



SPECIAL COUNCIL MEETING

AGENDA

**NOTICE IS HEREBY GIVEN that a
Special Meeting of Council will be held
in the Council Chambers, Welcome Road, Karratha,
on Thursday 26 April 2012 at 6.30pm.**

Simon Kot
ACTING CHIEF EXECUTIVE OFFICER



No responsibility whatsoever is implied or accepted by the Shire of Roebourne for any act, omission or statement or intimation occurring during Council or Committee Meetings. The Shire of Roebourne 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.

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

The Shire of Roebourne warns that anyone who has any application lodged with the Shire of Roebourne 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 of Roebourne in respect of the application.

Signed: _____
Simon Kot Acting Chief Executive Officer

DECLARATION OF INTERESTS (NOTES FOR YOUR GUIDANCE) (updated 13 March 2000)

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Acting Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (c) Preside at the part of the Meeting, relating to the matter or;
- (d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest** in a matter. I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Acting Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

INTERESTS AFFECTING IMPARTIALITY

DEFINITION: *An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.*

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- (a) in a written notice given to the Acting Chief Executive Officer before the Meeting; or
- (b) at the Meeting, immediately before the matter is discussed.

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

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AGENDA

1 OFFICIAL OPENING

Cr White-Hartig acknowledges the traditions of the Ngarluma people, on whose land we are gathered here today.

2 PUBLIC QUESTION TIME

3 RECORD OF ATTENDANCES / APOLOGIES / LEAVE OF ABSENCE

Councillors:

- Cr Fiona White-Hartig [President]
- Cr Peter Long [Deputy President]
- Cr Nicole Lockwood
- Cr John Lally
- Cr Sharon Vertigan
- Cr Garry Bailey
- Cr Joanne Pritchard
- Cr Janine Miller
- Cr Margaret Bertling
- Cr Michael Saylor

Staff:

Simon Kot	Acting Chief Executive Officer
Ray McDermott	Director Community and Corporate Services
Craig Watts	Acting Director Development, Regulatory & Infrastructure Services

Apologies:

Cr Evette Smeathers	
David Pentz	Director Development, Regulatory & Infrastructure Services
Andrew Ward	Director Community & Corporate Services
Ron Van Welie	Executive Manager Roads
Mitchell Cameron	Executive Manager Strategic Business

Absent:

Leave of Absence:

Members of Public:

Members of Media:

4 DECLARATIONS OF INTEREST

5 PETITIONS/DEPUTATIONS/PRESENTATIONS

6 COUNCILLOR'S REPORTS

6.1 CHIEF EXECUTIVE OFFICER (CEO) RECRUITMENT

File No:	PD. PCR.02
Responsible Executive Officer:	Shire President
Report Author:	Manager Human Resources
Date of Report:	11 April 2012
Applicant/Proponent:	Executive Services
Disclosure of Interest:	Nil
Confidential Attachment(s)	1: Chief Executive Officer Position Description
	2: Key Performance Indicators
	3: Proposed Timeline
	4: CEO Advertisement and Covering Letter

PURPOSE

For Council to consider, and approve the following key selection documents, the Chief Executive Office (CEO), Position Description, Key Performance Indicators, Salary package and the CEO Recruitment advertisement pursuant with the Local Government Act 1995, CEO recruitment.

BACKGROUND

A Special Council meeting on 26 March 2012 approved the management of the CEO recruitment process by recruitment agency Lester Blades.

Part of the approved recruitment process was the approval of an updated CEO Position Description, Key Performance Indicators, salary package and CEO Recruitment advertisement.

Following the Special Council meeting, Lester Blades was provided with the necessary data by the Manager Human Resources to commence the preparatory work against the approved scope of work.

This Council agenda item is to seek approval for the following key selection documents:

1. Updated CEO Position Description,
2. Key Performance Indicators,
3. Salary package (for advertisement and offer)
4. The advertisement for the CEO to be placed in the following locations:
 - (a) The West Australian newspaper;
 - (b) The Australian newspaper; and
 - (c) SEEK, website

LEVEL OF SIGNIFICANCE

In the context of Council Policy CE8 - *Significant Decision Making Policy* the decision regarding the methodology utilised for the selection and placement of the new CEO is

significant in terms of securing an appropriately qualified and experienced leader for the organisation. In this context there is potential for significant financial implications as the CEO's effectiveness will be the cornerstone in relation to the social, economic, environmental, cultural, community and general well being of the Shire's operations.

