



Special Council Meeting

31 January 2024

Commencing at 4:30 PM

Agenda

Notice of Meeting.

To: The President and Councillors.

A Special Council Meeting of the Shire of Toodyay will be held at the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566 on the above-mentioned date and time.

The Special Meeting of Council is for the purpose of:

1. CEO Recruitment and Selection; and
2. Code of Conduct Complaint 01/2023; and
3. Code of Conduct Complaint 02/2023



Suzie Haslehurst
CHIEF EXECUTIVE OFFICER



Our Vision, Purpose and Values

The Shire of Toodyay's Plan for the Future (Council Plan 2023-2033) is the Community's Strategic Plan outlining the direction that the Shire is undertaking to meet the needs and aspirations of its community.

Our Vision

A caring and visionary rural community, working together to preserve and enrich Toodyay's environment, character and lifestyle.

Our Purpose

The Shire of Toodyay exists to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Our Values

We conduct ourselves in line with values the local community cares deeply about:

- **Integrity** - we behave honestly to the highest ethical standard;
- **Accountability** – we are transparent in our actions and accountable to the community;
- **Inclusiveness** – we are responsive to the community and we encourage involvement by all people; and
- **Commitment** – we translate our plans into actions and demonstrate the persistence that will provide results.

Community Aspirations

There are five core performance areas in this plan: People, Planet, Place, Prosperity, and Performance. These areas are interrelated, and each must be satisfied to deliver excellent quality of life in the Shire of Toodyay.

For each area, there is an overarching aspirational statement and desired outcomes, summarised in the Council Plan which is available on the Shire's website at: <https://www.toodyay.wa.gov.au/documents/432/council-plan-plan-for-the-future-2023-2033>

Disclaimer

Any discussion regarding a planning matter or other application that any statement or intimation of approval made by any member or officer of the Shire of Toodyay during the course of any meeting is not intended to be and is not to be taken a notice of approval from Council. No action should be taken on any item discussed at a Council Meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (*Copyright Act 1998*, as amended) and the express permission of the copyright owner(s) should be sought prior to reproduction.

Availability of Meeting Agenda and its Attachments

Information about Council Meetings is located on the website

<http://www.toodyay.wa.gov.au/Council/Council-Meetings>

Agendas & Minutes are located under the heading "Council Meetings" at

<http://www.toodyay.wa.gov.au/Council/Council-Meetings/Agendas-Minutes-and-Notes>

Public copies are available by contacting the Shire on (08) 9574 9300.



CONTENTS

1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
2	RECORDS OF ATTENDANCE	1
2.1	APOLOGIES	1
2.2	APPROVED LEAVE OF ABSENCE	1
3	DISCLOSURE OF INTERESTS	1
4	PUBLIC QUESTIONS	1
4.1	PUBLIC QUESTION TIME	1
5	PUBLIC SUBMISSIONS	1
6	OFFICER REPORTS	2
6.1	EXECUTIVE SERVICES	2
6.1.1	CEO Recruitment and Selection	2
7	CONFIDENTIAL BUSINESS	13
8	CLOSURE OF MEETING	14

ATTACHMENTS are included within this agenda.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member is to run through the Preliminaries, and to declare the Ordinary Meeting of Council open.

Acknowledgement of Country: "*I acknowledge the Ballardong Noongar people, the traditional custodians of the land where we meet today and the Yued and Whadjuk people, who are traditional custodians of respective lands within the wider Shire of Toodyay. I pay my respect to their Elders, past, present and emerging.*"

2 RECORDS OF ATTENDANCE**2.1 APOLOGIES****2.2 APPROVED LEAVE OF ABSENCE**

Nil

3 DISCLOSURE OF INTERESTS**4 PUBLIC QUESTIONS****4.1 PUBLIC QUESTION TIME****5 PUBLIC SUBMISSIONS**

6 OFFICER REPORTS

6.1 EXECUTIVE SERVICES

6.1.1 CEO Recruitment and Selection

Date of Report:	25 January 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	STR87
Author:	S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	Item 9.3.1 OCM 22 November 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Proposed CEO Recruitment Process; ↓ 2. Terms of Reference CEO Recruitment and Selection Committee; ↓ 3. EOI - Independent Person; and ↓ 4. Submission Summary - HR Consultants - CEO Recruitment 2024. (confidential) <i>Section 5.23(2)</i> <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)</i>

PURPOSE OF THE REPORT

For Council to endorse the process for recruitment of a new CEO for the Shire of Toodyay, appoint a Recruitment Consultant to assist Council, and to establish a CEO Recruitment and Selection Committee.

