



Special Council Meeting

# Agenda

5 June 2024



## *Our Vision*

Where environment, lifestyle and opportunity meet

## *Community Aspirations*



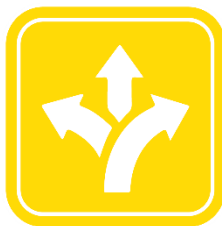
### KEY THEME 1 **Environment**

An environment that is valued, conserved and enjoyed by current and future generations.



### KEY THEME 2 **Lifestyle**

A place that is relaxed, safe and friendly, with services and facilities that support positive lifestyles and wellbeing.



### KEY THEME 3 **Opportunity**

A vibrant City with diverse opportunities and a prosperous economy.



### KEY THEME 4 **Leadership**

A Council that connects with the community and is accountable in its decision making.

**NOTICE OF MEETING**

**TO: THE MAYOR AND COUNCILLORS**

**NOTICE** is given that a Special Council Meeting will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on 5 June 2024, commencing at 4:30pm.

Your attendance is respectfully requested.

**DISCLAIMER**

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



**TONY NOTTLE**

**CHIEF EXECUTIVE OFFICER**

30 May 2024

## BEHAVIOUR PROTOCOLS

The City of Busselton values are:

- Listening
- Considered Decision Making
- Appreciation
- Respect
- Teamwork

In accordance with these values, the following outlines the behaviour expectations while attending a Council meeting, Committee meeting, Community Access Session, or Public Agenda Presentation:

- Listen respectfully through the meeting or presentation
- Respect the Council process and comply with directions from the Presiding Member
- Use respectful language when addressing Council, staff, and other members of the public
- Behave in a manner that is respectful and non-confrontational
- Do not use offensive language or derogatory language towards others

The City values the diverse input of the community and seeks to ensure that all members of the community can attend a meeting and have their say.

Elected Members, Committee members and Candidates are bound by the City's Code of Conduct and agree to uphold the values of the City of Busselton and principles of good behaviour, maintaining and contributing to a harmonious, safe, and productive environment.

Anyone who does not behave in accordance with the above values and behaviours may be asked by the Presiding Member to leave the gallery.

**CITY OF BUSSELTON**

Agenda for the Special Council Meeting to be held on Wednesday 5 June 2024

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## 1. OFFICIAL OPENING

The City of Busselton welcomes Elected Members, staff, guests and members of the public to the Special Council Meeting of 5 June 2024.

The City of Busselton acknowledges the Wadandi and Bibbulmun people as the traditional custodians of this region and pay respects to Elders past and present.

This meeting will be audio recorded for minute taking purposes and will also be live streamed on the City of Busselton YouTube channel.

## 2. PURPOSE OF MEETING

The purpose of this meeting is for considering the outcomes of the CEO Performance Review Committee meeting held 29 May 2024.

## 3. ATTENDANCE

<b>PRESIDING MEMBER</b>	<b>MEMBERS</b>
Mayor Phill Cronin	Cr Anne Ryan (Deputy Mayor)
	Cr Val Kaigg
	Cr Jodie Richards
	Cr Kate Cox
	Cr Mikayla Love
	Cr Andrew Macnish
	Cr Jarrod Kennedy
	Cr Richard Beecroft

<b>OFFICERS</b>
Chief Executive Officer
Director Corporate Strategy and Performance
Manager People, Culture and Strategy
Governance and Risk Coordinator
Governance Officer

<b>APOLOGIES</b>
Nil at time of publishing

## 4. DISCLOSURES OF INTEREST

### DISCLOSURES OF FINANCIAL INTEREST

A declaration under section 5.65 of the *Local Government Act 1995* requires that the nature of the interest must be disclosed. An elected member or employee who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter on which the subject of the declaration without the approval of the Council in accordance with the Act.

### DISCLOSURES OF IMPARTIALITY INTEREST

Elected members and employees are required, in addition to declaring any financial interest, to declare an interest that might cause or perceive to cause a conflict. If the elected member or employee declares that their impartiality will not be affected then they may participate in the decision-making process.

## 5. PUBLIC QUESTION TIME

Public question time allows members of the public to participate in local government by asking questions of the Council in relation to issues affecting the City.

