



**Shire of Derby /
West Kimberley**

AGENDA

Special Council Meeting Thursday, 20 February 2025

I hereby give notice that a Special Meeting of Council will be held on:

Date: Thursday, 20 February 2025

Time: 5:30 PM

**Location: Council Chambers
Clarendon Street
Derby**

Tamara Clarkson

Acting Chief Executive Officer



Our Guiding Values

We are **PROUD** of who we are and where we live.

We will create a **POSITIVE LEGACY** for our children and children's children.

We will go about our business with **INTEGRITY, TRANSPARENCY and AUTHENTICITY**.

We value and **RESPECT** what our community has to say and will strive to make things happen.

We are **PROUD** of and value the **KNOWLEDGE** of our diverse and strong people and cultures.

We value our **RELATIONSHIPS** and will work with others to achieve common goals and gain maximum impact.

We are **PROUD** of and **COMMITTED** to the responsible preservation of our unique natural environment and making sure our built environment reflects our current and future needs.

We are open for and encourage business, industry and all aspects of **COMMUNITY DEVELOPMENT**, particularly our thriving arts and cultural scene.

Disclaimer

No responsibility whatsoever is implied or accepted by the Shire of Derby/West Kimberley (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any Council Member or officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

Notes for Members of the Public

PUBLIC QUESTION TIME

The Shire of Derby/West Kimberley extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision-making processes whenever possible. The ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective. The Shire sets aside a period of 'Public Question Time' to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

MEETING FORMALITIES

Local government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting.

Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

COPYRIGHT

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Notes for Council Members

NATURE OF COUNCIL'S ROLE IN DECISION MAKING

Advocacy:	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive/Strategic:	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, grants, and setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Administrative:	When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
Review:	When Council reviews a decision made by Officers.
Information:	Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

ALTERNATIVE MOTIONS

Council Members wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Chief Executive Officer prior to the Council meeting.

DECLARATIONS OF INTERESTS

Council Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Council Members must disclose the nature of their interest in matters to be discussed at the meeting (Part 5 Division 6 of the *Local Government Act 1995*). Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (Sections 5.70 and 5.71 of the *Local Government Act 1995*).

APPLICATION FOR LEAVE OF ABSENCE

In accordance with Section 2.25 of the *Local Government Act 1995*, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for a Council Member for ordinary Council meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings.

This approval must be by Council resolution and differs from the situation where a Council Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to a Council Member being disqualified should they be absent without leave for three consecutive meetings.

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1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS**2 DISCLAIMER**

This meeting will be video recorded and live-streamed on the Shire's Youtube Channel, with the exception of confidential items and periods of adjournment as determined by the Presiding Member. By being present at this meeting, members of the public consent to the possibility that their voice and/or image may be live-streamed to the public. Recordings will also be made available on the Shire's Youtube Channel and Website following the meeting. The official record of the meeting will be the written minutes kept in accordance with the Local Government Act 1995 and any relevant regulations.

3. ACKNOWLEDGMENT OF COUNTRY

In the spirit of Reconciliation, the Shire of Derby/West Kimberley acknowledges the traditional custodians of country throughout the Shire and the continued connection to the land, waters and community.

The Shire of Derby/ West Kimberley would like to pay our respects to the people, the cultures and the Elders past and present and the continuation of cultural, spiritual and educational practices of Aboriginal people.

4 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

A Council Member may attend council or committee meetings by electronic means if the member is authorised to do so by the President or the Council. Electronic means attendance can only be authorised for up to half of the Shire's in-person meetings they have attended in total, in any rolling 12 months prior period. Authorisation can only be provided if the location and the equipment to be used by the Councillor are suitable to enable effective, and where necessary confidential, engagement in the meeting's deliberations and communications.

5 DISCLOSURE OF INTERESTS**5.1 Declaration of Financial Interests****5.2 Declaration of Proximity Interests****5.3 Declaration of Impartiality Interests****6 PUBLIC TIME**

Due to the nature of this meeting, being a Special Council Meeting, only questions relating to matter on this agenda may be addressed.

6.1 Public Question Time**6.2 Public Statements****7 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

REPORTS

8 EXECUTIVE SERVICES

8.1 APPOINTMENT OF CHIEF EXECUTIVE OFFICER

File Number: Personal

Author: Peter McCumstie, Shire President

Authority/Discretion: Executive

SUMMARY

Council to consider the recommendation from the Chief Executive Officer Recruitment Selection Panel for the appointment of a new Chief Executive Officer.

The purpose of this report is to present the recruitment process which has been undertaken, the recommended applicant, and the proposed contractual information, for the new Chief Executive Officer.

DISCLOSURE OF ANY INTEREST

Nil by Author

BACKGROUND

The Department of Local Government, Sport and Cultural Industries published the *Local Government Operational Guideline for CEO Recruitment and Selection, Performance Review and Termination* which has guided the preparation of this Report.

The *Local Government Legislation Amendment Act 2019* included a requirement for model standards covering the recruitment and selection, performance review and termination of local government Chief Executive Officers.

These reforms are intended to ensure best practice and greater consistency in these processes between local governments.

Amanda Dexter resigned from the position of Chief Executive Officer in July 2024.

