

AGENDA

D2024/14026

Agenda Forum

13 June 2024

Notice of Meeting

Dear Councillors

The next Agenda Forum will be held on Thursday, 13 June 2024 at the EMRC Administration Office, 1st Floor, 226 Great Eastern Highway, Ascot WA 6104 commencing at 6:00pm.



Marcus Geisler | Chief Executive Officer

10 June 2024

Please Note

If any Councillor 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.

The meeting will be recorded for administrative purposes only.

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

Public question time will continue as usual at Ordinary Meetings of Council and questions may be submitted electronically prior to the meeting, no later than 4.00pm on the day of the meeting to CouncilEnquiry@emrc.org.au.



EMRC Council Members

Cr Filomena Piffaretti	Chairperson	City of Bayswater
Cr Aaron Bowman	Deputy Chairperson	City of Swan
Cr Tallan Ames	EMRC Member	Town of Bassendean
Cr Paul Poliwka	EMRC Member	Town of Bassendean
Cr Michelle Sutherland	EMRC Member	City of Bayswater
Cr Luke Ellery	EMRC Member	Shire of Mundaring
Cr Doug Jeans	EMRC Member	Shire of Mundaring
Cr Jennifer Catalano	EMRC Member	City of Swan

EMRC Council Deputies

Cr Kathryn Hamilton	EMRC Deputy Member	Town of Bassendean
Cr Giorgia Johnson	EMRC Deputy Member	City of Bayswater
Cr John Daw	EMRC Deputy Member	Shire of Mundaring
Cr Ian Johnson	EMRC Deputy Member	City of Swan

Agenda Forum

13 June 2024

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1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

1.1 ACKNOWLEDGEMENT OF COUNTRY

We wish to acknowledge the traditional custodians of the land, the Whadjuk people of the Noongar Nation and to pay our respects to elders past, present and emerging.

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

3 DISCLOSURE OF INTEREST

4 ANNOUNCEMENTS BY THE CHAIRPERSON OR PRESIDING MEMBER

5 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 confidential reports are covered in Section 7 of this agenda:

- EMRC SUPPORT FOR AUSTRALIAN RESEARCH COUNCIL RESEARCH HUB FOR VALUE-ADDED PROCESSING OF CARBON WASTE (D2024/14272)
- REVIEW OF SECONDARY WASTE CHARGE (D2024/14262)

6 EMPLOYEE REPORTS

- 6.1 REVIEW OF DELEGATED POWERS & DUTIES (D2024/05259)
- 6.2 TENDER 2018-011 PROVISION OF LATERITIC CAPROCK QUARRYING SERVICE - (D2024/14316)
- 6.3 REVIEW OF COUNCIL POLICY 3.3 - MANAGEMENT OF INVESTMENTS POLICY - (D2024/12593)

6.1 REVIEW OF DELEGATED POWERS AND DUTIES

D2024/05259

PURPOSE OF REPORT

To complete the annual statutory review of the exercise of powers and discharge of duties delegated by Council.

KEY POINT(S)

- It is a requirement of section 5.18 of the *Local Government Act 1995* (the Act) that the delegations made by the Council to Committees are reviewed in every financial year.
- It is a requirement of section 5.46 of the Act that the delegations made by the Council to the Chief Executive Officer (CEO) are reviewed in every financial year.
- Council are asked to endorse the new EMRC Delegations Register following an overhaul of the previous delegations register to be in line with the WALGA Template Delegations Register.

RECOMMENDATION(S)

That:

1. Council reviews and endorses the delegations made to the Chief Executive Officer as detailed in the revised new EMRC Delegations Register forming attachment 1 of this report.
2. The attachments to this report remain confidential and are certified by the EMRC Chairperson and the Chief Executive Officer.

SOURCE OF REPORT

Chief Financial Officer

BACKGROUND

- 1 It is a requirement of section 5.18 of the Act that the delegations made by the Council to Committees are reviewed at least once in every financial year.
- 2 It is a requirement of section 5.46 of the Act that the delegations made by the Council to the CEO are reviewed at least once in every financial year.
- 3 At the Ordinary Meeting of Council on 22 February 2024, a procedural motion was passed by a vote of 5:3 to defer the annual statutory review of the exercise of powers and discharge of duties delegated by Council to provide further information to assist Council with its review.
- 4 Council has requested that the EMRC Officers review the list of delegations for renewal and make new recommendations to re-affirm, amend or remove any of the delegations.
- 5 At the Ordinary Meeting of Council on 28 March 2024 Council was advised that additional time will be required to undertake an overhaul of the register of delegations to match templates used by other councils and that the item be brought back to the 27 June 2024 ordinary council meeting.

REPORT

- 6 The list of Council decisions to delegate its powers or duties to a Committee or to the CEO are listed below. Only the decisions which are still current are being recommended to Council for review and to be re-affirmed in the proposed new EMRC Delegations Register.
- 7 The table below provides more detail on each of the delegations and the reasons for why each delegation is to be retained and removed in relevance to EMRC's operations.
- 8 Authorisation limits for officers are subject to a management guideline, Authorisation of Expenditure for such operational matters.
- 9 The new proposed EMRC Delegations Register forming attachment 1 of this report was reviewed against the WALGA Local Government Decision Making Template Delegations Register which encompasses various subjects and functions applicable to Local Government. However, as EMRC operations focus exclusively on waste management, a substantial number of delegations within the WALGA template register do not apply to the EMRC.
- 10 Similarly, following the review and overhaul of the previous delegations register a number of the delegations are being recommended for removal to be in line with the WALGA template register.
- 11 At the Special Council meeting on 18 April 2024, Council resolved to establish a CEO Recruitment Committee (CEORC) and to delegate to the CEORC the power to engage an independent human resource consultant to assist in carrying out its functions. This new delegation has been added to the new proposed delegations register and is summarised in the table below.
- 12 The following table summarises a number of changes to the EMRC delegations register that are included in the new proposed EMRC Delegations Register forming attachment 1 of this report.