### 5.1. QUESTION TIME FOR PUBLIC

#### Public question time procedures and guidance

- The City will allocate a minimum of 15 minutes and a maximum of 30 minutes per Council meeting for public question time.
- Members of the public should register their intent to ask a question at a Council meeting by completing and submitting the [Public Question Time form](#) before 4pm the day prior to the relevant meeting.
- Members of the public will be invited to ask their question in order of registration.
- Questions will be limited to three per person. Additional questions may be permitted by the Presiding Member where time permits.
- Where a person is not present to ask their submitted question it will be responded to administratively as general correspondence.
- Questions may be taken on notice, to be responded to at a later time by the CEO in accordance with clause 6.7 of the Standing Orders.
- Public question time is for the tabling of questions, not for members of the community to make statements. For context, the Presiding Member may allow a short preamble.
- Questions containing defamatory remarks or offensive language, or that question the competency or personal affairs of Elected Members or employees may be ruled inappropriate by the Presiding Member subject to the Presiding Member taking reasonable steps to assist the member of the public to rephrase the question.
- There will be no debate or discussion on the response provided.

For further information, please see the [Meetings, Information Sessions and Decision Making Processes Policy](#).

## 6. PRESENTATIONS BY PARTIES WITH AN INTEREST



## 7. REPORTS OF COMMITTEE

### 7.1 CEO Performance Review 2024

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Manager People, Culture and Strategy – Shannon Pettengell
<b>Authorised By:</b>	Director Corporate Strategy and Performance – Sarah Pierson
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Absolute Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	CONFIDENTIAL <b>Attachment 1</b> Section 5.23(2)(a) This attachment contains information relating to a matter affecting an employee or employees. CONFIDENTIAL <b>Attachment 2</b> Section 5.23(2)(a) This attachment contains information relating to a matter affecting an employee or employees.

This item was considered by the CEO Performance Review Committee at its meeting on 29 May 2024, the recommendations of which have been included in this report.

#### COMMITTEE RECOMMENDATION Part 1

That the Council:

1. Endorse the following recommendations contained in section 8 of confidential Attachment 1:
  - a. point 1 acknowledging the Salaries and Allowances Tribunal Determination of 5 April 2024;
  - b. point 2 acknowledging Superannuation Guarantee Levy;
  - c. point 3 acknowledging the outcomes of the Elected Member Performance Survey undertaken in March 2024;
  - d. point 5 acknowledging the timing of the last CEO salary increase;
  - e. point 6 approving a variation to the CEO's total remuneration package as per confidential attachment 2, and authorise the Mayor to sign a contract variation with respect to Section 5.6 Remuneration Package of the Employment Contract;
  - f. point 7 authorising Chief Executive Officer professional development requests;
  - g. point 8 to further review and negotiate the employment contract;
  - h. point 9 regarding the scheduling of the next review of the Chief Executive Officer's performance and total remuneration package;

- i. **point 10 to endorse the review by an absolute majority, in compliance with Division 3 of the *Local Government (Administration) Regulations 1996*;**
  - j. **point 11 to notify the CEO of the results of the review in compliance with Division 3 of the *Local Government (Administration) Regulations 1996*.**
2. **Request the Director Corporate Strategy and Performance to coordinate the review of Employment Contract conditions.**
3. **Publish to the City's website the performance criteria for the 2024-2025 performance period.**

#### **COMMITTEE RECOMMENDATION Part 2**

**That the Council endorse the following recommendations contained in section 8 of confidential Attachment 1:**

- a. **Point 4 in relation to the modified performance criteria metrics for the 2024-2025 performance period.**

#### **OFFICER RECOMMENDATION**

That the Council:

1. Endorse the recommendations contained in section 8 of confidential Attachment 1 inclusive of a variation to the CEO's total remuneration package as per option \_\_\_\_, and authorise the Mayor to sign a contract variation with respect to Section 5.9 Remuneration Package of the Employment Contract.
2. Request the Director Corporate Strategy and Performance to coordinate the review of Employment Contract conditions.
3. Publish to the City's website the performance criteria for the 2024-2025 performance period.

#### **EXECUTIVE SUMMARY**

Tony Nottle was appointed as the City of Busselton (City) Chief Executive Officer (CEO) on the 5th of December 2022 for a 5-year term, expiring on the 4th of December 2027. The CEO is now due for his annual performance review, as per the requirements of the Local Government Act 1995 (Act), and the Common Law Employment Contract with the City.

To assist the CEO Performance Review Committee and the Council with the performance review process, the Council endorsed (C2404/119) the engagement of Strategic Leadership Consulting as an independent facilitator. Attachment 1 is the confidential report of the outcome of the review processes which is presented to Council for endorsement.

## STRATEGIC CONTEXT

An effective CEO performance review process is necessary for the good governance of the organisation.

## BACKGROUND

In accordance with the Act, the City is required to undertake an annual review of the CEO's performance. The City's CEO Recruitment, Performance Review and Termination Standards (CEO Standards) sets out requirements for this review which includes reviewing the CEO performance against agreed contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner.

