



# Special Council Meeting

AGENDA

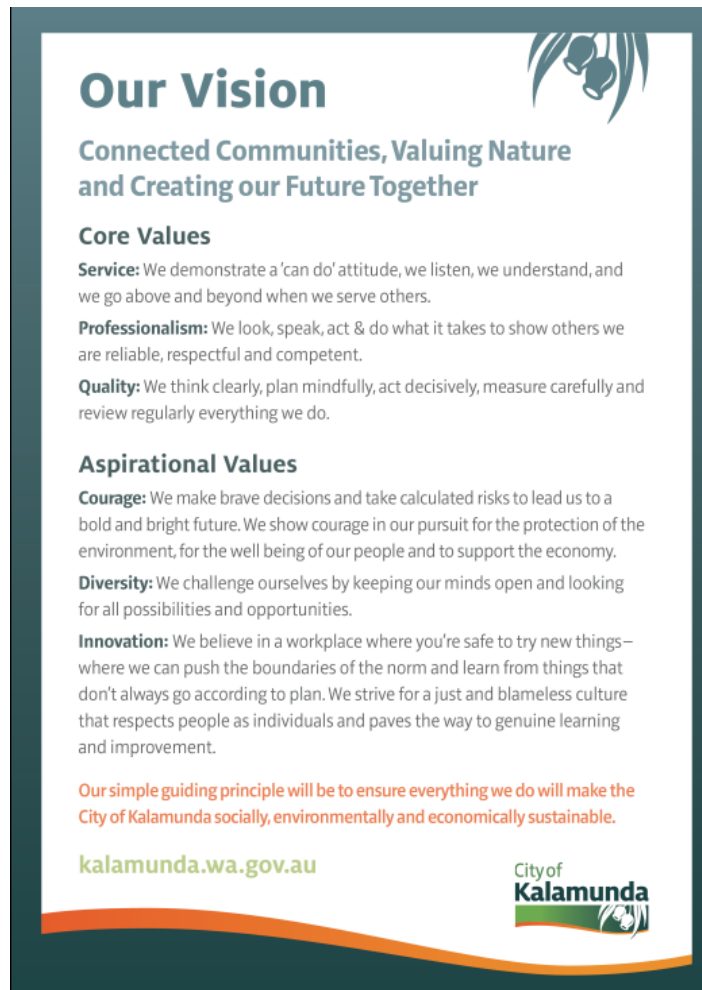
Tuesday 14 November 2023

## NOTICE OF MEETING SPECIAL COUNCIL MEETING

Dear Councillors

Notice is hereby given that a Special Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Tuesday 14 November at 7.30pm.**

Nicole O'Neill  
**A/Chief Executive Officer**  
10 November 2023



**Our Vision**

**Connected Communities, Valuing Nature and Creating our Future Together**

**Core Values**

**Service:** We demonstrate a 'can do' attitude, we listen, we understand, and we go above and beyond when we serve others.

**Professionalism:** We look, speak, act & do what it takes to show others we are reliable, respectful and competent.

**Quality:** We think clearly, plan mindfully, act decisively, measure carefully and review regularly everything we do.

**Aspirational Values**

**Courage:** We make brave decisions and take calculated risks to lead us to a bold and bright future. We show courage in our pursuit for the protection of the environment, for the well being of our people and to support the economy.

**Diversity:** We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

**Innovation:** We believe in a workplace where you're safe to try new things—where we can push the boundaries of the norm and learn from things that don't always go according to plan. We strive for a just and blameless culture that respects people as individuals and paves the way to genuine learning and improvement.

**Our simple guiding principle will be to ensure everything we do will make the City of Kalamunda socially, environmentally and economically sustainable.**

[kalamunda.wa.gov.au](http://kalamunda.wa.gov.au)

City of Kalamunda

## **INFORMATION FOR THE PUBLIC ATTENDING COUNCIL MEETINGS**

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

### **Special Council Meetings – Procedures**

1. Council Meetings are open to the public, except for Confidential Items listed on the Agenda.
2. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a City Staff Member.
3. Members of the public are able to ask questions at a Special Council Meeting during Public Question Time on matters relating to the functions of this meeting.
4. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times except for Public Question Time.
5. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of the City or Council.

