



Legal Committee

AGENDA

to be held electronically on
Wednesday, 10 February 2021
at **11:00am**

The EMRC Council Chambers are closed to the public for this meeting.

This Meeting of the Legal Committee will be held to address a confidential matter for which the meeting will be closed to the public in accordance with s.5.23(2) of the *Local Government Act 1995*.

**EASTERN METROPOLITAN REGIONAL COUNCIL
LEGAL COMMITTEE MEETING**

NOTICE OF MEETING

Dear Legal Committee Members

I wish to advise that a meeting of the Legal Committee will be held electronically on **Wednesday 10 February 2021** commencing at **11:00am**.



MARCUS GEISLER
Chief Executive Officer

9 February 2021

Please note

If any member/officer has a **query regarding a report item** or requires additional information in relation to a report item, please **contact the responsible Director** (SOURCE OF REPORT) prior to the meeting.

Legal Committee Members

Cr Jai Wilson
Cr Lorna Clarke
Cr Dylan O'Connor
Cr Doug Jeans
Cr Mel Congerton

Town of Bassendean
City of Bayswater
City of Kalamunda
Shire of Mundaring
City of Swan

LEGAL COMMITTEE

AGENDA

10 February 2021

(REF: D2021/01849)

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1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

1.1 ACKNOWLEDGEMENT OF COUNTRY

Kaya Maaman, Kaya Yorga, Kaya Bridia
Ngalak kaartitj windji ngalak nynininy
Nagalak kaartitj nidja boodja baal Whadjuk Noongar Boodja ngalak nyininy
Koorah, Nitja yeyi, Boordahwan

Translation

Greetings everyone
We all understand where we are meeting.
We know that we meet on the lands of the Whadjuk Noongar people
Always was, always will be.

2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

3 DISCLOSURE OF INTERESTS

4 ANNOUNCEMENTS BY THE CHAIRMAN OR PRESIDING MEMBER WITHOUT DISCUSSION



5 ELECTION OF A CHAIRMAN AND DEPUTY CHAIRMAN OF THE LEGAL COMMITTEE (LC)

5.1 ELECTION OF A CHAIRMAN OF THE LEGAL COMMITTEE (LC)

REFERENCE: D2021/01851

PURPOSE OF REPORT

The purpose of this report is to provide for an election to be conducted for the Office of Chairman of the Legal Committee (LC).

KEY POINTS AND RECOMMENDATION(S)

- It is a statutory requirement that the Committee elect a Chairman at the first meeting of the Legal Committee.

Recommendation(s)

That the members of the Legal Committee elect a Chairman.

SOURCE OF REPORT

Chief Financial Officer

BACKGROUND

At the Special Meeting of Council held on Monday 8 February 2021, Council established the Legal Committee to undertake actions to address any such legal matters arising out of the Establishment Agreement and be disbanded at the next Local Government elections in October 2021 (Ref: D2021/01716).

Council by absolute majority in accordance with s5.16 of the *Local Government Act 1995* delegated to the Legal Committee the power to undertake actions in response to the legal matter as outlined within the Confidential Report presented to the meeting on 8 February 2021.

LC MEMBERS 2021

The following members were appointed to the LC at the Special Meeting of Council held on 8 February 2021:

Cr Jai Wilson	Town of Bassendean
Cr Lorna Clarke	City of Bayswater
Cr Dylan O'Connor	City of Kalamunda
Cr Doug Jeans	Shire of Mundaring
Cr Mel Congerton	City of Swan

In accordance with section 5.12(1) of the *Local Government Act 1995*, (the Act) the members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1.

It is a requirement of Schedule 2.3 of the Act that the election is conducted by the Chief Executive Officer (CEO) and the nominations for the Office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations. Furthermore, if a member is nominated by another member the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the Office. Members are to vote on the matter by secret ballot.

The procedure outlined in Schedule 2.3 of the Act will be followed if there is an equality of votes.



Item 5.1 continued

REPORT

The CEO will preside at the meeting until the Office of Chairman of the LC is filled.

The following material accompanies the agenda for this meeting as a means of assisting members of the Committee to nominate themselves or another member for the Office of Chairman of the LC:

1. A blank nomination form for the Office of Chairman of the LC, nominate oneself; and
2. A blank nomination form for the Office of Chairman of the LC, nominate another; and
3. A blank ballot paper for Election of Chairman of the LC.

Ballot papers will be made available prior to voting.

The completed nomination forms are to be given to the CEO before the meeting or when the CEO calls for them when dealing with this item at the meeting.