BACKGROUND

At the Ordinary Council Meeting held on 22 November 2023, it was resolved that Council:

1. Notes:

- a) *the advice from the CEO withdrawing the request to renew her contract of employment upon expiry on 21 June 2024.*

- b) *the proposed timeline for the engagement of a recruitment consultant to assist Council with approval of the position description, selection criteria and process for the recruitment of a new CEO.*
2. *Requests the CEO to:*
 - a) *seek at least three quotations from suitably qualified recruitment consultants to assist Council to recruit a new CEO in accordance with Schedule 2 of the Local Government (Administration) Regulations 1995.*
 - b) *present a report to Council at the December Ordinary Council Meeting for Council to select a recruitment consultant and approve the methodology for recruitment of a new CEO.*

A report included in the agenda for the December Ordinary Council Meeting was withdrawn to allow a Council workshop to be conducted to discuss the various elements of the recruitment process in accordance with guidance provided by the WA Local Government Association (WALGA) and the Department of Local Government Sport and Cultural Industries (DLGSC).

A workshop was held on 24 January 2023. Council is now requested to consider the Officer recommendations guided by discussion at the workshop.

COMMENTS AND DETAILS

Recruitment Process

An outline of the proposed process is provided at **Attachment 1** to this report. Dates are indicative with some dates to be confirmed following the engagement of an independent, professional human resources consultant (Consultant).

The process is based on the WALGA CEO Recruitment Guide. However, while the guide refers to the engagement of an independent facilitator, it is acknowledged that this is usually only necessary for recruitment processes undertaken by larger local governments with large numbers of councillors with often disparate views. Therefore, to reduce costs, it is proposed that the process is managed with the assistance of the current CEO and an independent, professional human resources consultant.

Council is requested to endorse the proposed process and indicative timeline for the recruitment of a new CEO for the Shire of Toodyay.

Selection of Recruitment Consultant

Quotations were sought from recruitment consultants with previous relevant experience to undertake a process that will include, as a minimum:

- development or review of the job description for the CEO;
- development of selection criteria;
- development of assessment methods in relation to the selection criteria;
- drafting of the advertisement;
- executive search;
- preliminary assessment of the applications;
- shortlisting;
- drafting questions for interview;
- coordinating interviews;

- preparing the selection summary assessment and recommendation;
- arranging for an integrity check and/or police clearance; and
- assisting the Council in preparing the employment contract.

The request for quotation (RFQ) included reference to the following:

- Part 5, Division 4 of the *Local Government Act 1995*.
- Regulations 18A – 18FB of the *Local Government (Administration) Regulations 1996*.
- Part 1 of Shire of Toodyay's Council Policy: [Standards for Recruitment, Selection, Performance and Termination of CEO](#).
- Department of Local Government Sport & Cultural Industries (DLGSC) [Guidelines](#)

RFQs were sent to five consultants. One declined to submit a quotation. The four quotations received are attached at **Confidential Attachment 4** to this report.

Council is requested to select a recruitment consultant to assist Council with the recruitment and selection of a new CEO.

CEO Recruitment and Selection Committee

Establishment

Under the *Model Standards for CEO recruitment, performance and termination*, a selection panel must be established to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.

Although not required to do so, officers are proposing that the panel is established as a Committee of Council under section 5.8 of the *Local Government Act 1995* (Act). This ensures that the panel will function in an impartial and transparent manner, bound by the requirements of relevant legislation, Council policies and the *Shire of Toodyay Standing Orders Local Law 2008*.