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C2/97	29/08/1996	Power to pay accounts between meetings.	RETAINED	D2014/12979	New layout and covered under Delegation 1.2.3 Payments from the Municipal or Trust Funds.
C/2014	04/12/2014	That Council pursuant to Section 5.42 of the <i>Local Government Act 1995</i> , amends the delegation to the Chief Executive Officer with respect to payments from the municipal or trust funds, to include a condition that the Chief Executive Officer is to provide a brief description outlining the nature of each transaction and payment made from municipal or trust funds on a monthly basis.		17.2 Notice of Motion (Council)	

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C7/2001	22/02/2001	Authority to approve legal services to the value of \$5,000 in accordance with Council Policy Legal Representation Costs Indemnity Policy.	REMOVED	DMDOC/9963	Covered by EMRC Policy 1.7 Legal Representation Costs Indemnification.
C1/2005	19/05/2005	Finalise the sale of the land, within Lot 12, required for the Hills Spine Road and Perth – Adelaide Highway, to the Western Australian Planning Commission.	REMOVED	DMDOC/34306 (TAC Report) DMDOC/32855 (Council Minutes)	Due to the passage of time, it is recommended to remove this item and any future transaction in relation to the sale of land, within lot 12 to be brought before Council.
C1/2006	20/07/2006	The CEO, in consultation with the Chairman, is delegated authority to approve interstate and local travel related expenditure associated with pursuing lobbying and advocacy issues of an urgent nature, in accordance with Council Policy 1.8 – Lobbying and Advocacy Policy. Note: This delegation has been amended by C5/2016 such that the authority is also in accordance to Council approved budget. (D2018/07021)	REMOVED	DMDOC/107688 (CEOAC Report) DMDOC/52370 (Council Minutes)	Covered by EMRC Policy 6.2 Reimbursement of Expenses – Appointed Members and Staff – Conferences, Seminars and other Events.
C2/2006	24/08/2006	That the CEO make appointments to the position of Acting Chief Executive Officer based on the EMRC employee holding the substantive position of Director and appointments being for a period of not longer than six (6) weeks.	REMOVED	DMDOC/55573 (Report) DMDOC/54252 (Council Minutes)	Covered by EMRC Policy 4.6 Appointment of Acting Chief Executive Officer.
C1/2010	18/02/2010	That Council, by an absolute majority in accordance with section 5.42 of the <i>Local Government Act 1995</i> , delegate authority to the CEO to enter into contracts for the sale of EMRC generated products to a maximum contract value of \$3,000,000 (ex GST)	RETAINED	Current DMDOC/126570 (Report) DMDOC/123820 (Council Minutes)	New layout and covered under Delegation 1.2.5 Contracts for Sale of Products

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C1/2014	20/02/2014	<p>That Council:</p> <p>1. By absolute majority acting pursuant to section 5.42 of the <i>Local Government Act 1995</i>, delegates authority to the CEO to accept tenders conditional upon:</p> <p>(a) Provision having been made in the current budget for the purchase of the particular item or as authorised by Council in advance.</p> <p>Note: this delegation has been amended by C5/2016 at the Council meeting held 24/03/2016 (D2016/04799) increasing the limit from \$350,000 to \$400,000 excl GST.</p> <p>This delegation has been amended further by C5/2023 at the Council meeting held 28/09/2023 (D2023/38282) increasing the limit from \$400,000 to \$1M excl GST.</p>	RETAINED	<p>D2014/00706 (Report)</p> <p>D2013/02643 (Council Minutes)</p>	Superseded by C5/2023 which has been included in the new layout under Delegation 1.1.2 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options.
C1/2015	19/02/2015	By absolute majority in accordance with section 5.42 of the <i>Local Government Act 1995</i> , delegates authority to the CEO to donate EMRC product to the value of \$10,000 p.a.	RETAINED	<p>D2015/02243 (Report)</p> <p>D2015/00181 (Council)</p>	New layout and covered under Delegation 1.2.4 Disposing of Property.
C4/2015	20/08/2015	That Council, by absolute majority, in accordance with Section 5.42(1) of the <i>Local Government Act 1995</i> , delegate authority, to the CEO, to invite tenders on its behalf.	RETAINED	<p>D2015/13575 (Report)</p> <p>D2015/10208 (Council)</p>	New layout and covered under Delegation 1.2.1 Tenders for Goods and Services – Call Tenders

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C5/2016	24/03/2016	<p>That Council:</p> <p>By absolute majority in accordance with section 5.45 of the <i>Local Government Act 1995</i>, amends delegation C1/2014 increasing the authority limit of the Chief Executive Officer to accept tenders to \$400,000 excluding GST.</p> <p>By absolute majority in accordance with section 5.42 of the <i>Local Government Act 1995</i>, delegates authority to the CEO to exercise the option to extend any contract awarded under a tender with further extension periods following the initial contract period, subject to satisfactory performance.</p> <p>Receives a report detailing the list of items approved under delegated authority as they arise at the next ordinary meeting of council.</p> <p>Note: this delegation has been amended by C5/2023 at the Council meeting held 28/09/2023 (D2023/38282) increasing the limit from \$400,000 to \$1M excl GST.</p>	RETAINED	<p>D2016/03708 (Report)</p> <p>D2016/01544 (Council)</p>	Superseded by C5/2023 and included in the new layout under Delegation 1.2.2 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options.
C6/2016	23/06/2016	That Council by absolute majority in accordance with section 5.42 of the <i>Local Government Act 1995</i> delegate authority to the Chief Executive Officer to negotiate and enter into contracts for waste disposal related to operations at the Red Hill Waste Management Facility and Hazelmere Resource Recovery Park.	RETAINED	<p>D2016/08210 (Report)</p> <p>D2016/06161 (Council)</p>	New layout and covered under Delegation 1.2.6 Contracts for Waste Disposal Related to Operations

