



## Agenda Briefing Forum

# AGENDA

to be held on  
**Thursday, 11 March 2021**  
at **6:00pm**, at the  
EMRC Administration Office  
1<sup>st</sup> Floor, 226 Great Eastern Highway  
ASCOT WA 6104  
  
Meeting Room: Council Chambers

Due to COVID-19 pandemic, all meetings of Council will be isolated within the Council Chambers and the public gallery will be situated in the adjoining function room and limited to numbers in accordance with Government COVID-19 stipulations.

The meeting will be recorded for administrative purposes only.

Per the meeting structure as adopted by the EMRC Council on 22 October 2020, there will be no public questions at Agenda Briefing Forums.

Public question time will continue as usual at Ordinary meetings of Council but questions may only be submitted electronically prior to the meeting, no later than 4.00pm on the day of the meeting to [CouncilEnquiry@emrc.org.au](mailto:CouncilEnquiry@emrc.org.au)



**EASTERN METROPOLITAN REGIONAL COUNCIL  
AGENDA BRIEFING FORUM**

**NOTICE OF MEETING**

Dear Councillors

I wish to advise that an Agenda Briefing Forum will be held at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway, ASCOT WA 6104 on **Thursday, 11 March 2021**, commencing at **6:00pm**.



**MARCUS GEISLER**  
Chief Executive Officer

5 March 2021

**Please Note**

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

**EMRC Council Members**

Cr Jai Wilson ( <b>Chairman</b> )	EMRC Member	Town of Bassendean
Cr Doug Jeans ( <b>Deputy Chairman</b> )	EMRC Member	Shire of Mundaring
Cr Kathryn Hamilton	EMRC Member	Town of Bassendean
Cr Lorna Clarke	EMRC Member	City of Bayswater
Cr Giorgia Johnson	EMRC Member	City of Bayswater
Cr Janet Powell	EMRC Member	City of Belmont
Cr Phil Marks	EMRC Member	City of Belmont
Cr Lesley Boyd	EMRC Member	City of Kalamunda
Cr Dylan O'Connor	EMRC Member	City of Kalamunda
Cr John Daw	EMRC Member	Shire of Mundaring
Cr Mel Congerton	EMRC Member	City of Swan
Cr Charlie Zannino	EMRC Member	City of Swan

**EMRC Council Deputies**

Cr Hilary MacWilliam	EMRC Deputy Member	Town of Bassendean
Cr Filomena Piffaretti	EMRC Deputy Member	City of Bayswater
Cr Robert Rossi	EMRC Deputy Member	City of Belmont
Cr Cameron Blair	EMRC Deputy Member	City of Kalamunda
Cr Amy Collins	EMRC Deputy Member	Shire of Mundaring
Cr Ian Johnson	EMRC Deputy Member	City of Swan



**AGENDA BRIEFING FORUM**

**AGENDA**

**11 March 2021**

**(REF: D2021/02367)**

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## **1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

### **1.1 ACKNOWLEDGEMENT OF COUNTRY**

Kaya Maaman, Kaya Yorga, Kaya Bridia  
Ngalak kaartij windji ngalak nynininy  
Nagalak kaartij 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 AND APOLOGIES**

## **3 DISCLOSURE OF INTERESTS**

## **4 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC**

## **5 REPORTS OF EMPLOYEES**

5.1 *ATTENDANCE AT EVENTS POLICY (Ref: D2021/03367)*

5.2 *LEGAL COMMITTEE TERMS OF REFERENCE (Ref: D2021/03365)*

5.3 *REVIEW OF COUNCIL POLICY 2.1 – COMMITTEES OF COUNCIL (Ref: D2021/03388)*







## 5. REPORTS OF EMPLOYEES

### 5.1 ATTENDANCE AT EVENTS POLICY

REFERENCE: D2021/03367

#### PURPOSE OF REPORT

The purpose of this report is to cancel the EMRC Policy 6.1 – Member Conference, Seminar and Study Tour Attendance Policy and to adopt a new and revised 6.3 – Attendance at Events Policy to ensure responsible and accountable governance and management of the EMRC in line with the amended legislation.

#### KEY POINTS AND RECOMMENDATION(S)

- The EMRC's existing 6.1 - Member Conference, Seminar and Study Tour Attendance Policy has been reviewed and a new proposed 6.3 Attendance at Events Policy has been drafted to meet the requirements of section 5.90A of the *Local Government Act 1995* which provides that a local government must prepare and adopt an attendance at events policy.
- The new and proposed 6.3 – Attendance at Events Policy includes the provisions from the previous 6.1 Member Conference, Seminar and Study Tour Attendance Policy and several new provisions to ensure compliance with the Act.

