



SHIRE OF WOODANILLING



SPECIAL MEETING OF COUNCIL Unconfirmed Minutes 23 January 2024

Notice is hereby given that a Special Council Meeting of the Shire of Woodanilling will be held on 23 January 2024 in the Council Chambers, 3316 Robinson Road, Woodanilling commencing at 3.30p.m.

The business to be transacted will be the appointment of Chief Executive Officer and Acting Chief Executive Officer.

Please note: That the meeting will be discussing a confidential item so the meeting may be closed to the public when the item is being discussed.

**KELLIE BARTLEY
CHIEF EXECUTIVE OFFICER**

Disclaimer

The recommendations contained in the Agenda are subject to confirmation by Council. The Shire of Woodanilling warns that anyone who has an application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Woodanilling for any act, omission or statement or intimation occurring during a Council Meeting.

Agendas and Minutes are available on the Shire website www.woodanilling.wa.gov.au

CONTENTS

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	2
1.1. <i>DISCLOSURE OF INTEREST</i>	2
2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	2
3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
4. PUBLIC QUESTION TIME	2
5. PETITIONS / DEPUTATIONS / PRESENTATIONS	2
6. APPLICATIONS FOR LEAVE OF ABSENCE	3
7. ANNOUNCEMENTS BY SHIRE PRESIDENT AND/OR DEPUTY SHIRE PRESIDENT WITHOUT DISCUSSION	3
8. OFFICER REPORTS	4
8.1. <i>APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER</i>	4
9. CONFIDENTIAL REPORTS	9
9.1. <i>CONFIDENTIAL – APPOINTMENT OF CHIEF EXECUTIVE OFFICER</i>	9
10. MOTIONS WITHOUT NOTICE BY PERMISSION OF THE COUNCIL	12
11. CLOSURE OF MEETING	12

SPECIAL MEETING OF COUNCIL MINUTES

Minutes of the Special Council Meeting for the Shire of Woodanilling was held Tuesday 23 January 2024 in the Council Chambers, 3316 Robinson Road, Woodanilling.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Douglas opened the meeting at 3.30pm and welcomed, Councillors, Mr Mal Baxter for the recruitment process for the Chief Executive Officer.

1.1. DISCLOSURE OF INTEREST

Division 6 Subdivision 1 of the *Local Government Act 1995* requires Council Members and Employees to declare any direct or indirect financial interest or general interest in any matter listed in this Agenda.

The Act also requires the nature of the interest to be disclosed in writing before the meeting or immediately before the matter be discussed.

NB: A Council member who makes a disclosure must not preside or participate in, or be present during, any discussion or decision making procedure relating to the declared matter unless the procedures set out in Sections 5.68 or 5.69 of the Act have been complied with.

DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY

Disclosures of Interest Affecting Impartiality are required to be declared and recorded in the minutes of a meeting. Councillors who declare such an interest are still permitted to remain in the meeting and to participate in the discussion and voting on the particular matter. This does not lessen the obligation of declaring financial interests etc. covered under the Local Government Act.

To help with complying with the requirements of declaring Interests Affecting Impartiality the following statement is recommended to be announced by the person declaring such an interest and to be produced in the minutes.

"I (give circumstances of the interest being declared, eg: have a long standing personal friendship with the proponent). As a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".

Nil to disclose

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Present:

Cr D Douglas	Shire President
Cr HR Thomson	Deputy Shire President
Cr B Smith	
Cr I Garstone	
Cr R Marshall	
Cr K Stephens	

Officers:

Kellie Bartley	Chief Executive Officer
Mr Mal Baxter	Independent – CEO Recruitment
Mr Mike Fitzgerald	Fitzgerald Strategies – HR Consultant

Apologies:

Observers:

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Nil

5. PETITIONS / DEPUTATIONS / PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. ANNOUNCEMENTS BY SHIRE PRESIDENT AND/OR DEPUTY SHIRE PRESIDENT WITHOUT DISCUSSION

Nil

8. OFFICER REPORTS

8.1. APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER

File Reference	ADM0374
Date of Report	23 January 2024
Responsible Officer	Kellie Bartley, Chief Executive Officer
Author/s of Report	Kellie Bartley, Chief Executive Officer
Disclosure of any Interest	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .
Voting Requirement	Absolute Majority
Attachments	Confidential Attachment 8.1.1 – Belinda Knight Resume

BRIEF SUMMARY

This report is for Council to consider to appoint an Acting Chief Executive Officer, whilst the current Officer takes leave.