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C3/2017	18/05/2017	That Council grant the CEO delegated authority to accept quotations from HAAS or its authorised suppliers for the supply of spare parts and periodic equipment repairs of the HAAS timber grinder.	RETAINED	D2017/05958 (TAC Report) D2017/07166 (Council Report)	New layout and covered under Delegation 1.2.10 Procurement of Spare Parts and Repairs for HAAS Grinder
C15/2018	6/12/2018	That: 1. Council authorises the CEO to enter into confidential discussions with the Western Metropolitan Regional Council in relation to the supply of residual waste for the proposed Resource Recovery Facility while negotiating for the supply of their general waste streams. 2. Any proposal for the supply of residual waste from Western Metropolitan Regional Council for the proposed Resource Recovery Facility be referred back to Council for consideration. 3. The report remains confidential and be certified by the Chairman and CEO.	REMOVED	D2018/15614 (Council Report)	The ability to enter into contracts for waste disposal is covered under Delegation 1.2.6 Contracts for Waste Disposal Related to Operations.
C3/2019	22/08/2019	That Council authorises: 1. The Chairman to approve any leave request from the CEO on its behalf. 2. The Deputy Chairman to approve any leave request from the CEO on its behalf, in the circumstances the Chairman is unavailable.	REMOVED	D2019/11274 (Council Report)	Covered by EMRC Policy 4.6 Appointment of Acting Chief Executive Officer

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C5/2019	19/09/2019	That Council delegates authority to the CEO to issue, and to instruct EMRC's lawyers to issue, any default notices that may be required pursuant to any of the agreements between Anergy Australia Pty Ltd and the EMRC.	RETAINED	D2019/10941 (WAC Report) D2019/13752 (Council Report)	New layout and covered under Delegation 1.2.7 Legal Matters relating to Anergy Australia Pty Ltd
C1/2021	08/02/2021	Council by absolute majority in accordance with s5.16 of the <i>Local Government Act 1995</i> delegates to the Legal Committee the power to undertake actions in response to the legal matter as outlined within the confidential report.	RETAINED	D2021/01716 (Council Report)	New layout and covered under Delegation 1.1.2 Council to Committees of Council – Legal Committee
C3/2021	25/02/2021	That Council: 1. Authorises the CEO to be the Complaints Officer. 2. By absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> , delegates power to the CEO to appoint authorised complaints officers. 3. Endorse the complaint about alleged breach form, forming attachment 1 to this report.	RETAINED	D2021/02217 (Council Report)	New layout and covered under Delegation 1.2.8 Complaints Officer
C5/2021	25/03/2021	That: 1. Council by absolute majority in accordance with s.5.16 of the <i>Local Government Act 1995</i> delegates to the Legal Committee the power to undertake all necessary actions in response to the legal matter previously reported and any related matters with regards to the Establishment Agreement. 2. 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 established Legal Committee.	RETAINED	Current D2021/00930 (Confidential Council Report)	New layout and covered under Delegation 1.1.2 Council to Committees of Council – Legal Committee

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C16/2021	25/11/2021	That Council by absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> , delegates authority to the CEO to accept contracts not relating to a tender up to \$400,000 excluding GST and subject to the requirements of the <i>Local Government (Functions and General) Regulations 1996</i> . Note: this delegation has been amended by C5/2023 at the Council meeting held 28/09/2023 D2023/38282 increasing the limit from \$400,000 to \$1M excl GST.	RETAINED	D2021/23194	Superseded by C5/2023 and included in the new layout under Delegation 1.2.2 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options.
C19/2021	25/11/2021	That: 1. Council by absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> , delegates authority to the CEO to negotiate an agreement with the party identified within the Confidential report. 2. The report and attachments remain confidential and be certified by the Chairman and CEO.	REMOVED	D2021/23003	It is recommended that this delegation is removed as the Project has been discontinued.
C20/2021	25/11/2021	That Council by absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> , delegates authority to the CEO to negotiate an agreement with the parties identified within the Confidential report.	REMOVED	D2021/23795	CEO will continue to negotiate as instructed. Any agreement with the parties will be brought back to Council for its approval.
C1/2022	24/02/2022	By absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> , delegates authority to the CEO to make monetary donations on behalf of the EMRC up to a maximum of \$2,500 for each identified charitable organisation or group with Perth's eastern region, subject to the approved annual budgetary allocation adopted by Council.	RETAINED	D2022/01044	New layout and covered under Delegation 1.2.3 Payments from the Municipal or Trust Funds.

Delegation Number	Date of Original Delegation	Description of Delegation	Review Outcome Removed or Retained	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C7/2022	19/12/2022	Council, by absolute majority in accordance with s.5.42(1) of the <i>Local Government Act 1995</i> , delegates authority to the Chief Executive Officer to negotiate and enter into the Air Pollution Control Residue Disposal agreement and financial direct deed, subject to minor variations and the satisfaction of the requirements of s.3.59 of the <i>Local Government Act 1995</i> .	RETAINED	D2022/18466	New layout and covered under Delegation 1.2.9 Air Pollution Control Residue Disposal
C2/2023	23/03/2023	Council, by absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> delegates authority to the Chief Executive Officer to exercise the option to proceed with the additional items identified in the report, subject to a review of the business case outcomes for the additional capital expenditure. The CEO be authorised, on behalf of the EMRC to enter into a contract with Enviropacific in accordance with their submitted tender, subject to any minor variations that may be agreed on between the CEO and Enviropacific.	RETAINED	D2023/05665	New layout and covered under Delegation 1.2.9 Air Pollution Control Residue Disposal
C3/2023	23/03/2023	Council authorises the CEO to finalise and execute the Participants Agreement and services specification with the Shire of Mundaring to provide waste collection services to the Shire of Mundaring from 1 July 2023 to 30 June 2033.	REMOVED	D2023/05669	It is recommended that this delegation is removed as the matter has been finalised.
C4/2023	25/05/2023	Council, by absolute majority in accordance with s.5.42 of the <i>Local Government Act 1995</i> delegates authority to the CEO to represent the EMRC's interest and vote on its behalf at any creditors meeting to be held by the voluntary administrator of Anergy Australia Pty Ltd, in consultation with the Chairman and Deputy Chairman.	RETAINED	D2023/10425	New layout and covered under Delegation 1.2.7 Legal Matters relating to Anergy Australia Pty Ltd

