment Consultant

The Council engaged Beilby Downing Teal to assist in the recruitment and selection process. Beilby has confirmed that they will undertake the next round within the current contract.

Contract

A draft contract of employment has been developed and legal advice taken to ensure that the contract complies with the new regulatory requirements.

Policy Implications

The Council is considering the adoption of the Standards as a Council policy.

Statutory Implications

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act 1995, Section 5.39B;
- Local Government (Administration) Amendment Regulations 2021; and
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5.39B, States:

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(1) In this section —

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**Absolute majority required.*

(3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend the adopted standards to incorporate the amendments made to the model standards.*

**Absolute majority required.*

(4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.

(5) The model standards are taken to be a local government’s adopted standards until the local government adopts standards under this section.

(6) The CEO must publish an up-to-date version of the adopted standards on the local government’s official website.

(7) Regulations may provide for —

(a) sthe monitoring of compliance with adopted standards; and

(b) the way in which contraventions of adopted standards are to be dealt with”.

Strategic Implications

➤ Strategic Community Plan

Priorities and Strategies for Change N/A

➤ Corporate Business Plan

Key Action: N/A
Directorate:
Timeline:

Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ Workforce Plan

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Nil

Financial Implications

There will be some additional costs to provide for.

The Beilby fee for the assignment was \$12,400 plus GST. \$9,900 plus GST has been billed to date. Beilby has confirmed they will complete the assignment (ie conduct the next round) for this fee. That is, one further payment of \$2,500 plus GST plus disbursements for travel and accommodation if required. There will be additional costs for advertising and for a fee for the independent person. Officers are preparing some options for remuneration.

Voting Requirements

Simple Majority

Absolute Majority

Officers Recommendation / Resolution

Moved: Cr McKenzie

Seconded: Cr Boehme

82714

That Council;

- 1. Conduct a new process to recruit and appoint a Chief Executive Officer;**
- 2. Conduct the process in compliance with the adopted Standards for Recruitment of the CEO;**
- 3. Adopt the Position Description and Selection Criteria unchanged from the previous recruitment round and as set out in the attached “application package”;**
- 4. Appoint the full Council to act as the Selection Panel to undertake the functions and process as set out in the Standards;**
- 5. Consider and adopt a process for the appointment of the independent person to the Selection Panel; and**
- 6. Confirm Beilby Downing Teal to complete the recruitment within their current contract.**

CARRIED 9/0

20. Closure

There being no further business, the President thanked those in attendance and declared the meeting closed at 6.03pm.

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