### **Acknowledgement of Traditional Owners**

We wish to acknowledge the traditional custodians of the land we are meeting on, the Whadjuk Noongar people. We wish to acknowledge their Elders' past, present and future and respect their continuing culture and the contribution they make to the life of this City and this Region.

## **Emergency Procedures**

**Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.**

**In case of an emergency follow the instructions given by City Personnel.**

**We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.**

**Please remain at the assembly point until advised it is safe to leave.**

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**1. Official Opening**

**2. Attendance, Apologies and Leave of Absence Previously Approved**

Mayor Margaret Thomas - Apology

**3. Public Question Time**

*A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this meeting. For the purposes of Minuting, these questions and answers will be summarised.*

**4. Petitions/Deputations**

**5. Announcements by the Member Presiding Without Discussion**

**6. Matters for Which the Meeting may be Closed**

8.1 Item 8.1.2 Chief Executive Officer - Recruitment Process – Confidential Attachment - Independent Person on Selection Panel

*Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."*

**7. Disclosure of Interest**

**7.1. Disclosure of Financial and Proximity Interests**

a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)

b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

**7.2. Disclosure of Interest Affecting Impartiality**

a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

## 8. Reports to Council

### 8.1. Chief Executive Officer Reports

#### 8.1.1. Audit and Risk Committee

*Declaration of financial / conflict of interests to be recorded prior to dealing with each item.*

Previous Items	N/A
Directorate	Office of the CEO
Business Unit	Governance
File Reference	
Applicant	
Owner	
Attachments	Nil

#### TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
✓ Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
Information	For Council to note
Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

#### STRATEGIC PLANNING ALIGNMENT

*Kalamunda Advancing Strategic Community Plan to 2031*

##### **Priority 4: Kalamunda Leads**

**Objective 4.1** - To provide leadership through transparent governance.

**Strategy 4.1.1** - Provide good governance.

## EXECUTIVE SUMMARY

1. The purpose of this report is for Council to formally appoint members of the Audit and Risk Committee (A&R Committee) for the period 2023/25.
2. Current practice is for all members of Council to be appointed to the A&R Committee.
3. It is recommended Council appoint all members of the Council to the A&R Committee.

## BACKGROUND

4. The *Local Government Act 1995*, mandates that Council is to establish an Audit and Risk Committee comprising:
  - (a) 3 or more persons to exercise the powers and discharge the duties conferred on it, and
  - (b) at least 3 of the members, and the majority of the members, are to be council members.

## DETAILS AND ANALYSIS

5. The Terms of Reference for the A&R Committee, briefly provides:
  - (a) is responsible for providing guidance and assistance to Council in relation to the annual external audit and liaises with the external auditor, and
  - (b) will work with the Internal Auditor to ensure that internal audit work complements that of the external auditor and is effective in improving the efficiency of City operations and internal control systems.
6. The A&R Committee has four broad operational objectives:
  - (a) **External Audit**  
To provide guidance and assistance to the local government in carrying out its functions in relation to audits under Part 7 of the Act
  - (b) **Internal Audit**  
To review regular reports and audit plans in accordance with, and in terms of the integrity, adequacy and effectiveness, of such plans.
  - (c) **Risk Management**  
To identify and assess risks and manage the mitigation of risk overall.
  - (d) **Performance and Process Improvement**

To review the performance of the City's business units.

7. The current practice is for all members of the Council to be appointed to the A&R Committee and there appears to be no compelling reason to dispense with this practice.