Delegation Number	Date of Original Delegation	Description of Delegation	Delegated To	Details of Delegated Powers and Discharge of Duties	Reason(s) for Delegation to Remain Current and recommendations (subject to Council approval).
C5/2023	28/09/2023	That Council by absolute majority in accordance with: <ol style="list-style-type: none"> Section 5.42 of the <i>Local Government Act 1995</i>, delegates authority to the CEO to accept contracts for the purchase of plant or machinery up to the Council approved and adopted budget allocation set aside for that specific purpose and subject to the requirements of the <i>Local Government (Functions and General) Regulations 1996</i>. Section 5.45 of the <i>Local Government Act 1995</i>, amends delegation C5/2016 increasing the authority limit of the CEO to accept tenders to \$1M excluding GST. Section 5.45 of the <i>Local Government Act 1995</i>, amends delegation C16/2021 increasing the authority limit of the CEO to accept contracts not related to a tender up to \$1 million excluding GST. 	RETAINED	D2023/38282	New layout and covered under Delegation 1.2.2 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options.
C6/2023	28/09/2023	That: <ol style="list-style-type: none"> Council by absolute majority in accordance with section 5.42 of the <i>Local Government Act 1995</i>, delegates authority to the CEO to negotiate and execute the amendments to the agreements with the party identified within the confidential report. The report remains confidential and be certified by the Chairperson and CEO. 	REMOVED	D2023/38294	It is recommended that this delegation is removed as the Project has been discontinued.
C7/2023	23/11/2023	That Council Approves: <ol style="list-style-type: none"> By absolute majority, in accordance with s.5.42 of the <i>Local Government Act 1995</i>, delegates authority to the CEO to determine and approve the dates and times for the closure of the EMRC facilities over the Christmas / new year periods and public holidays. 	REMOVED	D2023/44385	It is recommended that this delegation is removed in line with the WALGA delegations template.

C1/2024	18/04/2024	<p>1. By absolute majority in accordance with s.5.8 of the Local Government Act 1995 establishes a Chief Executive Officer Recruitment Committee, with Terms of Reference forming the Attachment of this report and the Committee be disbanded upon the signing by all parties of a contract of employment for the position of Chief Executive Officer of the Eastern Metropolitan Regional Council.</p> <p>3. By absolute majority in accordance with s.5.16 of the Local Government Act 1995 delegates to the Chief Executive Officer Recruitment Committee the power to engage an independent human resources consultant to assist in carrying out its functions, following a request for quote process.</p>	NEW DELEGATION	D2024/09318	New layout and covered under Delegation 1.1.1 Chief Executive Officer Recruitment Committee.
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Next Steps and Options for Council Consideration

- 13 The table containing all of the current EMRC delegations has been reviewed and reasons have been provided as to why each delegation should be retained or removed. A new EMRC Delegations Register to be adopted (forming attachment 1 of this report) is in line with the officer recommendation.

STRATEGIC/POLICY IMPLICATIONS

- 14 Reporting on EMRC Strategic Policy implications align with the revised Strategic Plan 2017-2027 and the Sustainability Strategy:

Target - Sustainability integrated into management processes.

FINANCIAL IMPLICATIONS

- 15 Nil

SUSTAINABILITY IMPLICATIONS

- 16 Nil

RISK MANAGEMENT

Risk – Non Compliance with the <i>Local Government Act 1995</i>		
Consequence	Likelihood	Rating
Moderate	Unlikely	Moderate
Action/Strategy		
Annual review of delegated powers and duties and an approval for a delegation to the CEO is required to comply with the <i>Local Government Act 1995</i> .		

MEMBER COUNCIL IMPLICATIONS

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

ATTACHMENT(S)

1. New EMRC Delegations Register (D2024/10248)
2. Confidential Council Report for Delegation No. C15/2018 (D2024/05703)
3. Confidential Council Report for Delegation No. C1/2021 (D2024/05704)
4. Confidential Council Report for Delegation No. C19/2021 (D2024/05705)
5. Confidential Council Report for Delegation No. C20/2021 (D2024/05706)
6. Confidential Council Report for Delegation No. C7/2022 (D2024/05707)
7. Confidential Council Report for Delegation No. C2/2023 (D2023/05708)
8. Confidential Council Report for Delegation No. C4/2023 (D2024/05709)
9. Confidential Council Report for Delegation No. C6/2023 (D2024/05710)

VOTING REQUIREMENT

Absolute Majority

RECOMMENDATION(S)

That:

1. Council reviews and endorses the delegations made to the Chief Executive Officer as detailed in the revised new EMRC Delegations Register forming Attachment 1 of this report.
2. The attachments to this report remain confidential and are certified by the EMRC Chairperson and the Chief Executive Officer.

COUNCIL RESOLUTION(S)

