



SHIRE OF EAST PILBARA

LATE ITEM

ORDINARY COUNCIL MEETING

NOTICE IS HEREBY GIVEN

that an ORDINARY Meeting of the Council will be held in Newman Council Chambers 10.30am, Friday 26 April 2024

Steven Harding
CHIEF EXECUTIVE OFFICER

OUR VISION

A cohesive community providing an economic hub for the region linked by vibrant local centres and shared spaces – a place to live and call home

Our towns have survived fluctuations of fortune for more than a century. Resourcefulness and resilience, along with planning, will hold them in good stead throughout the 21st century. The energy of our people will ensure that the heart of the Pilbara will beat on, and will beat strong.

The Shire of East Pilbara is not just about resources - it's also about resourcefulness.

From our Indigenous people to early pastoralists and miners, and through to the present day, people have shown their capacity to not only survive but thrive in the heart of the Pilbara.

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of East Pilbara for any act, omission or statement or intimation occurring during Council or Committee Meetings. The Shire of East Pilbara 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 any planning application or application of a licence, any statement or intimation of approval made by any member or Officer of the Shire of East Pilbara during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of East Pilbara.

*The Shire of East Pilbara advises that anyone who has any application lodged with the Shire must obtain and should only rely upon: **WRITTEN CONFIRMATION** of the outcome of the application and any conditions pertaining to the decision made by the Shire of East Pilbara in respect of the application.*

Please be advised this Agenda may include the names of people who are deceased.

Steven Harding
CHIEF EXECUTIVE OFFICER

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16 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY A DECISION OF COUNCIL

16.1 CHIEF EXECUTIVE OFFICER

16.1.1 POLICY REVIEW - APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER

Attachments:	Appendix 1 Appointment of Acting Chief Executive Officer Policy Review (Tracked changes) Appendix 2 Appointment of Acting Chief Executive Officer Policy (No tracked changes)
Responsible Officer:	Steven Harding Chief Executive Officer
Author:	Joshua Brown Manager Governance, Risk and Procurement
Proposed Meeting Date:	26 April 2024
Author Disclosure of Interest:	Nil

REPORT PURPOSE

The purpose of this report is for Council to consider a review of the Shire's Appointment of Acting Chief Executive Officer Policy.

BACKGROUND

Council may from time to time adopt policies to establish agreed positions and to provide a framework for consistent decision making. Section 2.7(2)(b) of the *Local Government Act 1995* ("the Act") provides that a key role for a Council is to determine the local government's policies.

Policies should be subject to timely reviews to ensure they are relevant and fit for purpose.

COMMENTS/OPTIONS/DISCUSSIONS

A review has been undertaken of the Appointment of Acting Chief Executive Officer Policy.

The review recommends minor amendments correcting changes in the titles of the Directors. A copy of the reviewed policy with tracked changes is attached at **Appendix 1** and without tracked changes at **Appendix 2** to the report.

STATUTORY IMPLICATIONS/REQUIREMENTS

Consistent with section 5.39C of the *Local Government Act 1995* which provides that a local government must prepare and adopt a policy that sets out the process to be following by the local government in relation to the appointment of an employee to act

in the position of CEO for a term not exceeding one (1) year, subject to an absolute majority of Council.

POLICY IMPLICATIONS

Recommended action will amend the current policy position of Council.

STRATEGIC COMMUNITY PLAN

5: Governance

- 5 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.
- 5.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans.
- 5.4 Ensure a high standard of organisational management and effectiveness.

RISK MANAGEMENT CONSIDERATIONS

Low – Reputational and Financial

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

VOTING REQUIREMENTS

Absolute Majority.

OFFICER'S RECOMMENDATION

That Council accepts the review of and adopts the revised Acting Chief Executive Officer Policy (attached as Appendix 2).

ABSOLUTE MAJORITY REQUIRED

1.26 Appointment of Acting Chief Executive Officer

Objective

The purpose of this policy is to provide clear guidance on the provisions that apply to the appointment of a person as Acting Chief Executive Officer (A/CEO) and to allow for the approval by the Shire President of applications by the Chief Executive Officer (CEO) for extended sick leave, long service leave, annual leave or other extended absences.