Non-compliance with *Local Government Act 1995* has implications for the Shire both in an economic and reputational perspective.

COUNCILLOR/OFFICER CONSULTATION

The selection panel comprising of three Councillors and the Shire President have been consulted and reviewed the selection documentation. Additionally the draft documentation was distributed to all Councillors by the Shire President.

COMMUNITY CONSULTATION

Notice of the advertisement seeking the appointment of a Chief Executive Officer for the Shire of Roebourne will commence following the approval by Council of the requested documents identified.

STATUTORY IMPLICATIONS

The *Local Government Act 1995* has specific clauses in dealing with the appointment process for a chief executive officer.

Section 5.36 of the Act requires a local government to employ a “suitably qualified” person to fill the position of CEO.

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) ... [omitted as not relevant]
- (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.

The advertisement and appointment is regulated by the Local Government (Administration) Regulations 1996, regulations 18A - 18G.

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 is to advertise the position in a newspaper circulating generally throughout the State 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) An advertisement referred to in sub regulation (1) is to 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
 - (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.

Section 5.39 of the Act contains provisions for the contracts of CEOs.

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) ... *[omitted as not relevant]*
- (2) A contract under this section —
 - (a) ... *[omitted as not relevant]*
 - (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;
 - (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 report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

The Salaries and Allowances Act 1975 has also made the following determination in terms of a base remuneration package for chief executive officers that are reviewed annually:

7A. Recommendations as to remuneration of local government CEOs

- (1) The Tribunal shall, from time to time, inquire into and make a report containing recommendations as to the remuneration to be paid or provided to chief executive officers of local governments.

The Salaries and Allowances Tribunal provides a banding to enable local government's to assess appropriate remuneration levels for their chief executive officer. The Tribunal makes these assessments based on a number of factors including population, expenditure of local government, number of staff employed, labour market and economy, infrastructure development and other regional issues. Currently the Shire of Roebourne is classified within Band 7 and has a total reward package range of \$203,648 - \$275,524. This banding took effect as from 1 July 2011. A new rate will be effective as from 1 July 2012. This document is available from <http://www.sat.wa.gov.au>.

Section 5.40 of the Act requires that all employees are to be selected in accordance with the principles of merit and equity.

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;
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage;
- (c) employees are to be treated fairly and consistently;
- (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;
- (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.

POLICY IMPLICATIONS

In addition to compliance with legislation there is a requirement to comply with the Human Resources Recruitment Policy:

Section 3.0 PRINCIPLES

- 3.1 Central to our goal to be an ‘Employer of Choice’ is our commitment to ensure that every step in the recruitment and selection process is designed to recruit the best people based on merit and skills. The way recruitment and selection processes are conducted reflects the perception applicants have of the Shire;
- 3.2 The Shire shall appointment Employees who will support our values and goals to generate a sustainable competitive advantage;
- 3.6 The following principles contained in the Local Government Act 1995 apply to the Recruitment of employees at the Shire of Roebourne.
 - Employees are to be selected and promoted in accordance with the principles of merit and equity;
 - No power with regard to matters affecting Employees is to be exercised on the basis of nepotism or patronage;
 - All Employees are to be treated fairly and consistently;
 - There is to be no unlawful discrimination against Employees or persons seeking Employment on a ground referred to in the Equal Opportunity Act 1984 or on Any other ground;
 - Absolute majority by Local Government for the employment of the Chief Executive Officer;
 - Vacant positions of Chief Executive Officer or Council designated Senior employees, are to be advertised in accordance with *Local Government Act* (1995);
 - The regulation requires the Local Government Act to advertise Chief Executive Officer and designated senior employee vacancies by placing an advertisement in a newspaper circulating generally throughout the State

FINANCIAL IMPLICATIONS

The cost of advertising for the new position and engagement of a recruitment firm to recruit a prospective Chief Executive Officer is estimated at \$40,000.