**APPLICABLE LAW**

8. *Local Government Act 1995*

**APPLICABLE POLICY**

9. N/A

**STAKEHOLDER ENGAGEMENT**

10. Not required for this matter.

**FINANCIAL CONSIDERATIONS**

11. There is no financial impact from this decision.

**SUSTAINABILITY**

12. N/A

**RISK MANAGEMENT**

13.

<b>Risk:</b> Audit and Risk Committee is not established resulting in a breach of the <i>Local Government Act 1995</i>		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Unlikely	Medium
<b>Action/Strategy</b>		
Ensure that Council is aware of the consequences of breaching the legislation.		

**CONCLUSION**

14. All members fo the Council are recommended to be appointed to the Audit and Risk Committee.



**Voting Requirements: Absolute Majority**

**RECOMMENDATION**

That Council APPOINT all members of the Council to the Audit and Risk Committee.

## 8.1.2. Chief Executive Officer - Recruitment Process

*Declaration of financial / conflict of interests to be recorded prior to dealing with each item.*

Previous Items	SCM 149/2023
Directorate	Office of CEO
Business Unit	People Services
File Reference	
Applicant	
Owner	
Attachments	<ol style="list-style-type: none"> <li>Governance 12 - Recruitment &amp; Selection, Performance Review, Salary Review and Termination of the Chief Executive Officer [8.1.2.1 - 11 pages]</li> <li>Process, timeline [8.1.2.2 - 2 pages]</li> </ol>
Confidential Attachments	<ol style="list-style-type: none"> <li>Independent Person on Selection Panel <u>Reason for Confidentiality:</u> <i>Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."</i></li> </ol>

### TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
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□ Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

## STRATEGIC PLANNING ALIGNMENT

*Kalamunda Advancing Strategic Community Plan to 2031*

### Priority 4: Kalamunda Leads

**Objective 4.1** - To provide leadership through transparent governance.

**Strategy 4.1.1** - Provide good governance.

**Strategy 4.1.2** - Build an effective and efficient service-based organisation.

## EXECUTIVE SUMMARY

1. The purpose of this report is to appoint a new independent person to the Chief Executive Officer (CEO) Selection Panel following the withdrawal of the council's preferred candidate.
2. A list of appropriately experienced candidates, including local community members and individuals from the WALGA approved panel, is provided as Confidential Attachment 1.
3. It is recommended council appoint a candidate from the list presented in Confidential Attachment 1 to join the CEO Selection Panel.

## BACKGROUND

4. At the Special Meeting of Council held on 31 October 2023 the Council established the CEO Selection Panel and appointed its preferred Independent Member.
5. On the 8 November 2023, Council's preferred independent member declined the opportunity.
6. As a result, Council has the opportunity to reconsider and to appoint a new Independent Member to the Panel.

## DETAILS AND ANALYSIS

7. The independent person cannot be a current elected member, human resources consultant or staff member of the local government.
8. The essence of the role of an independent panel member is to bring an impartial perspective to the process and reduce any perception of bias or nepotism.

9. The City has identified candidates for consideration as an independent person on the selection panel these are presented in Confidential Attachment 1.
10. The responsibilities of the Selection Panel are outlined in Council Policy – Governance 12 – Recruitment & Selection, Performance Review, Salary Review and Termination of the Chief Executive Officer (Attachment 1).

**APPLICABLE LAW**

11. *Local Government Act 1995*  
*Local Government (Administration) Regulations 2021*

**APPLICABLE POLICY**

12. Governance 12 - Recruitment & Selection, Performance Review, Salary Review and Termination of the Chief Executive Officer.

**STAKEHOLDER ENGAGEMENT**

13. N/A

**FINANCIAL CONSIDERATIONS**

14. It is possible the independent panel member may seek an honorarium to read and assess applications (preparation fees) and to attend panel assessment meetings ('sitting fees'). As the matter is silent from a policy position, the City's current position is this is nonpaid volunteer role.