It is proposed that all Elected Members are appointed to the CEO Recruitment and Selection Committee (Committee).

Draft Terms of Reference for the Committee are provided at **Attachment 2** for Council's consideration.

Independent Person

The role of the independent person is to bring an impartial perspective to the recruitment and selection process and reduce any perception of bias or nepotism. To attract an appropriate person to be appointed to the Committee, it is proposed that an expression of interest process is conducted. A draft Expression of Interest advertisement is attached at **Attachment 3** for Council's consideration and endorsement.

Section 5.100 of the Act providing for fees to be paid and expenses to be reimbursed for committee members was enacted on 1 January 2024. The Salaries and Allowances Tribunal has determined that the maximum fee for independent committee members for a Band 3 local government is \$215 per meeting.

Although Council has not yet considered amending its policy for payments to elected members to reflect the new legislation, it is proposed that Council sets the fee payable to independent committee members to be consistent with this policy. This would result in the fee for an independent committee member to be set at 85% of the maximum allowed. It is proposed that the fee is rounded to \$185 per meeting.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Local Government, Sport & Cultural Industries [Guidelines](#)

WA Local Government Association

A Council workshop was held on 24 January 2024 to discuss matters relating to the CEO recruitment and selection process. The workshop was attended by six elected members.

Strategic:

Shire of Toodyay Plan for the future - Council Plan 2023-2033

Outcome 9: Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

[Standards for Recruitment, Selection, Performance and Termination of CEO](#)

[Local Government Payments and Gifts to Members](#)

Financial:

There are financial implications that will need to be considered as part of the Mid-Year Budget Review.

Council will need to consider the cost of engaging a recruitment consultant, advertising costs and the fees required to be paid to an independent person to participate in the selection committee. It is anticipated that the cost of the recruitment process will be in the vicinity of \$20-22,000 excluding GST.

Council will also need to consider the remuneration package to be offered to the new CEO in accordance with the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* (section 7A) which is required to be advertised as part of the recruitment process.

Legal and Statutory:

Local Government Act 1995

s.5.8. Establishment of committees

s.5.36. Local government employees

s.5.39. Contracts for CEO and senior employees

s.5.40. Principles affecting employment by local governments

5.100. Fees paid and expenses reimbursed to committee members

Local Government (Administration) Regulations 1996

Reg. 18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))

Reg. 18FA. *Model standards for CEO Recruitment, performance and termination* (Act s.5.39A(1))

Schedule 2 — Model standards for CEO recruitment, performance and termination

Risk related:

The process to appoint a CEO is heavily regulated. Should Council choose not to engage an independent consultant to undertake an executive search, there is both a reputational and compliance risk to the Shire. These are both rated high.

Workforce related:

It is proposed that the Shire President is the principal liaison between the recruitment consultant and Council during the recruitment process. The CEO will provide assistance as required. It is envisaged that the Executive Assistant will provide administrative support.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives and endorses the proposed process for the recruitment and selection of a new CEO for the Shire of Toodyay as per **Attachment 1** to this report, noting the indicative dates.

OFFICER'S RECOMMENDATION 2

That Council:

1. Selects _____ to assist Council with the recruitment and selection process for a new CEO for the Shire of Toodyay in accordance with the quotation provided at **Confidential Attachment 4** to this report.

OFFICER'S RECOMMENDATION 3

That Council establishes, **by absolute majority**, a CEO Recruitment and Selection Committee of Council and adopts the Terms of Reference for the Committee as per **Attachment 2** to this report.

OFFICER'S RECOMMENDATION 4

That Council endorses the Expression of Interest notice as per **Attachment 3** to this report and requests the CEO to:

1. Seek expressions of interest for an independent person to be appointed to the CEO Recruitment and Selection Committee.
2. Bring a report to Council as soon as practicable to enable Council to appoint the independent person to the CEO Recruitment and Selection Committee.