MOVED

SECONDED



Eastern Metropolitan Regional Council Delegations Register

Current as at 23 May 2024

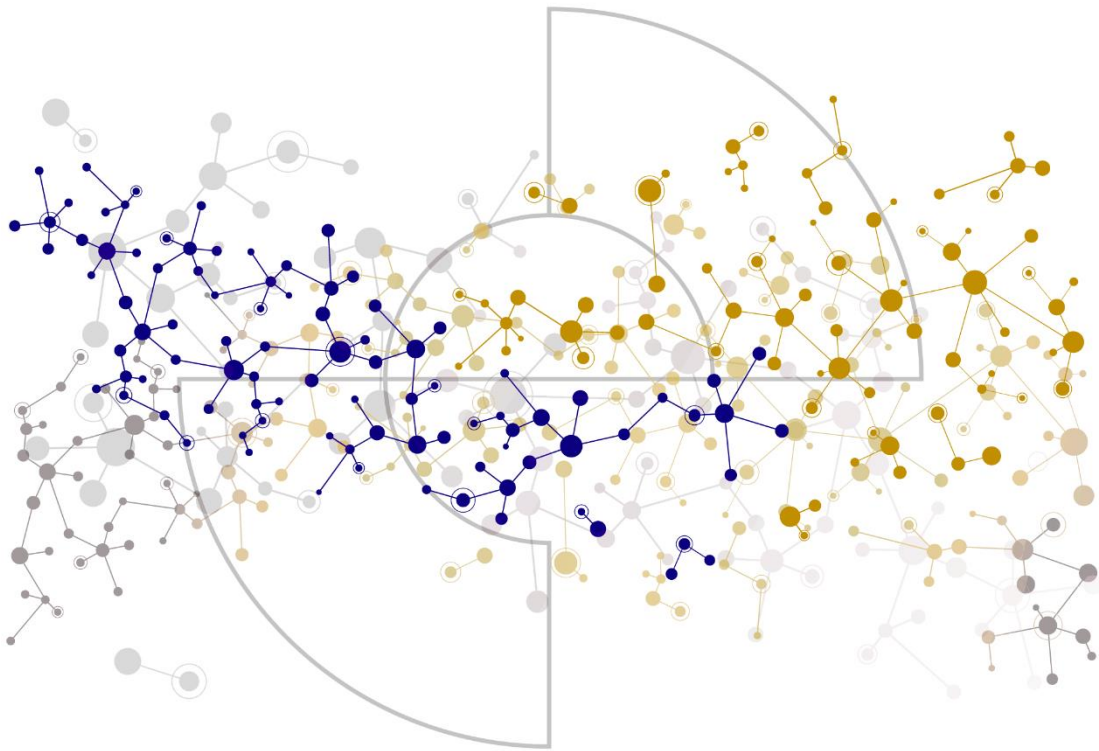


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1 Local Government Act 1995 Delegations

1.1 Council to Committees of Council

1.1.1 Chief Executive Officer Recruitment Committee

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.16 Delegation of some powers and duties to certain committees.
Express Power of Duty Delegated	<i>Local Government (Administration) Regulations 1996:</i> Regulation 18FA Model Standards for CEO recruitment, performance and termination. Schedule 2 Clause 8(2)
Delegate	Chief Executive Officer Recruitment Committee
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	Nil

Sub-Delegate/s: <i>Appointed by CEO</i>	N/A
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Council Policy 2.1 Committees of Council Council Policy 4.1 Chief Executive Officer – Appointment, Performance Review and Termination Terms of Reference – Chief Executive Officer Recruitment Committee
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.1.2 Legal Committee

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.16 Delegation of some powers and duties to certain committees.
Express Power of Duty Delegated	<i>Authority to undertake actions in response to the legal matter outlined within confidential report (D2021/01716) and any related matters with regards to the Establishment Agreement (D2021/00930).</i>
Delegate	Chief Executive Officer Recruitment Committee
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Undertake actions in response the legal matter and any related EMRC Establishment Agreement matters.
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	Nil
Sub-Delegate/s: <i>Appointed by CEO</i>	N/A

CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A
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Compliance Links	Council Policy 2.1 Committees of Council Terms of Reference – Legal Committee
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2 Council to Chief Executive Officer

1.2.1 Tenders for Goods and Services – Call Tenders

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11(1), (2) When tenders have to be publicly invited r.13 Requirements when local government invites tenders though not required to do so r.14 Publicly inviting tenders, requirements for
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to call tenders [F&G r.11(1)]. 2. Authority to invite tenders although not required to do so [F&G r.13]. 3. Authority to determine in writing, before tenders are called, the criteria for acceptance of tenders [F&G r.14(2a)]. 4. Authority to determine the information that is to be disclosed to those interested in submitting a tender [F&G r.14(4)(a)]. 5. Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation [F&G r.14(5)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Tenders may only be called where there is an adopted budget for the proposed goods or services, with the exception being in the period immediately prior to the adoption of a new Annual Budget where <ol style="list-style-type: none"> i. the proposed goods or services are required to fulfil a routine contract related to the day to day operations of the Local Government; or ii. a current supply contract expiry is imminent; and iii. the value of the proposed new contract has been included in the draft Annual Budget proposed for adoption, and iv. the tender specification includes a provision that the tender will only be awarded subject to the budget adoption by the Council.

Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
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Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. <i>Local Government (Functions and General) Regulations 1996</i> – prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit Council Policy 3.5 Purchasing Policy
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.2 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options

<p>Delegator <i>Power/Duty assigned in legislation to:</i></p>	<p>Local Government</p>
<p>Express Power to Delegate <i>Power that enables a delegation to be made.</i></p>	<p><i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO</p>
<p>Express Power of Duty Delegated</p>	<p><i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11(2)(j) Exercising contract extension options r.18(2), (4), (4a), (5), (6) and (7) Rejecting and accepting tenders r.20(1), (2), (3) Variation of requirements before entry into contract r.21A Varying a contract for the supply of goods or services</p>
<p>Delegate:</p>	<p>Chief Executive Officer</p>
<p>Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i></p>	<ol style="list-style-type: none"> 1. Authority to determine whether or not to reject tenders that do not comply with requirements as specified in the invitation to tender [F&G.r.18(2)]. 2. Authority to seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)]. 3. Authority to assess, by written evaluation, tenders that have not been rejected, to determine: <ol style="list-style-type: none"> i. The extent to which each tender satisfies the criteria for deciding which tender to accept; and ii. To accept the tender that is most advantageous within the \$1,000,000 (ex GST) detailed as a condition on this Delegation [F&G r.18(4)]. 4. Authority to decline to accept any tender [F&G r.18(5)]. 5. Authority to accept the next most advantageous tender if, within 6-months of accepting a tender, a contract has not been entered into OR the local government and the successful tenderer agree to terminate the contract [F&G r.18(6) & (7)]. 6. Authority to determine whether variations in goods and services required are minor variations, and to negotiate with the successful tenderer to make minor variations before entering into a contract [F&G r.20(1) and (3)]. 7. Authority to choose the next most advantageous tender to accept, if the chosen tenderer is unable or unwilling to form a contract to supply the varied requirement OR the minor variation cannot be agreed with the successful tenderer, so that the tenderer ceases to be the chosen tenderer [F&G r.20(2)].