**SUSTAINABILITY**

15. Nil.

**RISK MANAGEMENT**

16.	<p><b>Risk:</b> Delay in appointing an independent person to the Selection Panel may impede the recruitment process to appoint a CEO which could lead to uncertainty, inconsistency and lack of leadership within the City's Administration.</p>		
	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	Major	Possible	High
	<p><b>Action/Strategy</b> - The City has proposed alternate candidates to undertake the role of the independent person.</p>		

## **CONCLUSION**

17. An independent person is required to be appointed to the panel.
18. The CEO Recruitment process provides opportunity for the full Council to be involved in the final decision to recruit a CEO.

<b>Voting Requirements: Absolute Majority</b>
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## **RECOMMENDATION**

That Council

1. APPROVE Candidate x identified from Confidential Attachment 1 to act as the independent person on the Chief Executive Officer Selection Panel
2. APPROVE candidate XX as identified in Confidential Attachment 1 as the first alternative independent panel member if the preferred candidate is unable to undertake duties as the independent person Chief Executive Officer Selection Panel.
3. APPROVE candidate XXX as identified in Confidential Attachment 1 as the second alternative independent panel member if the first alternative is unable to undertake duties as the independent person Chief Executive Officer Selection Panel.
4. REQUEST the Acting Chief Executive Officer approach the preferred candidate to act as the Independent Person on the Chief Executive Officer Selection Panel established at the Special Meeting of Council held on 31 October 2023, moving to the first and second alternative if required.

## **1.1.12. Governance 12: Recruitment & Selection, Performance Review, Salary Review and Termination of the Chief Executive Officer**

### 1. Purpose

The purpose of this policy is to set out the principles and criteria under which the Council will recruit, select, review the performance and salary, and terminate the position of Chief Executive Officer, in compliance with the Local Government Act 1995, Salaries and Allowances Act 1975 requirements and relevant employment laws.

### 2. Planning

#### **Priority 4: Kalamunda Leads**

**Objective 4.1** - To provide leadership through transparent governance.

**Strategy 4.1.1** - Provide good governance.

### 3. Policy Statement

The City of Kalamunda (City) recognises that Council holds statutory and contractual obligations for Recruitment and Selection, Performance and Salary Review and Termination of the Chief Executive Officer (CEO).

To ensure best practice and greater consistency in these processes between local governments the Local Government Legislation Amendment Act 2019 includes a requirement for standards covering the Recruitment and Selection, Performance Review and termination of employment of local government Chief Executive Officers.

### 4. Detail

#### **4.1 Recruitment and Selection**

In accordance with Section 5.40 of the *Local Government Act 1995* (the Act), the City must select a CEO in accordance with the principles of merit, equity and transparency and not exercise nepotism, bias, or patronage in exercising its powers. The City must not unlawfully discriminate against applicants. The minimum standard for recruitment and selection will be met when all parties agree to the following principles:-

- a) The Council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO for the City.

- b) The Council has approved, by absolute majority, the Position Description (PD) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The PD is made available to all applicants.
- c) The Council has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.
- d) The Council attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The Council must advertise a vacancy for the position of CEO in the following manner:
  - (i) State-wide public notice of the vacancy (e.g., internet job boards);
  - (ii) Details of the remuneration and benefits offered;
  - (iii) Details of the place where applications are to be submitted;
  - (iv) The date and time the applications close;
  - (v) The duration of the proposed contract;
  - (vi) A web address where the PD can be accessed;
  - (vii) Contact details for a person who can provide further information; and
  - (viii) Any other relevant information
- e) The Council has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- f) The Council has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- g) The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.
- h) The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- i) The Council has endorsed by absolute majority the final appointment.
- j) The Council has approved the employment contract by absolute majority.
- k) The Council re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten (10) consecutive years.