Proposed Schedule

CEO Recruitment and Selection

Date	Details	
Wed 24/01/2024	Workshop 1:	<ul style="list-style-type: none"> Selection of recruitment consultant and (if required) independent facilitator Criteria and process for selection of independent person Establishment of selection panel / committee Terms of reference for panel / committee
Wed 31/01/2024	Special Council Meeting	<ul style="list-style-type: none"> Endorse the CEO recruitment process Establish CEO Recruitment and Selection Committee Endorse terms of reference Select human resources consultant Endorse the process for appointment of an independent person
Thur 01/02/2024	Consultant engaged	<ul style="list-style-type: none"> Purchase order issued SP and Consultant liaison re schedule of dates
	Public notice seeking EOIs from potential independent panel members	<ul style="list-style-type: none"> Linked-in Facebook Email networks
TBD	Materials made available on the Sharepoint Council Hub	<ul style="list-style-type: none"> EOIs received from independent persons Previous CEO Job Description Form WALGA Contract template
TBD	Workshop 2:	<ul style="list-style-type: none"> Consider EOIs received from independent persons Finalisation of CEO Position Description Agree required skills, knowledge, qualifications, experience Agree CEO contract conditions Discuss advertising / recruitment strategy, interview, testing and selection
TBD	Council Meeting	<ul style="list-style-type: none"> Approve Position Description, Remuneration Package, selection criteria Appoint independent person Approve the information package, advertising / recruitment strategy, interview, testing and selection strategy
Advertising Period		
TBD	Committee Meeting 1	<ul style="list-style-type: none"> Assess applicants and approve shortlist for interviews Review interview questions

Interviews		
TBD	Committee Meeting 2	<ul style="list-style-type: none">• Review interviews• Due diligence• Provide a summary assessment for recommendation to Council
TBD	Council Meeting	<ul style="list-style-type: none">• Approve recommended CEO• Make an offer of employment• Authorise Shire President to enter contract negotiations and to seek industrial relations advice
TBD	Council Meeting	<ul style="list-style-type: none">• Approve final contract and starting date• Authorise Shire President to execute
Announcement of Appointment of new CEO		
TBD	Council Meeting	<ul style="list-style-type: none">• Certify that new CEO was employed in accordance with the Shire's <i>Standards for CEO recruitment, selection, performance, and termination.</i>



Terms of Reference

CEO Recruitment and Selection Committee

Introduction

The appointment of a new CEO is one of the most significant decisions a Council will make. It is essential that the Council has confidence in the assessment process, and in the merits of the preferred candidate. Local governments are required to form a selection panel or committee to conduct the recruitment and selection process for a new CEO.

Authority

The Shire of Toodyay CEO Recruitment and Selection Committee (Committee) is a formally appointed Committee of Council in accordance with Part 5, Division 2, Subdivisions 2 & 3 of the *Local Government Act 1995*.

The Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility.

The Committee does not have any delegated authority. All Committee recommendations must be adopted by Council before implementation.

Purpose

To work with an independent recruitment consultant to conduct the recruitment and selection process for a CEO in accordance with the principles of merit, probity, equity, and transparency consistent with Council's adopted *Standards for CEO Recruitment, Performance and Termination Policy*.

Functions

The following specific duties and responsibilities have been given to the Committee to achieve its purpose:

- Establish appropriate selection criteria, important qualities, knowledge, and skills the CEO will need to possess, in order to attract the most suitable candidate for the position of CEO.
- Establish clear terms and conditions for the CEOs employment contract.
- Consider an assessment done by the recruitment consultant of applicants' knowledge, experience, qualifications and skills against the selection criteria established by the Council.
- Determine a shortlist of applicants for interview.
- Interview selected applicants for the purpose of assessing their suitability for the position of CEO.
- Ensure any academic or other tertiary level qualifications an applicant/s claims to hold are verified.
- Satisfy itself that the applicant/s character, work history, skills and performance claims of an applicant/s are verified.

19/01/2024

Page 1

Terms of Reference – CEO Recruitment and Selection Committee

*** This Document is not controlled once it has been printed ***

- Provide a recommendation to Council on the preferred candidate for the position of CEO.