	<p>8. Authority to vary a tendered contract, after it has been entered into, provided the variation/s are necessary for the goods and services to be supplied, and do not change the scope of the original contract or increase the contract value beyond 20% subject to Council resolution [F&G r.21A(a)].</p> <p>9. Authority to exercise a contract extension option that was included in the original tender specification and contract in accordance with r.11(2)(j).</p>
<p>Council Conditions on this Delegation</p>	<p>a. Exercise of authority under F&G.r.18(2) requires consideration of whether or not the requirements as specified in the invitation to tender have been expressed as mandatory and if so, discretion may not be capable of being exercised – consider process contract implications.</p> <p>b. In accordance with s.5.43(b), tenders may only be accepted under this delegation, where:</p> <ul style="list-style-type: none"> i. The total consideration under the resulting contract, arising from a tender or non-tender (i.e. request for quote), is \$1,000,000.00 (ex GST) or less (excluding plant and machinery); ii. The total consideration under the resulting contract for the purchase of plant or machinery is up to the Council approved and adopted budget allocation set aside for that specific purpose and subject to the requirements of the <i>Local Government (Functions & General) Regulations 1996</i>. iii. The expense is included in the adopted Annual Budget; and iv. The tenderer has complied with requirements under F&G r.18(2) and (4). <p>c. A decision to vary a tendered contract before entry into the contract [F&G r.20(1) and (3)] must include evidence that the variation is minor in comparison to the total goods or services that tenderers were invited to supply.</p> <p>d. A decision to vary a tendered contract after entry into the contract [F&G r.21A(a)] must include evidence that the variation is minor in comparison to the total goods or services that tenders were invited to supply and must include evidence that the variation is necessary and does not change the scope of the contract.</p> <p>e. A decision to renew or extend the contract must only occur where the original contract contained the option to renew or extend its term as per r.11(2)(j) and that the contractor's performance has been reviewed and the review evidences the rationale for entering into the extended term.</p>
<p>Express Power to Sub-Delegate:</p>	<p><i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p>

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. <i>Local Government (Functions and General) Regulations 1996</i> – prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit Council Policy 3.5 Purchasing Policy
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.3 Payments from the Municipal or Trust Funds

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	<i>Local Government (Financial Management) Regulations 1996:</i> r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making.
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to make payments from the municipal or trust funds [FM. r.12(1)(a)]
Council Conditions on this Delegation	a. Authority to make payments is subject to annual budget limitations. b. A brief description outlining the nature of each transaction and payment made from municipal or trust funds on a monthly basis is to be included.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. <i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996 - refer specifically r.13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.</i> <i>Local Government (Audit) Regulations 1996</i> Department of Local Government, Sport and Cultural Industries Operational Guideline No.11 – Use of Corporate Credit Cards Department of Local Government, Sport and Cultural Industries: Accounting Manual EMRC Management Guidelines: 1. Authorisation of Expenditure
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	2. Corporate Credit Card
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.4 Disposing of Property

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	<i>Local Government Act 1995:</i> s.3.58(2) & (3) Disposing of Property <i>Local Government (Functions and General) Regulations 1996:</i> R.30 Dispositions of property excluded from Act s.3.58
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to dispose of property to: <ol style="list-style-type: none"> (a) the highest bidder at public auction [s.3.58(2)(a)]. (b) the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tender [s.3.58(2)(b)] 2. Authority to dispose of property by private treaty only in accordance with section 3.58(3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)]. 3. Authority to dispose of property, that is prescribed as exempt from the provisions of s.3.58: <ol style="list-style-type: none"> (a) disposal of land to an adjoining owner, where the market value is less than \$5000 and the delegate has determined that the land would not be of benefit to anyone other than the adjoining owner. [F&G.r.30(2)(a)] (b) disposal of land, by lease, to an employee of the local government for use as the employee's residence [F&G.r.30(2)(d)]. (c) disposal of land, by lease, for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land. [F&G.r.30(2)(e)] (d) disposal of land, by lease, of a residential property to a person for residential purposes [F&G.r.30(2)(f)]. (e) disposal of property (other than land / buildings), where the property is disposed within 6 months after it has been unsuccessfully put out to auction, public tender or private treaty via Statewide public notice[F&G.r.(2A)] (f) disposal of property, other than land / buildings, where the market value is determined as less than \$20,000. [F&G r.30(3)(a)]

	<p>(g) disposal of property, other than land / buildings, where the entire consideration received for the disposal is used to purchase other property AND the total value of the other property is not more, or worth more, than \$75,000. [F&G.r.30(3)(b)].</p> <p>4. Authority to donate EMRC product limited to the value set out in the conditions pertaining to this delegation.</p>
<p>Council Conditions on this Delegation</p>	<p>a. Disposal of land or building assets is limited to matters specified in the Annual Budget and in any other case, a Council resolution is required.</p> <p>b. In accordance with s.5.43, disposal of property, for any single project or where not part of a project but part of a single transaction, is limited to a value of less than \$75,000 (ex GST).</p> <p>c. Disposal by way of a donation of EMRC product is limited to a value of no more than \$10,000.</p> <p>d. When determining the method of disposal:</p> <ul style="list-style-type: none"> ➤ Where a public auction is determined as the method of disposal: <ul style="list-style-type: none"> ⇒ Reserve price has been set by independent valuation. ⇒ Where the reserve price is not achieved at auction, negotiation may be undertaken to achieve the sale at up to a -10% variation on the set reserve price. ➤ Where a public tender is determined as the method of disposal and the tender does not achieve a reasonable price for the disposal of the property, then the CEO is to determine if better value could be achieved through another disposal method and if so, must determine not to accept any tender and use an alternative disposal method. ➤ Where a private treaty is determined [s.3.58(3)] as the method of disposal, authority to: <ul style="list-style-type: none"> ⇒ Negotiate the sale of the property up to a -10% variance on the valuation; and ⇒ Consider any public submissions received and determine if to proceed with the disposal, ensuring reasons for the decision are recorded. ➤ A disposal under Functions and General Regulations 30(2)(a), (f), (2A) or (3)(a), (b), the disposal method selected must obtain a best value outcome for the Local Government. ➤ A disposal under Functions and General Regulations 30(2)(d), must be assessed as equitable in context of disposals to other employees of the Local Government.

	➤ Disposal methodology must consider and where practicable demonstrate environmentally responsible outcomes.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Chief Financial Officer
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	Sub-delegate may: <ul style="list-style-type: none"> a. Authorise the disposal of any EMRC fleet vehicles in accordance with EMRC's vehicle replacement schedule. b. Set the reserve price of the EMRC fleet vehicles subject to a public auction or public tender. c. Offer or accept an alternate offer price in the event the reserve price is not met.