#### 4.2 Selection Panel and Independent Person

In accordance with Section 5.40 of the Act, the City is required to establish a selection panel to conduct and facilitate the recruitment and selection process. The selection panel should be made up of elected members and must include at least one

independent person. The independent person cannot be a current elected member, human resources consultant, or staff member of the local government. Examples of who the independent person could be include:-

- a) Former elected members or staff members of the Council;
- b) Former elected members or staff members of another Council;
- c) A prominent or highly regarded member of the community; or
- d) A person with experience in the recruitment of CEOs and senior executives

Panel members will participate in the selection panel for the duration of the recruitment and appointment process. A new panel should be selected for each occasion of CEO recruitment.

#### **4.3 Selection Panel Responsibilities**

The panel is required to read and assess all applications and create a shortlist of appropriately qualified and experienced candidates. The shortlisted candidates will be required to conduct a presentation to the Council and will be interviewed by the Council using an agreed set of interview questions.

#### **4.4 Independent Human Resources Consultant**

The Council can seek independent advice from a Human Resources (HR) consultant, but they cannot be a member of the HR team within the City nor be associated with the City or any Council members. The consultant can be an independent HR professional, recruitment consultant or recruitment agency.

The HR consultant will provide advice to the selection panel on conducting the recruitment process, or provide support in undertaking certain aspects of the recruitment process such as:

- a) development or review of the PD;
- b) development of selection criteria;
- c) development of assessment methods in relation to the selection criteria;
- d) drafting of the advertisement;
- e) executive search;
- f) preliminary assessment of the applications;
- g) shortlisting;
- h) drafting questions for interview;



- i) coordinating interviews;
- j) preparing the selection summary assessment and recommendation;
- k) arranging for an integrity check and/or police clearance; and
- l) assisting the Council in preparing the employment contract.

The HR consultant cannot be directly involved in determining which application should be recommend for the position as their role is not one of decision maker nor can the consultant:

- a) conduct the interviews of candidates (only the selection panel can do this);
- b) make the decision about who to appoint; and
- c) negotiate the terms and conditions of employment (only provide advice on remuneration etc to the selection panel).

#### 4.5 Selection and Appointment of CEO

Selection of an applicant should be based on the person best suited to the requirements of the position and the needs of the Council. As part of the selection process, the Council may request the preferred candidate to do a presentation to Council.

The appointment decision by the Council should be based on the assessment of all measures used including:

- a) assessment techniques used;
- b) quality of application;
- c) referee reports; and
- d) verification of formal qualifications, work history and other facts.

Once a preferred candidate has been identified, the CEO employment contract will be drawn up inclusive of the necessary provisions required under section 5.39 of the Act and adhere to associated regulations and legislations. The contract:

- a) must not exceed a five-year term;
- b) contain the expiry date of the contract.
- c) specify the performance criteria for the purpose of reviewing the CEO performance; and
- d) as prescribed under regulation 18b of the Administrations Regulations, the maximum amount of money to which the CEO is to be entitled if the contract is terminated before the expiry date. The amount is not to exceed whichever is the lesser of:

- (i) the value of one year's remuneration under the contract; or
- (ii) the value of the remuneration that the CEO would have been entitled to, had the contract not been terminated.

The Council must approve, by absolute majority, the employment contract and the person they appoint as CEO.

#### 4.6 Appointment of Acting CEO

In accordance with Section 5.39C of the Act, if the CEO is absent from the workplace for periods of leave less than twelve months, Council is required to appoint an Acting CEO.

The process for appointment of an Acting CEO will be in accordance with Governance Policy 18 - Appointment of Acting CEO.

#### 4.7 Performance Review

In accordance with Section 5.38 of the Act, a CEO who is employed for a term of more than one year, will have their performance reviewed formally at least one in every year of their employment.

The minimum standard for performance review will be met if:

- a) performance criteria is specific, relevant, measurable, achievable and time-based;
- b) the performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and Council.
- c) the CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.
- d) the collection of evidence regarding performance outcomes is thorough and comprehensive.
- e) assessment is made free from bias and based on the CEO's achievements against documented performance criteria, and decisions and actions are impartial and transparent; and
- f) the Council has endorsed the performance review assessment by absolute majority.