Background

In accordance with s5.39C of the *Local Government Act 1995* ("the Act"), the Shire must prepare and adopt a policy that sets out the process to be followed in relation to:

- a. the employment of a person in the position of CEO for a term not exceeding 1 year; and
- b. the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

Policy

CEO Leave Entitlements

1. The CEO is contractually entitled to certain leave conditions as outlined in their employment contract and the relevant industrial relations legislation.
2. Approval of the CEO to take leave entitlements is at the discretion of the Shire President, or where the Shire President is on an approved leave of absence, the Deputy President. The President/Deputy President cannot unreasonably withhold approval.
3. When the CEO is on leave, an Acting Chief Executive Officer is to take up their duties in accordance with this Policy.

Appointment of an Acting CEO – Expected leave periods up to 35 days

4. Acting arrangements for the position of CEO for leave periods up to 35 days is at the discretion of the CEO, in accordance with the Delegations and Authorisations Register.
5. The following officers can be appointed to the position of Acting CEO in accordance with the Delegations and Authorisations Register:
 - ~~a. Deputy Chief Executive Officer / Director Organisation Development~~
 - ~~b.a.~~ Director Corporate Services
 - ~~c.b.~~ Director ~~Aviation and~~ Regulatory Services
 - ~~d.c.~~ Director Community ~~Services~~ Experience
 - ~~e.d.~~ Director Infrastructure Services
6. It is intended that Directors will carry out the role of Acting CEO during periods of absence of the CEO due to annual or extended sick leave, as nominated by the CEO.
7. It is intended that a Director will only be appointed as Acting CEO under the terms of this Policy if:

- a. In the opinion of the CEO the employee is satisfactorily performing his/her duties;
- b. In the opinion of the CEO and the employee, the employee has capacity to perform the duties of Acting CEO along with his/her current duties; and
- c. This Policy does not apply to an employee who is temporarily acting in the role of a Director.

Appointment of an Acting CEO – leave periods in excess of 35 days

8. Should the CEO be absent for more than 35 days, the authority to appoint an Acting CEO shall be determined by Council.

Appointment of an Acting CEO – unexpected leave or vacancy

9. In the event that the CEO:

- a. takes unexpected leave;
- b. is incapacitated;
- c. is unable to perform their duties as a result of a disaster or crisis event;
- d. the position falls unexpectedly vacant; or
- e. is suspended or terminated,

the following shall occur:

- f. if the Council has not appointed an Acting CEO, the Shire President shall appoint an interim Acting CEO, from the list specified in clause 5 having regard to the officer's experience and capacity, until the Council can appoint an ongoing Acting CEO in accordance with clause 10.
10. Where it is likely that a person will act as CEO under clause 9(f) for a period of more than ten (10 working days), a Special Council Meeting shall be convened as soon as possible, so that an ongoing acting appointment can be made.

Salary and conditions of Acting CEO

11. Unless Council otherwise resolves, and the Acting CEO agrees, a person acting as CEO shall be remunerated pro rata at the following rates:
 - a. Up to 1 week – negotiated according to tasks and skill level required and only payable where substantive functions are required.
 - b. 1-2 weeks – 50% differential
 - c. 3-4 weeks – 70% differential
 - d. Over 4 weeks – 100% differential
12. Note – the differential being the difference between the officer's base hourly rate and the higher positions current base hourly rate. All standard allowances received by relevant employees does not change only the base hourly rate changes.

Publication

In accordance with s5.39C(4) of the Act, the Shire must publish an up-to-date version of this policy on the local government’s official website.

Authorisation Details

References:	s5.39C Local Government Act 1995		
Authorised by:	Council		
Date:	28 May 2021	Item No.	10.1.7
Review/Amendment Date	24 June 2022	Item No.	12.2.5
	<u>26 April 2024</u>	<u>Item No.</u>	
Next Review	Annually		
Responsible Directorate	Chief Executive Officer		
Responsible Officer	Manager Governance, Risk and Procurement		
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 - b. Director Regulatory Services
 - c. Director Community Experience
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