#### Recommendation(s)

That Council:

1. By absolute majority in accordance with s.5.90A of the *Local Government Act 1995* cancels Council Policy 6.1 - Member Conference, Seminar and Study Tour Attendance Policy, forming Attachment 1 of this report.
2. By absolute majority in accordance with s.5.90A of the *Local Government Act 1995* adopts a new Council Policy 6.3 - Attendance at Events Policy, forming Attachment 2 of this report.

#### SOURCE OF REPORT

Chief Executive Officer

#### BACKGROUND

On 27 June 2019, the *Local Government Legislation Amendment Act 2019*, was passed by the Western Australian Parliament, coming into effect on 6 July 2019. This Act included several amendments including the requirement for local governments to have a Council policy for Council members and the Chief Executive Officer (CEO) to represent their local government at events.

To meet the requirements of the *Local Government Act 1995* (section 5.90A), a local government must prepare and adopt (by absolute majority) a policy that deals with matters relating to the attendance of council members and the CEO at events, including; the provision of tickets to events; payments in respect of attendance; approval of attendance by the local government and criteria for approval; and any other prescribed matter.



Item 5.1 continued

## REPORT

A new and proposed 6.3 - Attendance at Events Policy has been drafted to address matters relating to the attendance of council members and the CEO at events in respect to:

- The approval of attendance to events as a representative of the local government, including criteria for approval
- The provision of tickets to events
- Payments in respect of attendance, including declaration of gifts.

While there can be benefit to organisations and communities from local government representation at events, the potential benefit needs to be considered in balance with the perceived or actual influence of decision-makers.

A perceived influence may arise through a financial relationship, personal relationship or receipt of gifts. Therefore, a 'best-practice' attendance at events policy would pay regard to both these concepts and provide transparency of council decision-making pertaining to council member and CEO event attendance.

In order to develop the EMRC's new 6.3 Attendance at Events Policy, a sample of other WA local government Attendance at Events policies have been researched to identify areas of commonality and highlight issues that are advantageous to consider in the review and development of the EMRC's policy.

## 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

## RISK IMPLICATIONS

<b>RISK:</b> The EMRC is required to adopt an attendance at events policy to meet the requirements of section 5.90A of the <i>Local Government Act 1995</i>		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Moderate	Likely	High
<b>Action/Strategy</b>		
Council to adopt the proposed Council policy 6.3 Attendance at Events Policy		



*Item 5.1 continued*

## **MEMBER COUNCIL IMPLICATIONS**

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

## **ATTACHMENT(S)**

1. Council Policy 6.1 - Member Conference, Seminar and Study Tour Attendance Policy (Ref: D2021/03368)
2. Proposed new Council Policy 6.3 - Attendance at Events Policy (Ref: D2021/03369)

## **VOTING REQUIREMENT**

Absolute Majority

## **RECOMMENDATION(S)**

That Council:

1. By absolute majority in accordance with s.5.90A of the *Local Government Act 1995* cancels Council Policy 6.1 - Member Conference, Seminar and Study Tour Attendance Policy, forming Attachment 1 of this report.
2. By absolute majority in accordance with s.5.90A of the *Local Government Act 1995* adopts a new Council Policy 6.3 - Attendance at Events Policy, forming Attachment 2 of this report.

## **COUNCIL RESOLUTION(S)**

MOVED CR

SECONDED CR



## 6.1 Member Conference, Seminar and Study Tour Attendance Policy

### STRATEGIC PLAN OBJECTIVE

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

### PURPOSE

To establish a policy for the attendance by appointed members at intrastate, interstate, or international conferences, seminars, and study tours in an official capacity.

