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## SPECIAL COUNCIL MEETING

**Wednesday, 30 August 2023  
At the Council Chambers,  
Nyabing**

**For the purpose of appointing a Chief Executive Officer**

### **Open Council Meetings – Procedures**

1. All Council meetings are open to the public, except for matters raised by Council under “confidential items”.
2. Members of the public may ask a question at an ordinary Council meeting under “public question time”.
3. Members of the public who are unfamiliar with meeting procedures are invited to seek advice at the meeting. If unsure about proceedings, just raise your hand when the presiding member announces public question time.
4. All other arrangements are in accordance with the Council’s standing orders, policies and decisions of the Shire.

Yours faithfully,

**PETER CLARKE  
ACTING CHIEF EXECUTIVE OFFICER**

### **Disclaimer**

*Members of the Public are advised that the recommendations to Council contained within this agenda and decisions arising from the Council Meeting can be subject to alteration. Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council’s decision with respect to any particular issue.*

**MINUTES**  
**30 August 2023**

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**1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

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The meeting was opened at 2.00pm by the Shire President.

**2. RECORD OF ATTENDANCE/APOLOGIES AND APPROVED LEAVE OF ABSENCE****ATTENDANCE****Members**

Cr SR Crosby	Shire President
Cr KV Johnston	Deputy Shire President
Cr DP Gray	Member
Cr GW Hobley	Member
Cr TD Borgward	Member
Cr RA Jury	Member

**APOLOGIES**

Nil

**APPROVED LEAVE OF ABSENCE**

Nil

**3. DISCLOSURES OF INTEREST**

Section 5.65 and 5.70 of the *Local Government Act 1995*

Elected Member or officer, who has an interest in any matter for discussion and attends at a Committee/Council Meeting, must disclose the nature of the interest in a written notice give to the Chief Executive Officer before the meeting, or at the meeting prior to discussion on the matter.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision-making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of that interest must be stated.

- Declaration of Financial Interests:
- Declarations of Proximity Interests:
- Declarations of Impartiality Interests:

**4. PUBLIC QUESTION TIME****5. APPLICATIONS FOR LEAVE OF ABSENCE**

Section 5.25 *Local Government Act 1995*

6. **CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING**  
Nil
7. **ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**  
Nil
8. **PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**  
Nil
9. **OFFICER REPORTS**  
Nil
10. **ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**  
Nil
11. **NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL**  
Nil
12. **MATTERS BEHIND CLOSED DOORS**

That the meeting be closed to the public in accordance with section 5.23 Local Government Act 1995, 5.5.23(2))

- Matters affecting employee(s)
- Personal affairs of any person(s), including financial and/or commercial Contracts
- Commercial Confidentiality
- Legal advice/matters
- Public safety/security matters where public knowledge may be prejudicial.

As there were no members of the public or staff in attendance, Council considered that it was not necessary to formally close the meeting to the public.

#### 12.1.1 CHIEF EXECUTIVE OFFICER RECRUITMENT & APPOINTMENT

<b>PROPOSED MEETING DATE:</b>	30 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Peter Clarke Acting Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Clarke Acting Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	N/A
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### **PURPOSE**

To review and approve a recommendation from the CEO Selection Panel Committee to make an offer of employment for the position of CEO with the Shire of Kent to a preferred candidate.

**BACKGROUND**

At the Ordinary meeting of Council held on 20 July 2023, the following was resolved in respect to the Recruitment process for the Chief Executive Officer position with the Shire of Kent.

**OCM2324/168 - COUNCIL RESOLUTION**

**MOVED Cr KV Johnston / Cr GW Hobley**

1. That Council endorses the process and suggested timeframe for recruiting the CEO position, opting for an in-house approach as opposed to engaging an external Recruitment Consultant; and
2. That Council, in accordance with Clause 8 of the Standards for Chief Executive Officer Recruitment and Selection, Performance Review and Termination, appoints the following to the CEO Selection Panel for the Recruitment of the new Chief Executive Officer position:-

**That the whole of Council be appointed to be on the Selection Panel; and**

1. Appoint Mr Grant Collins as the Independent Person on the Selection Panel, being a former Elected Member and Deputy Shire President of the Shire of Kent and local business proprietor.

