



Shire of Cunderdin

Minutes of a Special Council Meeting

Dear Council Member,

A Special Meeting of the Cunderdin Shire Council was held on **Tuesday 3rd October 2017** in the Council Chambers, Lundy Avenue Cunderdin commencing **at 6:00pm**, for the purpose of formally establishing the Chief Executive Officer Recruitment Committee and providing Delegated Authority under the Local Government (Administration) Regulations 1996, Regulation 18C

Peter Naylor
Chief Executive Officer

Table of Contents

1.	Declaration of opening.....	3
2.	Record of Attendance, Apologies and Approved Leave of Absence	3
3.	Finance and Administration.....	4
3.1	Establish Chief Executive Officer Recruitment Committee and Delegate Authority under Local Government (Administration) Regulations 1996, Regulation 18C	4
4.	Closure of meeting.....	7

AGENDA

1. Declaration of opening

The Shire President declared the meeting open at 6:00pm

The Shire of Cunderdin disclaimer was read aloud.

The Local Government Act 1995 Part 5 Division 2 Section 5.25 and Local Government (Administration) Regulations 1996 Regulation 13

“No responsibility whatsoever is implied or accepted by the Shire of Cunderdin for any act, omission or statement or intimation occurring during this meeting. It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of Council’s decisions, which will be provided within ten working days of this meeting”.

2. Record of Attendance, Apologies and Approved Leave of Absence

Record of attendances

Councillors

Cr DA (Dennis) Whisson	Shire President
Cr DB (Doug) Kelly	Deputy Shire President
Cr B (Bernie) Daly	
Cr RC (Clive) Gibsone	
Cr AE (Alison) Harris	
Cr TE (Todd) Harris	
Cr NW (Norm) Jenzen	
Cr DG (Di) Kelly	

Apologies

Nil

On Leave of Absence

Nil

Staff

Peter Naylor	Chief Executive Officer
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Guests of Council

Mr Jayson Goldson	Councillor Elect
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Members of the Public

Nil

Applications for leave of absence

Nil

3. Finance and Administration

3.1 Establish Chief Executive Officer Recruitment Committee and Delegate Authority under Local Government (Administration) Regulations 1996, Regulation 18C

Location:	Shire of Cunderdin & Shire of Tammin
Applicant:	Chief Executive Officer
Date:	29 th September 2017
Author:	Peter Naylor
Item Approved by:	Chief Executive Officer
File Reference:	Nil
Attachment/s:	19 Pages (3 attachments)

Proposal/Summary

To establish a Committee of Council, with limited delegated authority, to facilitate the recruitment of a new Chief Executive Officer (CEO).

Background

The Councils of Cunderdin and Tammin, at its joint Council meeting held on Tuesday 12th September 2017, resolved to appoint WA Local Government Association (WALGA) Recruitment to assist in the recruitment of a new Chief Executive Officer.

The Councils tested the market through competitive quotes and has appointed WALGA Recruitment Services to undertake this contract.

The Councils also appointed a CEO Selection Panel to assist with the process.

The Panel members:

Shire of Tammin – The Shire President and Councillors Glenice Batchelor & Michael Greenwood. Proxy member is Cr Don Thomson.

Shire of Cunderdin – The Shire President and Councillors Alison Harris and Bernie Daly. Proxy member is the Deputy Shire President.

Comment

Council is now required to determine matters arising from compliance with the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996*, specifically related to the recruitment, selection and appointment process for a new CEO, in consultation with the appointed recruitment consultant.

It is recommended that the Selection Panel is now established as a Committee of Council in accordance with section 5.8 of the Act, to enable the Committee to be delegated authority and to expedite the recruitment and preliminary selection process, with the Panel delegated to undertake specific functions under Section 5.39 of the *Local Government Act 1995* and Regulations 18A and 18C of the *Local Government (Administration) Regulations 1996*.

A Council meeting will then be convened to accept the CEO Selection Committee's identified preferred applicant, with the recruitment consultant completing employment contract negotiations in consultation with the Chair and Deputy Chair of the Committee, within the parameters detailed in the advertisement in accordance with Administration Regulation 18A.

The Recruitment Consultant will then provide a Council report including recommendations for appointment of the most suitably qualified person and the employment contract for approval.

Statutory Implications

Local Government Act 1995

5.8. Establishment of committees

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.36 Local government employees

(1) *A local government is to employ —*

(a) a person to be the CEO of the local government; and

(b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.

(2) *A person is not to be employed in the position of CEO unless the council —*

(a) believes that the person is suitably qualified for the position; and

(b) is satisfied with the provisions of the proposed employment contract.*

** Absolute majority required.*

(3) *A person is not to be employed by a local government in any other position unless the CEO —*

(a) believes that the person is suitably qualified for the position; and

(b) is satisfied with the proposed arrangements relating to the person's employment.

(4) *Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*

(5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.