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. <i>Local Government Act 1995 – s.3.58 Disposal of Property</i> <i>Local Government (Functions and General) Regulations 1995 – r.30 Dispositions of property excluded from Act s. 3.58</i> EMRC Management Guidelines: 1. Fleet Vehicle Allocation
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.5 Contracts for the Sale of Products

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	Authority to enter into contracts for the sale of EMRC generated products to a maximum value of \$3 million.
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to enter into contracts for the sale of EMRC generated products
Council Conditions on this Delegation:	Up to a maximum contract value of three million dollars (\$3,000,000) ex GST.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.6 Contracts for Waste Disposal Related to Operations

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	Authority to negotiate and enter into contracts for waste disposal related to operations at the Red Hill Waste Management Facility and Hazelmere Resource Recovery Park
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to negotiate and enter into waste disposal contracts related to operations.
Council Conditions on this Delegation:	Related to waste disposal related to operations at Red Hill Waste Management Facility and Hazelmere Resource Recovery Park
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.7 Legal Matters relating to Anergy Australia Pty Ltd

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	<ol style="list-style-type: none"> 1. Authority to issue, and instruct EMRC’s lawyers to issue, any default notices that may be required pursuant to any of the agreements between Anergy Australia Pty Ltd and the EMRC (D2019/10941). 2. Authority to represent the EMRC’s interest and vote on its behalf at any creditors meeting to be held by the voluntary administrator of Anergy Australia Pty Ltd, in consultation with the Chairperson and Deputy Chairperson.
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to issue any default notices that may be required pursuant to any of the agreements with Anergy Australia Pty Ltd. 2. Authority to represent the EMRC’s interest and vote at any creditors meeting to be held by the voluntary administrator of Anergy Australia Pty Ltd, in consultation with the Chairperson and Deputy Chairperson.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. The authority to represent and vote at creditors meeting is in consultation with the Chairperson and Deputy Chairperson.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A
Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan



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1.2.8 Complaints Officer

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	<i>Local Government (Model Code of Conduct) Regulations 2021:</i> r.11(3) of Schedule 1 The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. The Chief Executive Officer is to be the Complaints Officer. 2. Authority to appoint authorised complaints officers.
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	EMRC Code of Conduct EMRC Council Member Complaints Procedure EMRC Complaint About Alleged Breach Form
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.9 Air Pollution Control Residue Disposal

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power of Duty Delegated	<ol style="list-style-type: none"> 1. Authority to negotiate and enter into the Air Pollution Control Residue Disposal agreement and financial direct deed, subject to minor variations and the satisfaction of the requirements of s.3.59 of the <i>Local Government Act 1995</i> (D2022/18466). 2. Authority to exercise the option to proceed with the additional items identified in the report, subject to a review of the business case outcomes for the additional capital expenditure. 3. Authority to enter into a contract with Enviropacific, in accordance with their submitted tender, subject to any minor variations that may be agreed on between the CEO and Enviropacific.
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to negotiate and enter into the Air Pollution Control Residue Disposal and financial direct deed. 2. Authority to exercise the option to proceed with the additional items identified in the report. 3. Authority to enter into a contract with Enviropacific in accordance with their submitted tender, subject to minor variations.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Subject to the satisfaction of the requirements of s.3.59 of the <i>Local Government Act 1995</i>. b. Subject to a review of the business case outcomes for the additional capital expenditure.

Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A

Compliance Links	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. <i>Local Government Act 1995 – prescribe applicable statutory procedures</i>
Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan

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1.2.10 Procurement of Spare Parts and Repairs for HAAS Grinder

Delegator <i>Power/Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate <i>Power that enables a delegation to be made.</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO <i>Local Government (Functions and General) Regulations 1996:</i> r.11 (2)(f) Tenders do not have to be publicly if the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier
Express Power of Duty Delegated	Authority to accept quotations from HAAS or its authorised suppliers for the supply of spare parts and periodic equipment repairs of the HAAS timber grinder.
Delegate	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> The CEO has been granted authority to accept quotations for spare parts and periodic equipment repairs of the HAAS timber. Exemption has been granted for tenders do not have to be publicly invited.
Council Conditions on this Delegation:	Accept quotations only from HAAS or its authorised suppliers.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the delegation also apply to sub-delegation.</i>	N/A
Compliance Links	Council Policy 3.5 Purchasing Policy



Record Keeping:	Records to be kept in accordance with the current EMRC Record Keeping Plan
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6.2 TENDER 2018-011 PROVISION OF LATERITIC CAPROCK QUARRYING SERVICE

D2024/14316

PURPOSE OF REPORT

The purpose of this report is to advise Council of the results of Tender 2024-002 for the provision of a lateritic caprock quarrying service and recommend acceptance of the Tender from B&J Catalano Pty Ltd.

KEY POINTS AND RECOMMENDATION(S)

- A tender for the provision of a quarrying service to excavate, remove and crush lateritic caprock at the Red Hill Waste Management Facility was advertised on 17 February 2024.
- Tenders closed on 24 March 2024 with three (3) complying submissions being received.
- The tender called for the provision of a quarrying service to excavate and remove caprock from future landfill cells, the crushing and screening of the caprock to required product specifications and the stockpiling of these products at nominated locations.

RECOMMENDATION(S)

That:

1. Council awards Tender 2024-002 Provision of Lateritic Caprock Quarrying Service to B&J Catalano Pty Ltd at the listed rates forming the Attachment 1 to this report, for the period 3 July 2024 to 2 July 2027, with an option for two (2) single year extensions, exercisable by the CEO subject to satisfactory performance.
2. The CEO be authorised to enter a contract with B&J Catalano Pty Ltd in accordance with their submitted tender, subject to any minor variations that may be agreed on between the CEO and B&J Catalano Pty Ltd.
3. The contract rates for Tender 2024-002 Provision of Lateritic Caprock Quarrying Service are adjusted annually at each anniversary of the contract based on the Consumer Price Index for Perth over the previous twelve months.

SOURCE OF REPORT

Chief Operating Officer

BACKGROUND

- 1 As part of landfill development at the Red Hill Waste Management Facility, the EMRC excavates cells for the disposal of waste to ensure that there is always the capacity for waste to be landfilled. The site has a surface layer of lateritic caprock that must be removed, and any cell excavation includes, in part, the excavation of caprock. The excavated caprock is crushed into ferricrete for use as a road construction material. The crushing specifications for ferricrete conform to Main Roads WA Specification 501. The income from the sale of the ferricrete offsets the cost of the caprock removal and crushing.
- 2 Tender 2024-002 is for the excavation of caprock, for the stockpiling of the rock and for the crushing, screening and stockpiling of material crushed to the product specifications as required. The tender is for an initial three (3) year period with an option for two (2) single year extensions, exercisable by the CEO subject to satisfactory performance.