COMMENT

Whilst Council engages in the recruitment of a Chief Executive Officer for the Shire of Woodanilling with the current Chief Executive Officer's final day with Council being the 11 March 2023. The current CEO has requested to take leave from 10th February until 11th March 2024 inclusive. Whilst Mrs Bartley is on leave, Council now needs to appoint an Acting Chief Executive Officer until the commencement of a permanent CEO (following the recruitment process).

Ms Belinda Knight is an experienced local government executive and is available to undertake the position of Acting CEO until the permanent CEO can be appointed and commenced.

A copy of Ms Knight's resume is contained in **Confidential Attachment 8.1.1**.

The Shire President has done due diligence reference checks and is satisfied that Belinda has the skills and knowledge to fulfil the role to a high standard. Ms Knight has advised that she is able to act until the CEO is able to commence.

Ms Knight will reside in the current residence of 3340 Robinson Road, Woodanilling and will share this site location with the current CEO, Mrs Bartley in the changeover.

STATUTORY/LEGAL IMPLICATIONS

The process of appointing a CEO is conducted in accordance with the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* and *Local Government (Administration) Amendment Regulations 2021* (CEO Standards).

Under section 5.36 of the *Local Government Act 1995*, states:

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.*

Part 4 of the *Local Government (Administration) Regulations 1996* provides that:

Part 4 — Local government employees

[Heading inserted: Gazette 26 Aug 2011 p. 3482.]

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

- (1) *If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government must give Statewide public notice of the position unless it is proposed that the position be filled by —*
 - (a) *a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or*
 - (b) *a person who will be acting in the position for a term not exceeding one year.*
- (2) *The Statewide public notice must contain —*
 - (a) *the details of the remuneration and benefits offered; and*
 - (b) *details of the place where applications for the position are to be submitted; and*
 - (c) *the date and time for the closing of applications for the position; and*
 - (d) *the duration of the proposed contract; and*
 - (da) *a website address where the job description form for the position can be accessed; and*
 - (e) *contact details for a person who can provide further information about the position; and*
 - (f) *any other information that the local government considers is relevant.*

For the purposes of section 5.39 (3) (c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- (a) The value of one year’s remuneration under the contract; or
- (b) The value of the remuneration that the person would have been entitled to had the contract not been terminated.

POLICY IMPLICATIONS

There is the current Council Policy – Adopted Standards for CEO Recruitment, Performance and Termination associated with this item.

FINANCIAL IMPLICATIONS

The costs are factored into the budget with the current salaries and wages. Any variation can be considered through the Budget amendment in January/February Budget Review process.

STRATEGIC IMPLICATIONS

Theme 3

Customer Service

VISION

- To be responsive to the expectations of our clients and users in the area of customer service
- To promote excellence in customer service

OBJECTIVES

- To observe the service standards in the Woodanilling Customer Service Charter (2010)

- To build confidence, support and satisfaction in service delivery by increasing and developing communication channels with the whole community

STRATEGIES

- By ensuring elected members and staff are supported by ongoing professional development, and the maintenance of their professional standards
- An awareness of community views and listening to our community and being responsive

CONSULTATION/COMMUNICATION

Consultation has occurred with the Shire President and the CEO to commence the process to present to Council for consideration.

RISK MANAGEMENT

If the Council fails to exercise due diligence in the recruitment of the appointment of an Acting CEO, fails to establish effective uncertainty, inconsistency and lack of leadership. It is assessed that the risk is “High” as reflected below.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. Endorses Ms Belinda Knight to be the Acting Chief Executive Officer for the Shire of Woodanilling commencing from any time on or after the 5th February until the commencement of the incoming Chief Executive Officer;
2. Is of the belief that Ms Belinda Knight, is suitably qualified for the position of Acting Chief Executive Officer; and
3. Authorises the Shire President to execute a letter of appointment within the Salaries and Allowances Tribunal Local Government Determination and within Band 4 with Ms Belinda Knight.

COUNCIL RESOLUTION SCM 29/01/2024

Moved Cr Smith

Seconded Cr Stephens

That Council:

1. Endorses Ms Belinda Knight to be the Acting Chief Executive Officer for the Shire of Woodanilling commencing from any time on or after the 5th February until the commencement of the incoming Chief Executive Officer;
2. Is of the belief that Ms Belinda Knight, is suitably qualified for the position of Acting Chief Executive Officer; and
3. Authorises the Shire President to execute a letter of appointment within the Salaries and Allowances Tribunal Local Government Determination and within Band 4 with Ms Belinda Knight.