Setting the performance criteria can include:

- a) service delivery targets from the City's Strategic Community Plan.
- b) budget compliance.

- c) organisational capability.
- d) operational and project management.
- e) financial performance and asset management.
- f) timeliness and accuracy of information and advice to Councillors.
- g) implementation of Council resolutions.
- h) management of organisational risks;
- i) leadership, including conduct and behaviour, and human resource management; and
- j) stakeholder management and satisfaction.

#### **4.8 Performance Review Panel (Chief Executive Officer Review Committee)**

The Performance Review panel will consist of:

- a) The Mayor (Chairperson)
- b) all councillors, and
- c) an independent Observer.

#### **4.9 Performance Review Facilitator**

An Independent Consultant, experienced in performance reviews in a local government setting, can be appointed to assist the Performance Review Panel with the overall review process, including: -

- a) setting performance criteria.
- b) preparing the performance agreement.
- c) collecting performance evidence.
- d) writing the performance appraisal report.
- e) facilitating meetings between the performance review panel.
- f) assisting with the provision of feedback to the CEO;
- g) formulating plans to support improvement (if necessary); and
- h) providing an objective view regarding any performance management-related matters between the concerned parties.

It is a requirement of the regulations that the process by which the CEO's performance is documented and agreed by both parties. Council and the CEO must agree on any performance criteria that is in addition to what is specified in the CEO's contract of employment.

The CEO performance is measured in an objective manner against the performance criteria set for that year and are impartial. Assessment of the performance can include:

- a) achievement of key business outcomes.
- b) interactions with the Council and progress that has been made towards implementing the Council's strategic vision.
- c) Audit and Risk committee reports.
- d) workforce metrics
- e) incident reports.
- f) organisational survey results.
- g) relationships with relevant stakeholder groups; and
- h) insights from key stakeholders.

#### 4.10 Addressing Performance Issues

Once the CEO's performance has been assessed, any areas requiring attention or improvement that have been identified must be formally discussed with the CEO and a written plan agreed and implemented to address the performance shortfalls. The plan must include:

- a) actions to be taken.
- b) who is responsible for the actions;
- c) a constructive approach towards improving competency;
- d) an agreed timeframe to improve the performance gaps identified.
- e) options for professional development, training, counselling, mediation, mentoring or developing new work routines; and
- f) regular feedback discussions to ensure the improvements are being made and maintained.

If potential wrongdoing (misconduct) is identified, the Council should be referring the matter to the Public Sector Commission or Corruption and Crime Commission. This provides an independent process to follow and ensures probity, natural justice and oversight of allegations.

The Council must ensure that accurate and comprehensive records of the performance management process are created, and any information produced must be kept strictly confidential.

#### 4.11 Salary Review

The CEO's employment contract requires that the review of salary and other benefits must occur annually and must have regard to:

- a) the CEO's performance, as determined in the performance review.
- b) any changes to the work value or responsibilities of the CEO's position.
- c) the hours of work, including hours worked outside normal working hours.
- d) the condition of the market and economy generally.
- e) the relevant determination from time to time made under the Salaries and Allowances Act 1975; and
- f) the capacity of the City to pay an increase.

The Council is not obliged to increase the amount of salary or benefits but must not, other than with the CEO's consent, reduce the amount of the total salary and benefits package (also called 'Remuneration Package').

#### 4.12 Termination

The standards for the termination of the CEO's employment (other than for reasons such as voluntary resignation or retirement) are based on the principles of fairness and transparency. Procedural fairness is a principle of common law regarding the proper and fair procedure that should apply when a decision is made that may adversely impact upon a person's rights or interests.