Membership

Membership of the Committee will comprise of a total of x (x) members consisting of;

- All elected members
- 1 x independent person

Appointment to the Committee shall be by a resolution of Council. Member appointments will conclude termination of the Committee.

Conduct

Members of the Committee shall be bound by the Shire of Toodyay's

- *Code of Conduct for Council Members, Committee Members and Candidates; and*
- *Standing Orders Local Law 2008.*

Conflicts of Interest

Members are required to declare any conflicts of interest prior to interviews commencing. If the conflict of interest is significant, the Independent Human Resources Consultant is to advise Council to determine if it is appropriate to exclude the Councillor from the interviews and recruitment process.

Any resolution regarding a member's participation resulting from a conflict of interest is to be documented and recorded for future reference.

Confidentiality

Members are required to treat any information relating to the CEO Recruitment Committee and process as strictly confidential and are required to sign a Confidentiality Agreement.

Presiding Member

The Committee is to determine the Presiding Member and Deputy Presiding Member at the first meeting of the Committee.

The role of the Presiding Member includes:

- a) Overseeing and facilitating the conduct at meetings; and
- b) Ensuring that all members have an opportunity to participate in discussions in an open and encouraging manner.

Meetings

The Committee shall hold formal Committee meetings as required in accordance with Shire of Toodyay's *Standing Orders Local Law 2008*.

A quorum will be 50% the membership (4).

The Committee members may also meet outside of formal Committee meetings to undertake functions which inform their decision making e.g. interviews, assessments, verification checks.

Voting

Each member of the Committee will have one vote. In the event of a tied vote, the presiding member will cast a second vote to achieve a majority decision.

Recommendations

Recommendations arising from the Committee's deliberations shall be presented to the earliest available Ordinary Meeting of Council or a Special Meeting of Council, should an earlier decision of Council be required.

Committee Termination

The Committee will automatically terminate on appointment of the new CEO.

DRAFT



Expressions of Interest

Independent Member CEO Recruitment and Selection Committee

Introduction

The Shire of Toodyay is seeking expressions of interest from suitably qualified and experienced people to be appointed to the CEO Recruitment and Selection Committee.

The purpose of the Committee is to work with an independent human resources consultant to conduct the recruitment and selection process for a CEO in accordance with the principles of merit, probity, equity, and transparency consistent with Council's adopted [Standards for CEO Recruitment, Performance and Termination Policy](#).

Council must appoint an independent person to the Committee to bring an impartial perspective to the process and reduce any perception of bias or nepotism.

Qualifications and experience

Council is seeking to appoint a person who can demonstrate;

- Previous experience in executive recruitment
- Knowledge of contemporary human resources and recruitment practices
- An understanding of the local government industry
- Impartiality and sound judgement.

This person cannot be a current sitting Council Member of any Local Government, or an employee of the Shire of Toodyay.

Commitment

The Committee operates in accordance with the Terms of Reference for the CEO Selection and Recruitment Committee. The independent person appointed to the Committee will be required to attend formal Committee meetings, informal workshops, and interviews with shortlisted applicants to select a preferred candidate for recommendation to Council.

The independent person will be bound by the Shire of Toodyay's [Code of Conduct for Council Members, Committee Members and Candidates](#).

Fees

The person appointed will be paid a fee of \$185 per Committee Meeting and will be reimbursed for out of pocket expenses.

Submitting your EOI

Persons interested in being considered for appointment should make a submission outlining their suitability to:

CEO Recruitment and Selection Committee

Via email: records@toodyay.wa.gov.au

Via Post: PO Box 96 Toodyay WA 6566

In Person: Shire Administration Office – 15 Fiennes Street, Toodyay WA 6566

EOIs should be received no later than 13 February 2024

7 CONFIDENTIAL BUSINESS**RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 5.23(2) of the Local Government Act 1995:

7.1 Code of Conduct Complaint 01/2023

This matter is considered to be confidential under Section 5.23(2) - (b) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with the personal affairs of any person

7.2 Code of Conduct Complaint 02/2023

This matter is considered to be confidential under Section 5.23(2) - (b) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with the personal affairs of any person

8 CLOSURE OF MEETING