At the Ordinary Meeting of Council held on 29 August 2024, Council resolved by Absolute Majority the below:

RESOLUTION 109/24**Moved: Cr Andrew Twaddle****Seconded: Cr Geoff Haerewa****That Council by Absolute Majority:**

- 1. Endorse the process for the recruitment of a Chief Executive Officer (CEO) as per the minimum standards for recruitment and selection of a CEO as outlined in the attached Department of Local Government *Guidelines for Local Government CEO Recruitment and Selection*;**
- 2. Requires that the Acting CEO (in consultation with the President) call for nominations for the position of Independent Panel Member to the CEO Performance Review/CEO Appointment Committee, and that a report to Council follow, so that appointment can be made;**
- 3. Appoint LO-GO Appointments as the Specialist Recruitment Consultant to assist Council with the recruitment process; and**
- 4. Confirms the continued appointment of Deputy CEO Ms Tamara Clarkson as Temporary/Acting CEO for the period from Ms Dexter's departure on Friday 11 October 2024, until the Permanent CEO commences, on the same terms and conditions and the existing CEO contract.**

In Favour: Crs Peter McCumstie, Geoff Haerewa, Brett Angwin, Paul Bickerton, Geoff Davis, Wayne Foley, Kerrissa O'Meara and Andrew Twaddle

Against: Nil

CARRIED 8/0 BY ABSOLUTE MAJORITY

STATUTORY ENVIRONMENT

Local Government Act 1995

5.36. Local government employees

- 1) A local government is to employ;
 - a) a person to be the CEO of the local government; and
- 2) A person is not to be employed in the position of CEO unless the council;
 - b) believes that the person is suitably qualified for the position; and
 - c) is satisfied* with the provisions of the proposed employment contract.

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.
- 2) A contract under this section;
 - 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 Occupational Safety and Health Act 1984; and
- f) such other principles, not inconsistent with this Division, as may be prescribed.

Local Government (Administration) Regulations 1996 (regulations 18A, 18B, 18C, 18E, 18F and 19A) outlines the process to be applied and key requirements in appointing a Chief Executive Officer.

Salaries and Allowances Act 1975 Section 7A of the Act outlines that the Salaries and Allowances Tribunal determines the amount of remuneration provided to local government chief executive officers.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Remuneration and benefits included in the Contract of Employment are included in the Annual Budget.

STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.2 Provide strong governance

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Organisation's Operations: Disruption to Council service delivery if CEO is not appointed.	Unlikely	Moderate	Low	Council accept recommendation of the CEO Recruitment Pane

CONSULTATION

LO-GO Appointments

COMMENT

The CEO Appointment Committee members signed a confidentiality agreement to ensure they are aware of their responsibilities and obligations.

The position was advertised on 10 January 2025, in the West Australian newspaper on Saturday 11 January 2025, on SEEK and on the Shire's website. Applications closed on Tuesday 28 January 2025 a total of 23 applications were received by the closing date.

The CEO Appointment Committee assessed the knowledge, experience, qualifications, and skills of all applicants against the selection criteria. Following the recruitment and selection process the CEO Appointment Committee identified Applicant A as the preferred applicant.

Due diligence was conducted by the Recruitment Consultant which included referee check reports, the preferred applicants work history, qualifications and claims made in their application for the advertised position.

The contract of employment has been prepared in accordance with the model contract of employment for CEO's with assistance provided by the Consultant.

VOTING REQUIREMENT

Absolute majority

ATTACHMENTS

1. **Selection Report - CEO Recruitment Report - Confidential**
2. **Contract of Employment - Confidential**

RECOMMENDATION

That Council, by Absolute Majority,

- 1. Receives the CEO Appointment Committee's assessment summary and recommendation as to which applicant is suitable to be employed as the Chief Executive Officer (CEO) for the Shire of Derby/West Kimberley.**
- 2. Agrees that the preferred candidate is suitably qualified for the position in accordance with section 5.36(2)(a) of the Local Government Act 1995, and notes that the person's character, work history, competencies, performance and any other claims made by the applicant have been verified.**
- 3. Approves the attached Contract of Employment – Chief Executive Officer and provisions contained therein being satisfied with the proposed provisions relating to the preferred candidate's employment in accordance with section 5.36(2)(b) of the Local Government Act 1995.**
- 4. Authorises the Deputy President to execute the CEO employment contract. Subject to the preferred candidate's acceptance of the provisions contained within the attached Contract of Employment based on a to be determined term of employment with a six-month initial probation period, noting that the total remuneration package is commensurate with the Salaries and Allowances Tribunal's *Local Government Chief Executive Officers and Elected Members Determination No 1 of 2024* (SAT Determination) for a Band 2 local government.**
- 5. With respect to the appointment of the Chief Executive Officer, maintains confidentiality as to the identity of the individual, until the successful candidate has formally executed the contract, and the appointment has been announced by the Shire of Derby/West Kimberley.**
- 6. Notes that if the preferred candidate is not satisfied with the Contract of Employment offered, that negotiations ensue, a revised Contract of Employment is presented to the Council.**
- 7. Subject to the preferred candidate accepting the attached Contract of Employment and it being fully executed, certifies that the Council has complied with the requirements of the Shire of Derby / West Kimberley's adopted CEO Recruitment, Performance and Termination Standards and, 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 s.5.39B(7) of the *Local Government Act 1995 and Regulation 18FB of the Local Government (Administration) Regulations 1996*).**

9 NEW BUSINESS OF AN URGENT NATURE

10 CLOSURE

10.1 Date of Next Meeting

The next ordinary meeting of Council will be held Thursday, 27 February 2025 in the Council Chambers, Clarendon Street, Derby.

10.2 Closure of Meeting