STRATEGIC/POLICY IMPLICATIONS

Key Result Area 3 – Good Governance

- 3.3 To provide responsible and accountable governance and management of the EMRC

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

MEMBER COUNCIL IMPLICATIONS

Member Council	Implication Details
Town of Bassendean	} Nil direct implications
City of Bayswater	
City of Belmont	
City of Kalamunda	
Shire of Mundaring	
City of Swan	

ATTACHMENT(S)

1. A blank nomination form for the Office of Chairman of the LC, nominate oneself (Ref: D2021/01858)
2. A blank nomination form for the Office of Chairman of the LC, nominate another (Ref: D2021/01858)
3. Ballot Paper – Election of LC Chairman (Ref D2021/01855)



Item 5.1 continued

VOTING REQUIREMENT

Secret Ballot

RECOMMENDATION(S)

That the members of the Legal Committee elect a Chairman.



Nomination for Chairman of the Legal Committee

To the Chief Executive Officer

I hereby nominate myself, _____ for the position of Chairman of the Eastern Metropolitan Regional Council Legal Committee for the term of Office commencing on the date of the election and continuing until the next ordinary elections day and/or other circumstances occur in accordance with section 5.11 of the *Local Government Act 1995*.

Signed: _____

Date: _____



Nomination for Chairman of the Legal Committee

To the Chief Executive Officer

I hereby nominate _____ for the position of Chairman of the Eastern Metropolitan Regional Council Legal Committee for the term of Office commencing on the date of the election and continuing until the next ordinary elections day and/or other circumstances occur in accordance with section 5.11 of the *Local Government Act 1995*.

Signed: _____ Date: _____

*I _____ hereby certify that I accept the above nomination to the position of Chairman of the Eastern Metropolitan Regional Council Legal Committee .

Signed: _____ Date: _____

*This certificate is to be completed when a Representative is nominated by another Representative.



Eastern Metropolitan Regional Council

Legal Committee

Wednesday 10 February 2021

**ELECTRONIC BALLOT PAPER FOR THE
ELECTION OF THE LEGAL COMMITTEE CHAIRMAN**

HOW TO VOTE ELECTRONICALLY

**Select the button next to the candidate you want
to elect.**

Poll Questions:

1. Select Candidate

- A. Firstname, Lastname**
- B. Firstname, Lastname**
- C. Firstname, Lastname**



5.2 ELECTION OF A DEPUTY CHAIRMAN OF THE LEGAL COMMITTEE (LC)

REFERENCE: D2021/01853

PURPOSE OF REPORT

The purpose of this report is to provide for an election to be conducted for the Office of Deputy Chairman of the Legal Committee (LC).

KEY POINTS AND RECOMMENDATION(S)

- In accordance with section 5.12(2) of the *Local Government Act 1995*, the members of a committee may elect a deputy presiding member from amongst themselves.

Recommendation(s)

That the members of the Legal Committee elect a Deputy Chairman.

SOURCE OF REPORT

Director Corporate Services

BACKGROUND

At the Special Meeting of Council held on Monday 8 February 2021, Council established the Legal Committee to undertake actions to address any such legal matters arising out of the Establishment Agreement and be disbanded at the next Local Government elections in October 2021 (Ref: D2021/01716).

Council by absolute majority in accordance with s5.16 of the *Local Government Act 1995* delegated to the Legal Committee the power to undertake actions in response to the legal matter as outlined within the Confidential Report presented to the meeting on 8 February 2021.

LC MEMBERS 2021

The following members were appointed to the LC at the Special Meeting of Council held on 8 February 2021:

Cr Jai Wilson	Town of Bassendean
Cr Lorna Clarke	City of Bayswater
Cr Dylan O'Connor	City of Kalamunda
Cr Doug Jeans	Shire of Mundaring
Cr Mel Congerton	City of Swan

In accordance with section 5.12(2) of the *Local Government Act 1995*, (the Act) the members of a committee may elect a deputy presiding member from amongst themselves.

It is a requirement of Schedule 2.3 of the Act that the election of the Deputy Chairman is conducted by the Chairman and the nominations for the Office are to be given to the Chief Executive Officer (CEO) in writing before the meeting or the Chairman during the meeting before the close of nominations. Furthermore, if a member is nominated by another member, the Chairman is not to accept the nomination unless the nominee has advised the Chairman, orally or in writing, that he or she is willing to be nominated for the Office. Members are to vote on the matter by secret ballot.

The procedure outlined in Schedule 2.3 of the Act will be followed if there is an equality of votes.