### LEGISLATION

Nil

### POLICY STATEMENT

1. Council recognises that attendance at conferences, seminars, and study tours contributes to the personal and professional development of Councillors and is consistent with Council's objectives.
2. Attendance by an appointed member at a conference, seminar or study tour should be consistent with the current or future direction of the EMRC and must be related to a subject matter directly referred to in Council's approved and adopted publications (ie. Strategic Plan for the Future or annual budget) and identified as an organisational objective.
3. Attendance by appointed members at intrastate, interstate or international conferences, seminars and study tours will be authorised in advance by Council.
4. The amount available to individual appointed members for conference/seminar/study tour attendance shall be in accordance with the amount allocated specifically for this purpose in Council's annual budget. Expenditure in excess of the allocated sum for each appointed member will require Council approval prior to the expenditure occurring.
5. Any appointed member, who is offered sponsorship in the form of conference or seminar registration or other costs in an official capacity, wholly or partly by any government agency, external organisation or person, shall immediately make this known to the Chairman and Chief Executive Officer.
6. A written report shall be prepared for the information of Council by every appointed member who has travelled intrastate, interstate or overseas in an official capacity. The report shall provide comment on the value of the conference/seminar/study tour and related benefits to the EMRC, and provide recommendations for further action (if applicable). In the event that two or more appointed members



attend the same conference, for the purposes of this policy, only one written report is required which may be a joint report.

## FINANCIAL CONSIDERATIONS

An amount will be provided in the annual budget to meet estimated costs.

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Adopted/Reviewed by Council

1. 24 February 1994
2. 22 July 1999
3. 02 May 2002
4. 20 May 2004
5. 23 February 2006
6. 18 September 2008
7. 23 September 2010
8. 18 September 2014
9. 06 December 2018

Next Review

Following the Ordinary Elections in 2021

Responsible Directorate

Corporate Services



## Council Policy 6.3

### Attendance at Events

#### Strategic Plan Objective

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

#### Purpose

The purpose of this policy is to meet legislative requirements of Section 5.90A of the *Local Government Act 1995 (Act)* and to provide transparency regarding Events attended by council members and the Chief Executive Officer (CEO) where tickets, or invitations have been provided to the EMRC as a Gift, without restricting a council member's or the CEO's ability to participate in Council meetings.

#### Scope

This policy covers invitations addressed to the CEO, Chairman or Councillor of the EMRC that invite EMRC council member/s or the CEO to attend an Event. Any invitations or offer of tickets not addressed in this manner is not captured by this policy and must be disclosed in accordance with the Gift and interest provisions in the Act.

#### Definitions

**Event(s)** In accordance with section 5.90A of the *Local Government Act 1995* events includes, but is not limited to, concerts, conferences, functions and sporting events.

**Gift** refers to free, subsidised and discounted tickets to an event or any travel and accommodation that is related to attending the event.

#### Legislation

Section 5.90A of the *Local Government Act 1995*

Regulation 20B of the *Local Government (Administration) Regulations 1996*

#### Policy Statement

Council recognises that attendance at Events including conferences, seminars and study tours contributes to the personal and professional development of council members and is consistent with Council's objectives.

Attendance by a council member at an event should be consistent with the current or future direction of the EMRC and must be related to a subject matter directly referred to in Council's approved and adopted publications (i.e. Strategic Plan for the Future or annual budget) and identified as an organisational objective.

#### Invitations or Tickets to Events

Invitations or offers of tickets should be in writing and sent to the EMRC.

A ticket or invitation not sent to the EMRC is not captured by this policy, and is subject to both the Gift and interest provisions of the Act.

In accordance with regulation 20B of the *Local Government (Administration) Regulations 1996*, invitations or offers of tickets from the following organisations are excluded from the conflict of interest provisions, but Gifts from these sources (if over \$300) must still be disclosed and published on the gifts register:

- WALGA (excluding LGIS);
- Local Government Professionals Australia (WA);
- Australian Local Government Association;
- A department of the public service or statutory authority;
- A government department of another State, a Territory or the Commonwealth; and
- A local government or regional local government.

Invitations or offers of tickets in accordance with the above list will exclude the Gift holder from the requirement to disclose an interest, if the donor has a matter before Council and the ticket is above \$300. However, receipt of the Gift will still be required to be disclosed and published on the EMRC's gifts register in accordance with the gift provisions.

Any other invitation or offer of tickets not sent to the EMRC are not captured by this policy and must be disclosed.

#### **Criteria for Events requiring Council Approval (by simple majority)**

Attendance by council members and/or the CEO at intrastate, interstate or international Events including conferences, seminars and study tours will be authorised in advance by Council.

Matters to be considered by Council in the deliberation of whether to have an EMRC council member or the CEO represent the EMRC at an Event include:

- Who is providing the ticket to the event;
- The location of the event (within the Perth Eastern Region or outside the Perth Eastern Region);
- The benefit of EMRC representation at the Event, particularly the relevance to the EMRC's corporate business plan;
- The cost to attend the Event, including the cost of the ticket and any other expense, such as travel and accommodation;
- The budget allocated to individual council members for attendance at Events;
- The number of invitations/tickets received; and
- The number of representatives that may already be approved to attend.