The minimum standards for the termination of a CEO's contract will be met if:

- a) decisions are based on assessment of the CEO's performance as measured against the documented performance criteria in the CEO's contract.
- b) performance issues have been identified as part a performance review (conducted within the preceding 12 months) and the CEO has been informed of the issues. The Council has given the CEO a reasonable opportunity to improve and implement a plan to remedy the performance issues, but the CEO has not subsequently remedied these issues to the satisfaction of the Council.
- c) the principle of procedural fairness is applied. The CEO is informed of their rights, entitlements and responsibilities in the termination process. This includes the CEO being provided with notice of any allegations against them, given a reasonable opportunity to respond to those allegations or decisions affecting them, and their response is genuinely considered.
- d) decisions are impartial and transparent
- e) the Council has endorsed the termination by absolute majority; and

- f) the required notice of termination (which outlines the reasons for termination) is provided in writing.

#### 4.13 Reasons for Termination

The early termination of a CEO's employment may end due to:

- a) poor performance.
- b) misconduct; or
- c) non-performance or repudiation of contract terms.

There is a difference between poor performance and serious misconduct. Poor performance is defined as an employee not meeting the required performance criteria or demonstrating unacceptable conduct and behaviour at work, it includes:

- a) not carrying out their work to the required standard or not doing their job at all.
- b) not following workplace policies, rules or procedures.
- c) unacceptable conduct and behaviour at work.
- d) disruptive or negative behaviour at work;
- e) not meeting the performance criteria set out in the employment contract and/or performance agreement unless these are outside the CEO's control.
- f) not complying with an agreed plan to address performance issues.
- g) failing to comply with the provisions of the Local Government Act 1995 and other relevant legislation; or
- h) failing to follow Council endorsed policies.

Serious misconduct can include when an employee:

- a) causes serious and imminent risk to the health and safety of another person or to the reputation or revenue of the local government; or
- b) behaves unlawfully or corruptly; or
- c) deliberately behaves in a way that is inconsistent with continuing their employment.

Termination on the basis of misconduct is covered by employment law. The Council should seek independent legal, employment or industrial relations advice prior to a termination. A Council should also seek independent advice during the termination process including advice on the relevant employment legislation affecting CEO employment and the application of that legislation to their specific circumstances. This will ensure that a Council complies with employment law during the entire termination process.

A confidential request to the Director, Corporate Services can be made so Council can obtain three quotes from appropriate legal firms. The three quotes can be submitted to Council for consideration and decision. The Director, Corporate Services will raise a PO and release funds so the Council can then receive independent legal advice prior to any decision to terminate.

Council is required to endorse the decision to terminate a CEO's employment by way of an absolute majority decision. The Council must certify that the termination was in accordance with the adopted standards in regulations.

#### 4.14 Termination Report

The Council will prepare a termination report which outlines the reasons for termination, the opportunities and assistance provided to the CEO to remedy any issues, and an explanation of the CEO's failure to do so.

Council must provide prior opportunities and support to the CEO to assist them in remedying the issues which form the basis of the termination. It is a requirement of the Act that Council must provide written notice to the CEO outlining the reasons for their decision to terminate.

In addition, Council must certify that the termination of the CEO's employment was carried out in accordance with the standards set out in regulations.

#### 4.15 Confidentiality

The Council should ensure that the termination process is kept confidential. The CEO is to be informed of their rights and entitlements. Notice of termination of employment is required to be given in writing. Where possible, the news of termination of employment should also be delivered in person. The CEO should be provided with a letter outlining the reasons for, and date of, the termination of their employment.

Before making any public announcements on the termination of the CEO, the Council should ensure that the entire termination process is complete, including that the CEO has been informed in writing of the termination.

### 5. Community Consultation

This Policy is guided by the Local Government Amendment Act 2021 and is not required to be the subject of community consultation.

### 6. Governance

## Policy Register 2022

This Policy will be governed by the Council in accordance with the regulations under the Local Government amendment Act 2021.

### 7. Measures of Success

The success of the Policy will be measured by the Council in the ability to effectively recruit, performance manage and terminate a CEO should that be required.