Item 5.2 continued

REPORT

The following material accompanies the agenda for this meeting as a means of assisting members of the Committee to nominate themselves or another member for the office of Deputy Chairman of the LC:

1. A blank nomination form for the Office of Deputy Chairman of the LC, nominate oneself;
2. A blank nomination form for the Office of Deputy Chairman of the LC, nominate another; and
3. A blank ballot paper for Election of Deputy Chairman of the LC.

Ballot papers will be made available prior to voting.

The completed nomination forms are to be given to the CEO before the meeting or when called for by the Chairman when dealing with this item at the meeting.

STRATEGIC/POLICY IMPLICATIONS

Key Result Area 3 – Good Governance

- 3.3 To provide responsible and accountable Governance and Management of the EMRC

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

MEMBER COUNCIL IMPLICATIONS

Member Council	Implication Details
Town of Bassendean	} Nil
City of Bayswater	
City of Belmont	
City of Kalamunda	
Shire of Mundaring	
City of Swan	

ATTACHMENT(S)

1. A blank nomination form for the Office of Deputy Chairman of the LC, nominate oneself (Ref: D2019/16649)
2. A blank nomination form for the Office of Deputy Chairman of the LC, nominate another (Ref: D2019/16649)
3. Ballot Paper – Election of LC Deputy Chairman (Ref: D2021/01857)



Item 5.2 continued

VOTING REQUIREMENT

Secret Ballot

RECOMMENDATION(S)

That the members of the Legal Committee elect a Deputy Chairman.



Nomination for Deputy Chairman of the Legal Committee

To the Chief Executive Officer

I hereby nominate myself, _____ for the position of Deputy Chairman of the Eastern Metropolitan Regional Council Legal Committee for the term of Office commencing on the date of the election and continuing until the next ordinary elections day and/or other circumstances occur in accordance with section 5.11 of the *Local Government Act 1995*.

Signed: _____

Date: _____



Nomination for Deputy Chairman of the Legal Committee

To the Chief Executive Officer

I hereby nominate _____ for the position of Deputy Chairman of the Eastern Metropolitan Regional Council Legal Committee for the term of Office commencing on the date of the election and continuing until the next ordinary elections day and/or other circumstances occur in accordance with section 5.11 of the *Local Government Act 1995*.

Signed: _____ Date: _____

*I _____ hereby certify that I accept the above nomination to the position of Deputy Chairman of the Eastern Metropolitan Regional Council Legal Committee.

Signed: _____ Date: _____

*This certificate is to be completed when a Representative is nominated by another Representative.



Eastern Metropolitan Regional Council

**Legal Committee Wednesday
10 February 2021**

**ELECTRONIC BALLOT PAPER FOR THE
ELECTION OF THE LEGAL COMMITTEE
DEPUTY CHAIRMAN**

HOW TO VOTE ELECTRONICALLY

**Select the button next to the candidate you want
to elect.**

Poll Questions:

1. Select Candidate

- A. Firstname, Lastname**
- B. Firstname, Lastname**
- C. Firstname, Lastname**



6 PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil

7 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

8 QUESTIONS BY MEMBERS WITHOUT NOTICE

9 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC

NOTE: Section 5.23(2) of the *Local Government Act 1995*, details a number of matters upon which Council may discuss and make decisions without members of the public being present. These matters include: matters affecting employees; personal affairs of any person; contractual matters; legal advice; commercial-in-confidence matters; security matters; among others.

The following report items are covered in Section 13 of this agenda:

9.1 *SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]*

10 REPORTS OF EMPLOYEES

Nil

11 REPORTS OF DELEGATES

12 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE CHAIRMAN OR PRESIDING MEMBER OR BY DECISION OF MEETING

In accordance with *EMRC Standing Orders Local Law 2013* Clause 4.1(2), no business is to be transacted at a special meeting of Council other than that given in the notice as the purpose of the meeting.



13 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

RECOMMENDATION (Closing meeting to the public)

That with the exception of, the meeting be closed to members of the public in accordance with Section 5.23(2) of the *Local Government Act 1995* for the purpose of dealing with matters of a confidential nature.

COUNCIL RESOLUTION

MOVED CR

SECONDED CR

13.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]

REFERENCE: D2021/01861

This item is recommended to be confidential because it contains matters of a legal advice nature.

See Confidential Item circulated with the Agenda under Separate Cover.

RECOMMENDATION [Meeting re-opened to the public]

That the meeting be re-opened, the members of the public be invited to return to the meeting and the recommendations passed behind closed doors be recorded.

COUNCIL RESOLUTION

MOVED CR

SECONDED CR

14 FUTURE MEETINGS OF THE LEGAL COMMITTEE

Meetings of the Legal Committee are held as required.

15 DECLARATION OF CLOSURE OF MEETING