A written report shall be prepared for Council's information by each council member and the CEO who intends to travel intrastate, interstate or overseas in an official capacity. In the event that one or more council members/CEO attend the same Event, for the purposes of this policy, only one written report is required.

#### **Events that Council Members and the CEO are prohibited from attending as a representative of the EMRC**

These Events are

- Political party events and fundraisers; and
- Events that primarily benefit a council member or the CEO in a personal capacity or role unrelated to the EMRC.

#### **Partner Attendance**

Where partners of an authorised council member or the CEO attend an Event, any tickets for that person, if paid for by the EMRC, must be reimbursed by the council member or CEO respectively (unless expressly authorised by the EMRC Council).



### **Attendance Register**

Events attended by a council member or the CEO are to be recorded on the attendance register. These events will be publicly listed on the EMRC's website for the duration of the council member's term or CEO's employment.

### **Attendance at Events not to Unduly Interfere with the Business of Council**

Attendance at Events specified under this policy should not unduly interfere with the business of the EMRC (i.e. affects a quorum for a Council or Committee meeting).

### **Financial Considerations**

An amount will be provided in the annual budget to meet estimated costs associated with attendance at Events by council members and the CEO.

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**Adopted/Reviewed**

**25 March 2021**

**Next Review**

**Following the Ordinary Elections 2021**

**Responsible Unit**

**CEO's Office**





## 5.2 LEGAL COMMITTEE TERMS OF REFERENCE

REFERENCE: D2021/03365

### PURPOSE OF REPORT

The purpose of this report is to present to Council for adoption a proposed Terms of Reference for the newly established Legal Committee (LC).

### KEY POINTS AND RECOMMENDATION(S)

- On 8 February 2021, Council resolved to establish a Legal Committee to address a legal matter arising out of the Establishment Agreement.
- The Legal Committee is to be disbanded at the next Local Government elections in October 2021.
- The Legal Committee is comprised of councillor members, deputy members and second deputy members from five (5) member Councils.
- The proposed terms of reference are intended to govern the Legal Committee's functions and responsibilities.

#### Recommendation(s)

That Council adopts the Legal Committee proposed Terms of Reference, forming Attachment 1 to this report, with immediate effect.

### SOURCE OF REPORT

Chief Financial Officer

### BACKGROUND

At a Special Council meeting held on 8 February 2021, Council resolved as follows:

"THAT

1. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.8 OF THE *LOCAL GOVERNMENT ACT 1995* ESTABLISHES A 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.
2. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.10 OF THE *LOCAL GOVERNMENT ACT 1995* APPOINTS THE FOLLOWING COUNCILLORS TO THE LEGAL COMMITTEE:

<u>PARTICIPANT LOCAL GOVERNMENT</u>	<u>COUNCILLOR MEMBER</u>	<u>DEPUTY MEMBER</u>	<u>SECOND DEPUTY MEMBER</u>
TOWN OF BASSENDEAN	CR WILSON	CR HAMILTON	CR MACWILLIAM
CITY OF BAYSWATER	CR CLARKE	CR G JOHNSON	CR PIFFARETTI
CITY OF KALAMUNDA	CR O'CONNOR	CR BOYD	CR BLAIR
SHIRE OF MUNDARING	CR JEANS	CR DAW	CR COLLINS
CITY OF SWAN	CR CONGERTON	CR ZANNINO	CR I JOHNSON



*Item 5.2 continued*

3. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.16 OF THE *LOCAL GOVERNMENT ACT 1995* DELEGATES TO THE LEGAL COMMITTEE THE POWER TO UNDERTAKE ACTIONS IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT.
4. NOTES THE RATIONALE FOR THE MOTION IS TO ENABLE THE EMRC COUNCIL TO UNDERTAKE ACTIONS IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT THROUGH THE NEWLY ESTABLISHED LEGAL COMMITTEE.
5. THE REPORT AND ATTACHMENTS REMAIN CONFIDENTIAL AND BE CERTIFIED BY THE CHAIRMAN AND THE CEO.

## **REPORT**

Following the establishment of the Legal Committee to address the legal matter concerning the EMRC's Establishment Agreement, a terms of reference document is required to be developed and adopted to govern the Legal Committee's roles and responsibilities.