**And;**

2. Adopt the Chief Executive Officer Position Description and Selection Criteria as presented.

**CARRIED BY ABSOLUTE MAJORITY 5/0**

**For:**

**Cr SR Crosby, Cr KV Johnston, Cr DP Gray, Cr GW Hobley, Cr TD Borgward**

**Against:**

**Nil**

The position was advertised in the Western Australian Newspaper, Local Government Professionals WA website and on the Shire's website during the application period.

Following the closure of the advertising period the Selection Committee met on Wednesday, 16 August 2023 to assess applications and shortlist suitable applicants for interview. The following resolution was adopted at Council's August 2023 Ordinary Meeting of Council:-

**OCM2324/193 - COUNCIL RESOLUTION (Officer Recommendation)**

**MOVED Cr KV Johnston / Cr DP Gray**

**That Council endorses the Selection Panel's recommendation of those applicants for the CEO position that have been shortlisted for interviews, which will be on 30 August 2023.**

**CARRIED 6/0**

**For:**

**Cr SR Crosby, Cr KV Johnston, Cr DP Gray, Cr GW Hobley, Cr TD Borgward**

**Against:**

**Nil**

**COMMENT**

The selection process was undertaken in accordance with principles of merit and equity and also in accordance with the appropriate legislative requirements as detailed in the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the *Shire of Kent Adopted Standards for CEO Recruitment, Performance and Termination*.

**STATUTORY IMPLICATIONS**

*Local Government Act (1995)*

*Local Government (Administration) Regulations 1996*

*Shire of Kent Adopted Standards for CEO Recruitment, Performance and Termination*

**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.

**5.39. Contracts for CEO and senior employees**

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (1a) Despite subsection (1) —
  - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
  - (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.
- (2) A contract under this section —
  - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
  - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
  - (a) the expiry date is specified in the contract; and
  - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
  - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7A.

- (8) A local government is to ensure that subsection (7) is complied with in entering into, or renewing, a contract of employment with a CEO.

**5.40. Principles affecting employment by local governments**

The following principles apply to a local government in respect of its employees —

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Work Health and Safety Act 2020*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

**5.41. Functions of CEO**

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government; and
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and
- (f) speak on behalf of the local government if the mayor or president agrees; and
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

**POLICY IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Shire of Kent Community Strategic Plan 2017 – 2027

***Civic Leadership Objective – Continually enhance the Shire's organisational capacity to service the needs of our community***

The appointment of a permanent CEO is crucial to the above strategic goal.

**RISK IMPLICATIONS**

The risk to the organisation is high if the Selection Committee's recommendation is not adopted. Failure to appoint a CEO could lead the Shire to being in breach of Section 5.36 of the *Local Government Act (1995)*

**VOTING REQUIREMENT**

Absolute Majority

**SCM2324/029 - COUNCIL RESOLUTION****MOVED Cr DP Gray / Cr RA Jury**

*That Council endorses the recommendation put forward by the CEO Selection Panel as to the preferred candidate for the Chief Executive Officer position for the Shire of Kent.*

**CARRIED BY ABSOLUTE MAJORITY****For:****Cr SR Crosby, Cr KV Johnston, Cr RA Jury, Cr DP Gray, Cr GW Hobley, Cr TD Borgward****Against:****Nil****SCM2324/030 - COUNCIL RESOLUTION****MOVED Cr KV Johnston / Cr RA Jury**

*That Council authorises the Shire President and A/CEO to enter into Contract of Employment negotiations with the preferred candidate who Council considers to be the person most suitably qualified for the position and that upon successful negotiations, a further Special Meeting of Council be convened to formally appoint the preferred candidate.*

**CARRIED BY ABSOLUTE MAJORITY****For:****Cr SR Crosby, Cr KV Johnston, Cr RA Jury, Cr DP Gray, Cr GW Hobley, Cr TD Borgward****Against:****Nil****13. MEETING CLOSED**

There being no further business the Shire President Cr Scott Crosby, closed the meeting at 2.10pm.

I certify these minutes were confirmed at the  
Ordinary Meeting of Council held on 20 September 2023.

.....  
Cr Scott Crosby – Shire President

.....  
Date