On 13 March 2024 the Committee resolved (PR2403/2) in accordance with the CEO Performance Review Policy to give notice to the CEO of the commencement of the performance review process. The performance review of the CEO is for 2023-2024 review period.

## OFFICER COMMENT

### Review Process

The CEO performance review process facilitated by the appointed consultant is consistent with the requirements of the *Local Government Act 1995* and the City of Busselton's CEO Standards and CEO Performance Review Policy. The process is summarised below.

#### *Phase 1*

- Review current year performance criteria and the CEO's acquittal against the performance criteria.
- Develop a performance survey instrument for elected members and CEO to complete.
- Analyse results and identify objective performance.

#### *Phase 2*

- Develop interview questionnaire for elected members and CEO and undertake individual interviews, including but not limited to gaining information on how the CEO met their responsibilities; how they role modelled the City's values; the organisation's performance during the review period; and identifying suggested performance criteria for the upcoming review period.
- Seek from CEO professional development requests, identification of any performance constraints during the review period, next period suggested performance criteria, and any contract amendments for Council consideration.

#### *Phase 3*

- Undertake contract compliance with the Act and Regulations and identify potential changes/variations, if necessary.
- Undertake marketplace review of CEO remuneration and develop options for Committee/Council consideration.
- Identify next period performance criteria for Committee/CEO consideration.

*Phase 4*

- Prepare draft report and submit to CEO for comment under procedural fairness provisions.
- Consider procedural fairness submissions from CEO and amend report as required.
- Submit final report to Committee.

**Performance Assessment**

The review process concluded the CEO is operating at the appropriate standard and has met performance expectations. The table below summarises key performance outcomes, with further detail available in the confidential report.

	<b>Average Overall Score</b>	<b>Met Expectations</b>
Additional Performance Criteria	75%	Yes
Contractual Performance Criteria	N/A	Yes
Employment Contract Conditions	79%	Yes
<i>Made up of:</i>		
<i>Position Objectives</i>	75%	
<i>Roles and Responsibilities</i>	76%	
<i>Values, Code of Conduct and Ethics</i>	86%	

**2024/2025 Performance Criteria**

With respect to performance criteria for the 2024/2025 period, 6 Key Result Areas (KRA) are recommended for actioning through 18 Key Performance Indicators (KPIs). It is important to align the CEO’s performance criteria to the goals contained in the Council’s Strategic Community Plan and Corporate Business Plan – currently under review through the development of a new Council Plan. Accordingly, the CEO’s performance criteria may require updating to reflect the finalisation of that plan and any changes on goals and objectives.

**Employment Contract**

The report recommends that the Council select from a range of options with respect to a review of the CEO’s total remuneration package and that the CEO and the Council negotiate and review the Employment Contract with respect to a number of contract conditions. It is recommended that the Director Corporate Strategy and Performance coordinate this review and present a revised Employment Contract to the Council.

**Statutory Environment**

Section 5.38 of the *Local Government Act 1995* requires a local government to review the performance of the CEO annually.

Section 5.39B(2), (3), (5) and (6) of the *Local Government Act 1995* relate to adoption of model standards, as contained within Schedule 2 of the Regulations. The City’s CEO Standards reflect these model standards.

Further, the Council has established a CEO Performance Review Committee and Terms of Reference (C2310/147), and a CEO Performance Review Policy (C2301/010).

### **Relevant Plans and Policies**

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

[Chief Executive Officer Performance Review](#)

Additionally, the CEO Standards and Performance Review Committee Terms of Reference are applicable.

### **Financial Implications**

Any associated financial implications are subject to the final endorsed total remuneration package, which will be incorporated into the City's 2024/2025 budget.

### **External Stakeholder Consultation**

Not applicable

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could choose not to resolve as per the recommendations contained within the report, for instance the Council could choose to adjust the performance criteria for the 2024/2025 period.

### **CONCLUSION**

The CEO performance review process for the period March 2023 to February 2024 was facilitated by independent consultant, Dr Shayne Silcox from Strategic Leadership Consulting, with the independent consultant engaged to coordinate the analysis of the information collected and to ensure a compliant and robust review process. This report presents the outcomes of the process in Confidential Attachment 1 and seeks the Council's endorsement of the recommendations contained within Section 8.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Communicate the outcomes of the performance review process to the CEO.	7 June 2024
Contract review	31 July 2024

## **8. CONFIDENTIAL MATTERS**

Nil

## **9. CLOSURE**