The proposed draft Legal Committee Terms of Reference address the following:

- Objectives of Committee;
- Responsibilities;
- Membership;
- Meetings;
- Operating Procedures;
- Reporting; and
- Delegated power.

In accordance with the Council resolution of 8 February, the Legal Committee shall be disbanded at the time of the next Local Government elections in October 2021. This should provide sufficient time to resolve the legal matter that is the subject of the Legal Committee's formation.

## **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



Item 5.2 continued

## RISK IMPLICATIONS

<b>RISK:</b> Non-compliance with Council resolutions EMRC's responsibility to maintain responsible and accountable governance and management of the organisation.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Moderate	Unlikely	Moderate
<b>Action/Strategy</b>		
Council to adopt the proposed terms of reference for the newly established Legal Committee		

## 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)

Proposed draft Legal Committee Terms of Reference (Ref: D2021/03366)

## VOTING REQUIREMENT

Simple Majority

## **RECOMMENDATION(S)**

That Council adopts the Legal Committee proposed Terms of Reference, forming Attachment 1 to this report, with immediate effect.

## **COUNCIL RESOLUTION(S)**

MOVED CR

SECONDED CR

## **TERMS OF REFERENCE**

### **LEGAL COMMITTEE**

#### **1. OBJECTIVES OF COMMITTEE**

The Legal Committee (LC) is a formally appointed committee of Council and is responsible to that body. It was established at a Special Council Meeting on 8 February 2021 to deal with matters arising out of the EMRC's Establishment Agreement and is to be disbanded at the next Local Government elections in October 2021.

1.1. The Legal Committee's role is to:

- (a) Report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate decision-making by Council in relation to the discharge of its responsibilities.
- (b) Carry out its functions and fulfil its responsibilities as required by the *Local Government Act 1995* and associated regulations, guidelines and protocols of the Council which are relevant to the Committee.
- (c) The Legal Committee will only have those executive powers as specifically delegated to it.

#### **2. RESPONSIBILITIES**

2.1 The Legal Committee shall have the following functions:

- (a) To participate and consult with the Chief Executive Officer, Chairman and Council to address legal matters arising out of the EMRC's Establishment Agreement and related matters as delegated to the Legal Committee;
- (b) To provide feedback and recommendations on the legal matters described in 2.1(a) above to Council; and
- (c) To be disbanded at the next Local Government elections in October 2021 as resolved by Council on 8 February 2021.

#### **3. MEMBERSHIP:**

3.1 The Legal Committee will comprise of Council members and Deputy members as appointed by Council.

3.2 Members will be appointed to the inaugural Legal Committee for a term of up to nine months, expiring in October 2021.

#### **4. MEETINGS**

- 4.1 The Legal Committee shall meet as required, in person or electronically, convened at the discretion of the Chairman.

#### **5. OPERATING PROCEDURES**

- 5.1 All meetings of the LC are to be conducted in accordance with the *Local Government Act 1995*, associated Regulations and the *EMRC Standing Orders Local Law 2013*.

- 5.2 A quorum for a meeting of the Committee shall be at least 50% of the number of offices (whether vacant or not) of member of the Committee.

##### **5.3 Voting**

- (a) All decisions of the Committee shall be made on the basis of a simple majority decision of the members present or, if another kind of majority has been prescribed by regulations for the particular kind of decision, by that kind of majority.

- (b) If the decision results in a tied vote, the person presiding is to cast a second vote.

- (c) Persons other than Committee members are not entitled to cast a vote.

- (d) Each member shall have one (1) vote. Legal Committee members who will not be present for a meeting must notify the Chairman.

- (e) All other aspects related to voting procedure shall be consistent with relevant sections of the *EMRC Standing Orders Local Law 2013*.

- 5.4 Other EMRC staff may attend meetings, at the discretion of the Chief Executive Officer to provide advice and information when required.

- 5.5 Other persons may attend meetings, at the discretion of the Chief Executive Officer and/or Chairman, to provide advice and information as required.

#### **6. REPORTING**

- 6.1 The Legal Committee shall after every meeting forward the minutes of that meeting to the next Ordinary Meeting of Council, including a report explaining any specific recommendations and key outcomes.

#### **7. DELEGATED POWER**

- 7.1 The Legal Committee has only those delegated powers and duties of Council delegated to the Legal Committee associated with dealing with legal matters arising out of the EMRC's Establishment Agreement.