(5) *For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.*

Local Government (Administration) Regulations 1996

18C. Selection and appointment process for CEOs

Local Government (Administration) Regulation 18C requires the Local Government to approve a process to be used for the selection and appointment of a CEO before the position is advertised.

Approval of the CEO selection and appointment process is a Local Government discretion and is therefore a Council decision unless delegated under s.5.16 to a Committee of Council (with the Committee established in accordance with s.5.8 of the *Local Government Act 1995*).

18G. Delegations to CEOs, limits on (Act s. 5.43)

Administration Regulation 18G prohibits the delegation of duties under Administration Regulation 18C to the CEO.

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

Administration Regulation 18A prescribes three recruitment options:

- that the position of CEO be advertised state-wide; or
- that advertising is not required if the position is to be filled by a person who is, and will continue to be, employed by another local government; or
- that advertising is not required if a person will be acting in the position for a term not exceeding one year.

Administration Regulation 18A also requires that the recruitment advertisement must include the following information:

- Details of the remuneration and benefits offered which must be within the Salaries and Allowances Tribunal Band 4 total reward package range of \$126,956 – to a maximum of \$218,031 (which represents the top of Band 4 plus 10%)
- Details of the place where applications are to be submitted;
- The date and time that applications close;
- The duration of the proposed contract;
- Contact details for a person who can provide information about the position (which will be the contracted Recruitment Consultant);
- Any other information that the Local Government considers relevant).

18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))

Administration Regulation 18B prescribes that a contract is to provide for a maximum amount of money (or a method for calculating such an amount) to which the person is entitled if the contract is terminated before the expiry date. This amount must not exceed the value of one year's remuneration or the value of the remuneration that the person would have been entitled to had the contract not been terminated.

18F. Remuneration and benefits of CEO to be as advertised

Administration Regulation 18F prescribes that the remuneration and benefits paid to a CEO are not to differ from the remuneration and benefits contained in the advertisement.

Local Government Act 1995

5.39. Contracts for CEO and senior employees

Section 5.39 of the Act prescribes that the CEO contract:

- cannot exceed a term of 5-years;
- must specify the contract expiry date, be renewable and be capable of contract variation;
- must include performance criteria, for the purposes of reviewing the CEO's performance.

5.38. Annual review of certain employees' performances

Section 5.38 of the Act requires the CEO performance to be reviewed at least once in relation to every year of employment and further Administration Regulation 18D requires the Local Government to consider each review and accept the review, with or without modification, or to reject the review. The performance criteria are established in the contract under section 5.39 above.

Policy Implications

Nil

Risk Management Considerations

Non-compliance with the requirements of the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*, must be reported in the statutory Compliance Audit Return and may incur contractual risks.

Financial Implications

The Shire's budget includes sufficient allocation to facilitate remuneration and benefits offered in the recruitment process and contract for the position of CEO within the Salaries and Allowances Tribunal Band 4 (plus 10%) range of \$126,956 – to a maximum of \$218,031.

Strategic Implications

Nil

RESOLUTION 3.1.1:

That Council receives the Minutes from the meeting of the Chief Executive Officer Recruitment Panel held on Thursday 21st September 2017.

Moved: Cr Bernie Daly

Seconded: Cr Clive Gibsone

Vote – Simple majority

Carried: 8/0

RESOLUTION 3.1.2:

That the Councils, by absolute majority:

1. In accordance with section 5.8 of the Local Government Act 1995 and by absolute majority, establishes a Chief Executive Officer (CEO) Recruitment Committee, with the following membership:
Shire of Tammin – The Shire President and Councillors Glenice Batchelor & Michael Greenwood.
Proxy member is Cr Don Thomson.
Shire of Cunderdin –The Shire President and Councillors Alison Harris and Bernie Daly. Proxy member is the Deputy Shire President
2. In accordance with section 5.16 of the Local Government Act 1995 and by absolute majority, delegates authority to the CEO Selection Panel as follows:
 - a. Local Government (Administration) Regulations 1996, Regulation 18C, limited to:
 - i. Determining the selection criteria for recruitment and selection for the position of CEO.
 - ii. Determining the advertising, recruitment and preliminary selection process.
 - iii. Determining the short-list of candidates and undertaking the interviews.
 - iv. Making recommendations for Council's consideration of the Panel's Preferred Applicant.
 - b. Local Government (Administration) Regulations 1996, Regulation 18A, limited to:
 - i. Determining other information, relevant to the position and the recruitment process, to be provided to applicants.
 - c. Local Government Act 1995, section 5.39(3)(b), limited to:
 - i. Determining the performance criteria to be included in the employment contract.
 - ii. Determining the total remuneration package to be offered in the recruitment advertisement.
 - iii. Delegating the Chair and Deputy Chair of the CEO Selection Committee to negotiate the employment contract with the preferred Applicant.

Moved: Cr Doug Kelly

Seconded: Cr Norm Jenzen

Vote – ABSOLUTE majority

Carried: 8/0

4. Closure of meeting

There being no further business the Shire President declared the meeting closed at 6:18pm.