STRATEGIC IMPLICATIONS

The strategic implications flow across both the achievement of Organisational Goals and Organisational Initiatives as the CEO is accountable for the operational performance against these requirements.

Key Goal 1

Communities “We will further develop and maintain the infrastructure and facilities to create aesthetically attractive and liveable towns which will develop into more diverse and balanced communities.”

Key Goal 2:

Delivering Services “We will provide efficient and effective Local Government service delivery that meets our communities’ expectations”

Key Goal 3:

Local Economy “Managing and maximising the benefits of growth in the region while diversifying our economic base.”

RISK MANAGEMENT CONSIDERATIONS

There key risk management considerations applicable are:

Non compliance with the *Local Government Act 1995* would lead to reputational and operational implications and may nullify the appointment of the selected CEO.

Failure to comply with section 5.39(7) of the Act regarding CEO remuneration could lead to the need to re-advertise and completion of the recruitment process again.

Failure to comply with *Local Government (Administration) Regulation 18A (1)* would require the Shire to re-advertise the CEO position and cause extended delays and flow on impacts for the Shire operations.

ISSUES**Economic Issue**

There are no economic issues related to this matter.

Social Issues

There are no social issues related to this matter.

Environmental Issues

There are no environmental issues related to this matter.

Cultural & Heritage Issues

There are no Cultural & Heritage issues related to this matter.

IMPACT ON CAPACITY

There is potential for impacts on capacity to meet present and/or future growth and activity or service of Council if there are significant delays in selection and commencement of a new CEO or the selection of an unsuitable CEO candidate. Current impacts are amongst Directors of the Shire picking up the work load from amongst each other whilst one Director performs the Acting CEO function.

RELEVANT PRECEDENTS

The last CEO appointment was completed by outsourcing the recruitment process and this is best practice as per the Local Government Guidelines No. 10. Section 3.6-7.

DELEGATED AUTHORITY

There are no delegated authorities relevant to this matter

VOTING REQUIREMENTS

Simple Majority

OPTIONS:Option 1

As per the Officer's Recommendation.

Option 2

That Council by SIMPLE Majority pursuant to Section 5.36 of the *Local Government Act, 1995* RESOLVES to:

- (1) APPROVE, with amendment of the Position Description for the Chief Executive Officer;
- (2) APPROVE, with amendment of the Key Performance Criteria for the Chief Executive Officer;
- (3) APPROVE, with amendment to the Salary package to be offered to the Chief Executive Officer; and
- (4) ADVERTISE the vacancy of the Chief Executive Officer position for a period of Two weeks in accordance with the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996* in various newspapers and electronic mediums.

CONCLUSION

It is recommended that Council endorses the Position Description, Key Performance Criteria, Salary package and Advertisement and nominated newspapers and mediums.

This will expedite the recruitment process and ensure that the best possible candidate is selected who possesses the required capability, experience and qualifications. This approach will also ensure that all legislative and policy requirements are managed efficiently and effectively.

OFFICER'S RECOMMENDATION

That Council by SIMPLE Majority pursuant to Section 5.36 of the *Local Government Act, 1995* RESOLVES to:

- (1) APPROVE the Position Description for the Chief Executive Officer;
- (2) APPROVE the Key Performance Criteria for the Chief Executive Officer;
- (3) APPROVE the Salary package to be offered to the Chief Executive Officer; and
- (4) ADVERTISE the vacancy of the Chief Executive Officer position for a period of two weeks in accordance with the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996* in various newspapers and electronic mediums.

7 ACTING CHIEF EXECUTIVE OFFICER & EXECUTIVE SERVICES

7.1 PILBARA REGIONAL COUNCIL AFFORDABLE HOUSING STRATEGY

File No:	GR.86
Responsible Executive Officer:	Acting Chief Executive Officer
Report Author:	Advisor to Chief Executive Officer
Date of Report:	26 April 2012
Applicant/Proponent:	Pilbara Regional Council
Disclosure of Interest:	Nil
Confidential Attachment(s)	1: Affordable Housing for Essential Workers in the Shire of Roebourne

REPORT

Confidential report and attachments to be provided at Special Council Meeting.

8 CLOSURE & DATE OF NEXT MEETING

21 May 2012 at Peninsula Palms Dampier.