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#### **Related Documentation:**

Policy 2.1 Committees of Council

*EMRC Standing Orders Local Law 2013*

EMRC Code of Conduct

**Administration:**

Adopted / Reviewed by Council: 25 March 2021

Next Review: Nil – to be disbanded following the Local Government Ordinary Elections in 2021

Responsible Business Unit Business Support



### 5.3 REVIEW OF COUNCIL POLICY 2.1 – COMMITTEES OF COUNCIL

**REFERENCE: D2021/03388**

#### **PURPOSE OF REPORT**

The purpose of this report is to review the EMRC Policy 2.1 – Committees of Council to ensure responsible and accountable governance and management of the EMRC in line with the newly adopted Council and Committee meeting structure and to include the newly established Legal Committee.

#### **KEY POINTS AND RECOMMENDATION(S)**

- The EMRC's existing 2.1 – Committees of Council Policy has been reviewed and a new proposed 2.1 Committees of Council Policy has been drafted as a result of the review of the EMRC's Council and Committees meeting structure.
- The new and proposed 2.1 – Committees of Council Policy has been reviewed to remove from the policy the committees that no longer exist and to include the newly formed Legal Committee.

#### **Recommendation(s)**

That Council adopts the revised EMRC Policy 2.1 – Committees of Council Forming Attachment 2 of this report.

#### **SOURCE OF REPORT**

Chief Executive Officer

#### **BACKGROUND**

On 22 October 2020, Council resolved as follows:

*“THAT COUNCIL:*

1. *ENDORSES THE EMRC MEETING STRUCTURE AS DETAILED IN THIS REPORT.*
2. *BY ABSOLUTE MAJORITY DISBAND THE CHIEF EXECUTIVE OFFICER ADVISORY COMMITTEE*
3. *BY ABSOLUTE MAJORITY DISBAND THE INVESTMENT COMMITTEE.*
4. *BY ABSOLUTE MAJORITY DISBAND THE WASTE ADVISORY COMMITTEE.*
5. *ADOPTS THE MEETING PROCEDURES FOR AGENDA BRIEFING FORUMS AND INFORMATION SESSIONS, FORMING THE ATTACHMENT TO THIS REPORT.*
6. *REQUESTS THAT THE CEO CONTINUE TO PROVIDE CONFIDENTIAL REPORTS AND ATTACHMENTS AS PART OF THE PUBLIC AGENDA FORUM PROCESS TO THE MEMBER COUNCIL CHIEF EXECUTIVE OFFICERS AND STAFF NORMALLY ATTENDING THE TECHNICAL OFFICERS MEETING TO ALLOW THEM TO ADVISE THEIR RESPECTIVE EMRC COUNCILLORS.”*



*Item 5.3 continued*

At a Special Council Meeting on 8 February 2021, Council resolved as follows:

*“THAT*

- 1. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.8 OF THE LOCAL GOVERNMENT ACT 1995 ESTABLISHES A 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.*
- 2. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.10 OF THE LOCAL GOVERNMENT ACT 1995 APPOINTS THE FOLLOWING COUNCILLORS TO THE LEGAL COMMITTEE:*

<u>PARTICIPANT LOCAL GOVERNMENT</u>	<u>COUNCILLOR MEMBER</u>	<u>DEPUTY MEMBER</u>	<u>SECOND DEPUTY MEMBER</u>
TOWN OF BASSENDEAN	CR WILSON	CR HAMILTON	CR MACWILLIAM
CITY OF BAYSWATER	CR CLARKE	CR G JOHNSON	CR PIFFARETTI
CITY OF KALAMUNDA	CR O’CONNOR	CR BOYD	CR BLAIR
SHIRE OF MUNDARING	CR JEANS	CR DAW	CR COLLINS
CITY OF SWAN	CR CONGERTON	CR ZANNINO	CR I JOHNSON

- 3. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.16 OF THE LOCAL GOVERNMENT ACT 1995 DELEGATES TO THE LEGAL COMMITTEE THE POWER TO UNDERTAKE ACTIONS IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT.*
- 4. NOTES THE RATIONALE FOR THE MOTION IS TO ENABLE THE EMRC COUNCIL TO UNDERTAKE ACTIONS IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT THROUGH THE NEWLY ESTABLISHED LEGAL COMMITTEE.*
- 5. THE REPORT AND ATTACHMENTS REMAIN CONFIDENTIAL AND BE CERTIFIED BY THE CHAIRMAN AND THE CEO.”*

**REPORT**

A new and proposed Council Policy 2.1 – Committees of Council has been drafted to reflect the new Council and Committee structure and the newly formed Legal Committee.

