



Special Council Meeting

# Minutes

Wednesday 5 June 2024

**MINUTES**

**Minutes of a Special Council Meeting of the Busselton City Council held in the Council Chambers, Administration Building, Southern Drive, Busselton, on Wednesday 5 June 2024 at 4:30pm.**

**TABLE OF CONTENTS**

<b>1. OFFICIAL OPENING.....</b>	<b>3</b>
<b>2. PURPOSE OF MEETING.....</b>	<b>3</b>
<b>3. ATTENDANCE.....</b>	<b>3</b>
<b>4. DISCLOSURES OF INTEREST .....</b>	<b>4</b>
<b>5. PUBLIC QUESTION TIME.....</b>	<b>4</b>
<b>6. PRESENTATIONS BY PARTIES WITH AN INTEREST .....</b>	<b>4</b>
<b>7. REPORTS OF COMMITTEE .....</b>	<b>5</b>
7.1. CEO PERFORMANCE REVIEW 2024.....	5
<b>8. CONFIDENTIAL MATTERS .....</b>	<b>14</b>
<b>9. CLOSURE.....</b>	<b>14</b>

## 1. OFFICIAL OPENING

The meeting opened at 4:35pm.

The Presiding Member welcomed Councillors, staff, guests and members of the public to the Special Council Meeting of 5 June 2024.

The Presiding Member acknowledged the Wadandi and Bibbulmun people as the traditional custodians of this region and paid respects to Elders past and present.

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

## 2. PURPOSE OF MEETING

The purpose of this meeting was 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 Jarrod Kennedy
	Cr Richard Beecroft (via remote attendance)
	Cr Mikayla Love (via remote attendance)
	Cr Andrew Macnish (via remote attendance)

<b>OFFICERS</b>	
Mr Tony Nottle	Chief Executive Officer
Ms Sarah Pierson	Director Corporate Strategy and Performance
Mrs Shannon Pettengell	Manager People, Culture and Strategy
Ms Jo Barrett-Lennard	Governance Officer

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

#### 4. DISCLOSURES OF INTEREST

##### DISCLOSURES OF FINANCIAL INTEREST

The Presiding Member noted a disclosure of financial interest had been received from Mr Tony Nottle, Chief Executive Officer in relation to item 7.1 'CEO Performance Review 2024'.

The Presiding Member advised that, in accordance with regulation 22(2)(b) of the *Local Government (Model Code of Conduct) Regulations 2021*, this disclosure would be read out immediately before this item was discussed.

##### DISCLOSURES OF IMPARTIALITY INTEREST

Nil

#### 5. PUBLIC QUESTION TIME

Nil

#### 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.

DISCLOSURE OF INTEREST	
Date	5 June 2024
Meeting	Special Council
Name/ Position	Mr Tony Nottle, Chief Executive Officer
Item No./ Subject	Item 7.1 'CEO Performance Review 2024'
Type of Interest	Financial Interest
Nature of Interest	This item pertains to the performance of my contract, and my performance associated with any potential changes with my contract.

4:38pm: At this time, Mr Tony Nottle left the meeting.

The Presiding Member moved to close the meeting to the public. The motion was seconded and carried.

**COUNCIL DECISION**

**C2406/144** Moved Mayor Phill Cronin, seconded Cr Val Kaigg

**That the Council close the meeting to the public to discuss an item which is confidential under section 5.23(2)(a) of the *Local Government Act 1995*.**

**CARRIED 9 / 0**

**FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox, Cr Jarrod Kennedy and Cr Richard Beecroft**

**AGAINST: Nil**

4:38pm: At this time, the meeting was closed to the public and the livestream ceased.

Part 1 of the committee recommendation was moved, there was opposition and debate ensued.

Part 1 of the committee recommendation was carried.

**COUNCIL DECISION Part 1**

**C2406/145** Moved Cr Kate Cox, seconded Cr Val Kaigg

**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.

**CARRIED 5 / 4**

**FOR: Mayor Phill Cronin, Cr Val Kaigg, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Cr Anne Ryan, Cr Jodie Richards, Cr Andrew Macnish and Cr Richard Beecroft**

Part 2 of the committee recommendation was moved, there was opposition and debate ensued.

During debate, Cr Andrew Macnish foreshadowed an alternative to the substantive motion.

The substantive motion was lost.