### 8. Definitions

Nil

Status	Council and Statutory Requirement		
Related Local Law	Western Australia Industrial Relations Commission		
Related Council Policies	N/a		
Relevant Delegation	N/A		
Related Internal Procedures	N/A		
Related Budget Schedule	Municipal Budget		
Legislation	Local Government Act 1995 Local Government (Administration) Regulations 1996 Local government Amendment Act 2021 Department of Local government Guidelines for CEO Recruitment and selection, Performance Review and Termination March 2021.		
Notes and Conditions	Council and Statutory Requirement		
Authority	Western Australia Industrial Relations Commission		
Adopted	25 May 2021	Next Review Date	





<b>Process and Timeline for CEO Recruitment</b>	
<b>Timeframe</b>	<b>Action</b>
31 October 2023 Special Council Meeting	Establish Selection Panel members and Independent Person Endorses preferred supplier for HR Consultancy Services
<b>Timeframe</b>	<b>Action</b>
9 November 2023	Selection Panel meet with HR Consultant Finalise the qualifications, position description, selection criteria & job advertisement Establish Performance Measures (Annual KPIs) Selection Panel approves interview questions and presentation topic
14 November	Endorse Independent Person
<b>Timeframe</b>	<b>Action</b>
8 to 30 November 2023	HR Consultant undertakes executive search by: <ul style="list-style-type: none"> <li>• Conducting preliminary assessment to create appropriate shortlist</li> <li>• Provide Selection Panel with shortlisted candidate’s applications</li> <li>• Prepare selection summary assessments</li> <li>• Assist Selection Panel with building the interview questions and choosing presentation topic</li> <li>• Assist with preparation of employment contract</li> <li>• Coordinate interviews</li> </ul>
<b>Timeframe</b>	<b>Action</b>
December 2023	Selection Panel and Council conduct interviews Establish preferred candidate through the selection summary assessment process Council approves the Contract of Employment by Absolute Majority HR Consultant begins negotiations with preferred candidate on salary, terms & conditions and Performance Measures (KPIs) HR Consultant conducts background check inclusive of psychometric testing, verification of qualifications, work history, financial background, reference checks and police clearance HR Consultant prepares and provides the employment contract Selection makes a recommendation to Council to appoint preferred candidate with an Absolute Majority required to authorise the Offer of Employment Preferred candidate appointed to the position of CEO



<b>Roles &amp; Responsibilities for CEO Recruitment Process</b>	
<b>Role</b>	<b>Responsibilities</b>
<b>Council</b>	Discuss and agree to process of recruiting & appointment of CEO Discuss & agree on Selection Panel members Discuss & agree on Independent Person Formally approach Independent Person Endorse the appointment of the preferred Independent HR Consultant Attend shortlisted candidate interviews & presentations Assess candidates using summary assessment Approve, by absolute majority, the person and employment contract to be offered
<b>Selection Panel</b>	Conduct & facilitate the recruitment & selection process Identify the qualifications, candidate profile and selection criteria Establish Performance Measures (Annual KPIs) Liaise with Independent Person Liaise with HR Consultant Review shortlisted candidates Attend shortlisted candidate interviews & presentations
<b>HR Consultant</b>	Provide advice to the selection panel on conducting the recruitment process Review Position Description Development of selection criteria Develop assessment methods in relation to selection criteria Draft and post job advert Conduct executive search Conduct preliminary assessment to create appropriate shortlist Advice and draft interview questions and presentation topic Coordinate interviews Prepare selection summary assessments Conduct background check inclusive of verification of qualifications, work history, financial background, reference checks and police clearance Assist with preparation of employment contract Assist negotiations with preferred candidate
<b>People Services</b>	Conduct request for quote procurement Undertake criteria assessment and recommend preferred supplier Notify successful vendor and provide relevant contact information

**9. Closed to the Public**

**10. Closure**