The following Committees and its associated references have been removed from 2.1 – Committees of Council Policy as they no longer exist:

- Chief Executive Officer Advisory Committee (CEOAC);
- Investment Committee (IC);
- Resource Recovery Committee (RRC); and
- Technical Advisory Committee (TAC), or most recently known as the Waste Advisory Committee (WAC).





*Item 5.3 continued*

The following new committee was established by resolution of Council (special council meeting) on 8 February 2021:

- Legal Committee (LC).

The Audit Committee has a prescribed role as defined by the *Local Government Act 1995* (the Act) and its associated regulations and accordingly is to be retained as it is a legislative requirement under the Act.

The CEOPRC has been established to conduct an annual review of the Chief Executive Officer's performance, remuneration, contract terms and conditions with the assistance of an external facilitator. Its objective is to ensure that the review of performance of the Chief Executive Officer for the EMRC is undertaken with the provisions of the Act and the *Local Government (Administration) Regulations 1996* and EMRC's policies.

Accordingly, the CEOPRC will continue to assist in the administration of the annual Chief Executive Officer's performance.

The Legal Committee is a newly appointed committee that was established at a special council meeting on 8 February 2021 to deal with matters arising out of the EMRC's Establishment Agreement and is to be disbanded at the next Local Government elections in October 2021.

A draft Terms of Reference has been drafted for Council consideration and adoption at its next ordinary council meeting on 25 March 2021.

## **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

## **RISK IMPLICATIONS**

<b>RISK:</b> Non-compliance with EMRC's responsibility to maintain responsible and accountable governance and management of the organisation.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Moderate	Likely	High
<b>Action/Strategy</b>		
Council to adopt the new and revised Council policy 2.1 Committees of Council Policy		



*Item 5.3 continued*

## **MEMBER COUNCIL IMPLICATIONS**

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

## **ATTACHMENT(S)**

1. Council Policy 2.1 - Committees of Council Policy (Ref: D2021/03389)
2. Proposed new and revised Council Policy 2.1 - Committees of Council Policy (Ref: D2021/03390)

## **VOTING REQUIREMENT**

Simple Majority

## **RECOMMENDATION(S)**

That Council adopts the revised EMRC Policy 2.1 – Committees of Council Forming Attachment 2 of this report.

## **COUNCIL RESOLUTION(S)**

MOVED CR

SECONDED CR



## 2.1 Committees of Council

### STRATEGIC PLAN OBJECTIVE

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

### PURPOSE

To maintain a Chief Executive Officers Advisory Committee (CEOAC), Technical Advisory Committee (TAC), Resource Recovery Committee (RRC), Chief Executive Officer Performance Review Committee (CEOPRC), Audit Committee (AC), Investment Committee (IC), and determine attendance of officers at council meetings of the EMRC.

### LEGISLATION

*Local Government Act 1995 s5.8-5.25, 7.1A, B, C*  
*Local Government (Administration) Regulations 1996 r4 - 14B*

### POLICY STATEMENT

1. Council will maintain a Chief Executive Officers Advisory Committee (CEOAC), a Technical Advisory Committee (TAC), a Resource Recovery Committee (RRC), a Chief Executive Officer Performance Review Committee (CEOPRC); an Audit Committee (AC) and an Investment Committee (IC) (occasional committee) and determine Terms of Reference for each of these.
2. Membership of the CEOAC will comprise the CEO of the EMRC and the CEO of each participant local government; and the committee will have the Terms of Reference as detailed in [D2014/12021](#).
3. Membership of the TAC will comprise the CEO of the EMRC, or nominee, and a principal officer of each of the participant local governments nominated by the member council CEO; and the committee will have the Terms of Reference as detailed in [D2014/12022](#).
4. Membership of the RRC will comprise of the members of the TAC and one councillor from each of the participant Local Governments; and the committee will have the Terms of Reference as detailed in [D2014/12023](#).
5. Membership of the CEOPRC will comprise of Council members only and the committee will have the Terms of Reference as detailed in [D2014/12024](#).
6. Membership of the AC comprise of one council member from each of the participant Local Governments and the committee will have the Terms of Reference as detailed in [D2014/12025](#).