**COUNCIL DECISION Part 2**

**C2406/146** Moved Cr Kate Cox, seconded Cr Val Kaigg

**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.

**LOST 4 / 5**

**FOR: Mayor Phill Cronin, Cr Val Kaigg, Cr Mikayla Love and Cr Kate Cox**

**AGAINST: Cr Anne Ryan, Cr Jodie Richards, Cr Andrew Macnish,  
Cr Jarrod Kennedy and Cr Richard Beecroft**

With the substantive motion lost, Cr Andrew Macnish moved his foreshadowed alternative motion.

There was opposition and debate ensued.

The motion was carried.

## **COUNCIL DECISION Part 2**

**C2406/147** Moved Cr Andrew Macnish, seconded Cr Jodie Richards

### **The Council:**

- 1. Does not adopt the 'Suggested Performance Criteria (Table) for 2024-25' (Ref s7.6 in the consultant's report) but does refer it and the development of Schedule 2 contractual relevant KRAs/KPIs and their; objective, specific, measurable, achievable and timely outcome targets for 2024/5, to an elected member workshop as soon as practicable and for that outcome to be referred back to the Council. The Council shall not delete Schedule 2 from the contract.**
- 2. Refers the contractual changes other than those already resolved, to the elected member workshop (part 1 above) for clarification and the establishing of a negotiation position for the Council to take into future discussion with the CEO.**
- 3. The elected member workshop to also discuss feedback on the (current) review process for consideration as to the future review process and the Terms of Reference for this CEO Performance Review Committee (necessarily including the issue of the membership mistake).**
- 4. Notify the CEO of this resolution.**

**CARRIED 6 / 3**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Jarrod Kennedy and Cr Richard Beecroft**

**AGAINST: Mayor Phill Cronin, Cr Val Kaigg and Cr Kate Cox**

**Reasons:** The Council felt that the consultative mechanism for compilation of the KRAs/KPIs lacked clarity and that there should be workshopping of the KRAs/KPIs by elected members as a group for greater ownership and to address any perceived gaps in the KRAs/KPIs with respect to objective, measurable outcomes. This also provides more time for the KRAs/KPIs to take direction from the Council's strategic planning about to be undertaken. The Council felt that Schedule 2 must not be deleted as it is the annual contractual control mechanism in relation to attainment of desired KRAs/KPIs. The Council felt that the workshop for the KRAs/KPIs could also be used to establish a negotiation position for the Council with respect to contractual negotiations with the CEO and to discuss feedback on the review process, with some elected members identifying potential gaps and improvements.



### **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.

## 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:

<b>Milestone</b>	<b>Completion Date</b>
Communicate the outcomes of the performance review process to the CEO.	7 June 2024
Contract Review	31 July 2024

The Presiding Member called on a member to move a motion to reopen the meeting to the public.

The motion was moved and carried.

**COUNCIL DECISION**

**C2406/148** Moved Cr Anne Ryan, seconded Cr Jarrod Kennedy

**That the meeting be reopened to the public.**

**CARRIED 9 / 0**

**FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish,  
Cr Mikayla Love, Cr Kate Cox, Cr Jarrod Kennedy and Cr Richard Beecroft**

**AGAINST: Nil**

5:50pm: At this time, the meeting was reopened to the public and the livestream recommenced. Mr Tony Nottle re-entered the meeting.

The Presiding Member read out the decision to the gallery.

## 8. CONFIDENTIAL MATTERS

Nil

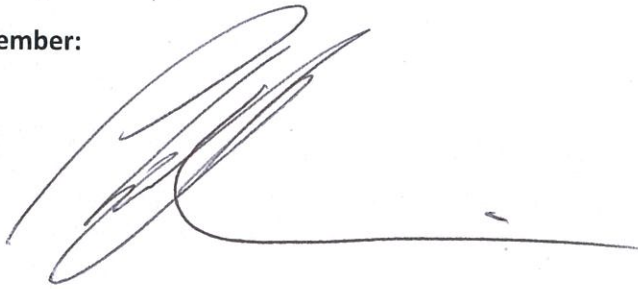
## 9. CLOSURE

The meeting closed at 5:51pm.

The minutes of the Special Council Meeting held 5 June 2024 were confirmed as a true and correct record on

Date: 31.7.24

Presiding Member:

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a long horizontal line extending to the right.