CARRIED 6/0

For: Cr Douglas, Cr Thomson, Cr Smith, Cr Garstone, Cr Marshall, Cr Stephens

Against: Nil

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

2. *If a meeting is being held by a Council or by a committee referred to in subsection (2)(b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting deals with any of the following:*
- (a) a matter affecting an employee or employees;*
 - (b) the personal affairs of any person;*
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) a matter that if disclosed, would reveal:
 - (i) a trade secret;*
 - (ii) information that has a commercial value to a person; or*
 - (iii) information about the business, professional, commercial or financial affairs of a person,*Where the trade secret or information is held by, or is about, a person other than the local government.*
 - (f) a matter if disclosed, could be reasonably expected to:
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (ii) endanger the security of the local government's property; or*
 - (iii) prejudice the maintenance or enforcement of any lawful measure for protecting public safety;**
 - (g) information which is subject of a direction given under section 23(1)(a) of the Parliamentary Commission Act 1981; and*
 - (h) such other matters as may be prescribed.*

COUNCIL RESOLUTION SCM 30/01/2024

Moved Cr Smith

Seconded Cr Garstone

That the Shire President requested in accordance with the *Local Government Act 1995* and relevant Regulations for Council to go behind closed doors to allow discussion on the matter prior to the voting on this item.

CARRIED 6/0

For: Cr Douglas, Cr Thomson, Cr Smith, Cr Garstone, Cr Marshall, Cr Stephens

Against: Nil

Mr Mike FitzGerald and Mr Mal Baxter left the room at 3.35pm.

9. CONFIDENTIAL REPORTS

9.1. CONFIDENTIAL – APPOINTMENT OF CHIEF EXECUTIVE OFFICER

File Reference	ADM0374
Date of Report	23 January 2024
Responsible Officer	Kellie Bartley, Chief Executive Officer
Author/s of Report	Kellie Bartley, Chief Executive Officer FitzGerald Strategies
Disclosure of any Interest	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .
Voting Requirement	Absolute Majority
Attachments	Confidential Attachment 9.1.1 – Chief Executive Officer Recruitment Report (FitzGerald Strategies) Confidential Attachment 9.1.2 – Draft CEO Employment Contract Attachment 9.1.3 – Adopted Standards CEO Recruitment, Performance and Termination

REASON FOR CONFIDENTIALITY

The Officer's Report is confidential in accordance with s5.23 (2) of the *Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- 2 (a) a matter affecting an employee or employees;
- (b) the personal affairs of any person;
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

BRIEF SUMMARY

This report is for Council to consider the contract for the new employment of the Chief Executive Officer.

VOTING REQUIREMENTS

Simple Majority for Recommendation 1

Absolute Majority for Recommendation 2

OFFICER'S RECOMMENDATION 1

That Council by SIMPLE MAJORITY, receive the report from the meeting of the Chief Executive Officer Recruitment and Selection Panel held on January 23, 2024 as contained in **Confidential Attachment 9.1.1**.

COUNCIL RESOLUTION SCM 31/01/2024

Moved Cr Marshall

Seconded Cr Garstone

That Council by SIMPLE MAJORITY, receive the report from the meeting of the Chief Executive Officer Recruitment and Selection Panel held on January 23, 2024 as contained in **Confidential Attachment 9.1.1**.

CARRIED 6/0

For: Cr Douglas, Cr Thomson, Cr Smith, Cr Garstone, Cr Marshall, Cr Stephens

Against: Nil

OFFICER'S RECOMMENDATION 2

That Council:

1. By ABSOLUTE MAJORITY, is satisfied that the Panel's deliberations and recommendation complies with the Shire of Woodanilling's Adopted Standards for CEO Recruitment, Performance and Termination as contained in **Attachment 9.1.3**;

2. By ABSOLUTE MAJORITY selects Candidate 1 as the Council's preferred applicant for the role of CEO and resolves to make an offer of employment, subject to a satisfactory referee check report, to Candidate 1, for the position of Chief Executive Officer (CEO) at the Shire of Woodanilling, and declares that the Council believes that Candidate 1 is a suitably qualified person to be appointed to the position of CEO;
3. By ABSOLUTE MAJORITY, approves the proposed terms of the CEO employment contract for a period of 5 years, to commence on 30th April 2024 or such earlier date that might be agreed to with the Council as contained in **Confidential Attachment 9.1.2**;
4. By ABSOLUTE MAJORITY, authorises the Shire President and Deputy Shire President, in conjunction with Mr Mike FitzGerald, to negotiate the CEO employment contract with Candidate 1 and settle on terms within the defined parameters that were advertised and set out in the information package supplied to applicants, noting that if the Preferred Applicant negotiates terms substantially different to the proposed terms (noting recommendation 6 below), the amended CEO employment contract will be provided to Council for approval before the contract is executed;
5. By ABSOLUTE MAJORITY, authorises the Shire President to execute the CEO employment contract, subject to Candidate 1 agreeing to enter the proposed terms of the contract other than minor amendments as per recommendation 6;
6. By ABSOLUTE MAJORITY, authorises the Shire President, the Deputy Shire President, and Mr Mike FitzGerald to make any minor changes to the CEO employment contract that may be required to finalise this matter, subject to those changes not being material to the contract and noting that any changes must ensure compliance with the provisions of the *Local Government Act 1995*;
7. By ABSOLUTE MAJORITY, notes that, subject to the Preferred Applicant accepting the proposed terms of the CEO employment contract, Candidate 1 is appointed to the position of CEO at the Shire of Woodanilling;
8. By Absolute Majority, confirms that the employment was undertaken in accordance with the Shire of Woodanilling – Adopted CEO Recruitment, Performance and Termination Standards – *Local Government Act 1995, s5.39B*; and
9. Certifies that within 14 days of this resolution, provides a copy of the resolution as confirmation to the Department of Local Government, Sport and Cultural Industries [as per r.18FB of the *Local Government (Administration) Regulations 1996*.]