7. Membership of the IC will comprise of Council members only and the Committee will have the Terms of Reference as detailed in [D2014/12026](#).
8. Through the following process a deputy member will be appointed by council for each committee member.
  - A deputy member for CEOAC and TAC may be nominated by the CEO of each participant local government.
  - The deputy members appointed for TAC will have the same role on the RRC.
  - Council will appoint deputy members to members of the Council on the RRC and the AC.
  - No deputy members are appointed to the CEOPRC as the continuity of members during the annual performance review is important in ensuring a fair and objective process is achieved.
  - No deputy members are appointed to the IC.
9. That a flexible approach be taken to those matters generally classified as commercial enterprises or investment and these matters be treated on a project basis with the CEO of the EMRC deciding whether to liaise with either of the committees where necessary. Working parties with specific terms of reference may be used in the future for these matters.
10. That meetings be generally face-to-face meetings. However, teleconferencing, videoconferencing and other electronic means will be used when appropriate.
11. The Chairman of the CEOAC & TAC may attend EMRC Council meetings as an advisor but that officer may not sit at the council table.
12. Where officers from Participants attend EMRC Council meetings, they are to have the status of observer.

## FINANCIAL CONSIDERATIONS

Nil

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Adopted/Reviewed by Council

1. 8 December 1994
2. 22 July 1999
3. 24 February 2000
4. 02 May 2002
5. 19 February 2004
6. 20 May 2004
7. 23 February 2006
8. 18 September 2008
9. 23 September 2010
10. 18 September 2014
11. 06 December 2018

Next Review

Following the Ordinary Elections in 2021

Responsible Directorate

Corporate Services



# Council Policy 2.1

## Committees of Council

### Strategic Plan Objective

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

### Purpose

This policy outlines the governance of the following Council approved committees:

- Audit Committee (AC);
- Chief Executive Officer Performance Review Committee (CEOPRC); and
- Legal Committee (LC)

The committees are designed to play an important part in the corporate decision-making process on a variety of matters and are designed to report on recommendations to Council of an advisory nature.

### Legislation

*Local Government Act 1995*

*Local Government (Administration) Regulations 1996*

*EMRC Standing Orders Local Laws 2013*

### Policy Statement

#### Formation of Committees

EMRC Committees are established by Council for the purpose of providing advice and technical expertise on issues relevant to the EMRC Council.

Council will maintain an Audit Committee, a Chief Executive Officer Performance Review Committee and a Legal Committee and determine a Terms of Reference for each of the established committees.

#### Audit Committee (AC)

Membership of the AC will comprise of one council member from each of the participant member councils and the committee will have a Terms of Reference as amended from time to time by Council approval.

Council will appoint deputy members to members of the Council on the AC.

#### Chief Executive Officer Performance Review Committee (CEOPRC)

Membership of the CEOPRC will comprise of council members only and the committee will have a Terms of Reference as amended from time to time by Council approval.



No deputy members are appointed to the CEOPRC as the continuity of members during the annual performance review is important in ensuring that a fair and objective process is achieved.

#### **Legal Committee (LC)**

The Legal Committee will comprise of council members, deputy members and second deputy members, as appointed by Council and will have a Terms of Reference as amended from time to time by Council approval.

Members will be appointed to the inaugural Legal Committee for a term of up to nine months, expiring in October 2021.

#### **Attendance Management**

The meetings are to take place in person (face to face) where possible. However, teleconferencing, videoconferencing and other electronic means will be used when necessary.

If officers from member councils attend EMRC committee meetings, they are to have the status of observer.

### **Financial Considerations**

Nil

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<b>Adopted/Reviewed</b>	<b>25 March 2021</b>
<b>Next Review</b>	<b>Following the Local Government elections in 2021</b>
<b>Responsible Unit</b>	<b>CEO's Office</b>



## 6 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

## 7 FUTURE AGENDA BRIEFING FORUMS

The next Agenda Briefing Forum will be held on **Thursday 8 April 2021** at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway, Ascot WA 6104 commencing at 6:00pm.

### Future Meetings 2021

Thursday	08	April	(if required)	at	EMRC Administration Office
Thursday	13	May	(If required)	at	EMRC Administration Office
Thursday	10	June		at	EMRC Administration Office
Thursday	08	July	(if required)	at	EMRC Administration Office
Thursday	12	August	(if required)	at	EMRC Administration Office
Thursday	09	September	(if required)	at	EMRC Administration Office
Thursday	11	November	(if required)	at	EMRC Administration Office

## 8 DECLARATION OF CLOSURE OF MEETING