COUNCIL RESOLUTION SCM 32/01/2024

Moved Cr Garstone

Seconded Cr Stephens

That Council:

- 1) By ABSOLUTE MAJORITY, is satisfied that the Panel's deliberations and recommendation complies with the Shire of Woodanilling's Adopted Standards for CEO Recruitment, Performance and Termination as contained in **Attachment 9.1.3**;
- 2) By ABSOLUTE MAJORITY selects Candidate 1 as the Council's preferred applicant for the role of CEO and resolves to make an offer of employment, subject to a satisfactory referee check report, to Candidate 1, for the position of Chief Executive Officer (CEO) at the Shire of Woodanilling, and declares that the Council believes that Candidate 1 is a suitably qualified person to be appointed to the position of CEO;
- 3) By ABSOLUTE MAJORITY, approves the proposed terms of the CEO employment contract for a period of 5 years, to commence on 30th April 2024 or such earlier date that might be agreed to with the Council as contained in **Confidential Attachment 9.1.2**;
- 4) By ABSOLUTE MAJORITY, authorises the Shire President and Deputy Shire President, in conjunction with Mr Mike FitzGerald, to negotiate the CEO employment contract with Candidate 1 and settle on terms within the defined parameters that were advertised and set out in the information package supplied to applicants, noting that if the Preferred Applicant negotiates terms substantially different to the proposed terms (noting recommendation 6 below), the amended CEO employment contract will be provided to Council for approval before the contract is executed;

- 5) By ABSOLUTE MAJORITY, authorises the Shire President to execute the CEO employment contract, subject to Candidate 1 agreeing to enter the proposed terms of the contract other than minor amendments as per recommendation 6;
- 6) By ABSOLUTE MAJORITY, authorises the Shire President, the Deputy Shire President, and Mr Mike FitzGerald to make any minor changes to the CEO employment contract that may be required to finalise this matter, subject to those changes not being material to the contract and noting that any changes must ensure compliance with the provisions of the *Local Government Act 1995*;
- 7) By ABSOLUTE MAJORITY, notes that, subject to the Preferred Applicant accepting the proposed terms of the CEO employment contract, Candidate 1 is appointed to the position of CEO at the Shire of Woodanilling;
- 8) By Absolute Majority, confirms that the employment was undertaken in accordance with the Shire of Woodanilling – Adopted CEO Recruitment, Performance and Termination Standards – *Local Government Act 1995, s5.39B*; and
- 9) Certifies that within 14 days of this resolution, provides a copy of the resolution as confirmation to the Department of Local Government, Sport and Cultural Industries [as per r.18FB of the *Local Government (Administration) Regulations 1996*.]

CARRIED 6/0

For: Cr Douglas, Cr Thomson, Cr Smith, Cr Garstone, Cr Marshall, Cr Stephens

Against: Nil

COUNCIL RESOLUTION SCM 33/01/2024

Moved Cr Marshall

Seconded Cr Smith

That Shire President requested in accordance with the *Local Government Act 1995* and relevant Regulations to return the meeting in its formal capacity.

CARRIED 6/0

For: Cr Douglas, Cr Thomson, Cr Smith, Cr Garstone, Cr Marshall, Cr Stephens

Against: Nil

The meeting resumed at 3.45 and Cr Douglas advised Mr Mike FitzGerald and Mr Mal Baxter to return to the room at 3.45pm.

10. MOTIONS WITHOUT NOTICE BY PERMISSION OF THE COUNCIL

Nil

11. CLOSURE OF MEETING

There being no further business the meeting closed at 3.45pm and the Shire President thanked everyone involved today.

I certify that these minutes were confirmed at the Special Council Meeting held on the

Presiding Member – Councillor Dale Douglas

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Date