REPORT

3 Tender 2024-002 for Caprock Removal and Crushing was advertised on 17 February 2024 and closed on 25 March 2024. Three (3) compliant submissions were received from:

- a) B&J Catalano Pty Ltd
- b) Raubex Construction Pty Ltd
- c) Palmer Civil Construction Pty Ltd.

4 Each submission was assessed by an Evaluation Panel based on the following criteria:

5 Compliance criteria

Item No	Description of Compliance Criteria	Yes/No
(a)	Compliance with the requirements of the RFT	Yes <input type="checkbox"/> No <input type="checkbox"/>
(b)	Compliance with the instruction in completing the qualitative criteria	Yes <input type="checkbox"/> No <input type="checkbox"/>
(c)	Compliance with the instruction in completing the Price Schedule	Yes <input type="checkbox"/> No <input type="checkbox"/>
(d)	Compliance with the RFT closing date	Yes <input type="checkbox"/> No <input type="checkbox"/>
(e)	Compliance with the Conditions of Tendering	Yes <input type="checkbox"/> No <input type="checkbox"/>

6 Qualitative criteria

Description of Qualitative Criteria	Weighting
(a) Technical capabilities and capacity to provide service	20%
(b) Tenderer's Demonstrated Experience in providing similar service	25%
(c) Service Execution Methodology	10%
(d) WHS Management.	10%
(e) Environmental Management	5%

7 **Price Consideration**

Criteria	Weighting
Tendered price	30%

8 After combining the weighted scores for both the qualitative criteria and price, B&J Catalano Pty Ltd represented the highest rated overall assessment.

9 Based on the Panel’s evaluation, the tender from B&J Catalano Pty Ltd demonstrated the most advantageous submission and is considered to offer the best value for money.

10 It is recommended that the contract be awarded to B&J Catalano Pty Ltd for an initial contract period of three (3) years, at the Red Hill Waste Management Facility, as per the schedule of rates in their tender submissions (Attachment) with an option for two (2) single year extensions, exercisable by the CEO subject to satisfactory performance.

11 The contract rates are to be adjusted annually at each anniversary of the contract based on the consumer price index for Perth over the previous twelve months.

STRATEGIC/POLICY IMPLICATIONS

12 Reporting on EMRC Strategic Policy implications align with the revised Strategic Plan 2017-2027 and the Sustainability Strategy.

FINANCIAL IMPLICATIONS

13 Provision has been made in the adopted 2024/2025 Annual Budget and subsequent years for the provision of caprock removal and crushing services. The budget provisions will be adjusted annually based on the expected number of campaigns and the tendered schedule of rates. It is anticipated that the value of the contract is estimated at \$7.478 million over the five (5) years of the contract.

SUSTAINABILITY IMPLICATIONS

14 The removal and crushing of caprock programme is an important aspect of the EMRC’s economic sustainability and waste operations.

RISK MANAGEMENT

Risk – Running Out of Air Space for Disposal		
Consequence	Likelihood	Rating
Moderate	Unlikely	Moderate
Action/Strategy		
<ul style="list-style-type: none"> ➤ The laterite caprock removal is essential for the ongoing development of future class III - landfill cells. ➤ Stage 18 is due for construction Summer 2024/25 and the laterite must be removed first. 		

MEMBER COUNCIL IMPLICATIONS

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

ATTACHMENT(S)

1. Schedule of Rates (D2024/15201)
2. Supplier Company Details (D2024/15344)

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION(S)

That:

1. Council awards Tender 2024-002 Provision of Lateritic Caprock Quarrying Service to B&J Catalano Pty Ltd at the listed rates forming the Attachment 1 to this report, for the period 3 July 2024 to 2 July 2027, with an option for two (2) single year extensions, exercisable by the CEO subject to satisfactory performance.
2. The CEO be authorised to enter a contract with B&J Catalano Pty Ltd in accordance with their submitted tender, subject to any minor variations that may be agreed on between the CEO and B&J Catalano Pty Ltd.
3. The contract rates for Tender 2024-002 Provision of Lateritic Caprock Quarrying Service are adjusted annually at each anniversary of the contract based on the Consumer Price Index for Perth over the previous twelve months.

COUNCIL RESOLUTION(S)

MOVED

SECONDED



RFT 2024-002
Lateritic Caprock Quarrying Services at Red Hill Waste Management Facility (RHWMF)

Price Schedule

The contract/unit price/s includes all labour, plant and equipment, mobilisation and demobilisation of all equipment, attendants, driver/operator's wages, taxes (excluding GST), charges, fees, import duties, overheads, profit and all other things necessary to perform the Service in an efficient, effective and safe manner, including but not limited to spare parts, repairs and insurance. The contract/unit price/s shall not be subject to any rise and fall or fluctuation in exchange rates whatsoever for the first 12 months. All volumes are to be measured of crushed stockpiles of material meeting the Specification by a licensed surveyor on completion.

Please only populate yellow highlighted column


No.	Item Description	Unit	Price / Unit (ex GST)	GST Amount	Price / Unit (inc GST)
PRELIMINARIES					
1	Mobilisation of all plant	Item	\$ 18,752.86	\$ 1,875.29	\$ 20,628.15
2	Demobilisation of all plant	Item	\$ 13,998.88	\$ 1,399.89	\$ 15,398.77
3	Establishment of contractor accommodation, equipment and storage facilities	Day	\$ 61.48	\$ 6.15	\$ 67.63
4	Dust Suppression as per Technical Specification	Hr	\$ 186.76	\$ 18.68	\$ 205.44
5	Survey and Site Set out	Hr	\$ 162.40	\$ 16.24	\$ 178.64
EXCAVATION					
6	Stripping of topsoil (does not include haulage)	Ha	\$ 6,369.98	\$ 637.00	\$ 7,006.98
7	Breaking, Excavation and stockpiling of Rock only. Rate includes all plant required to remove and size rock suitable for crushing (does not include haulage)	m3	\$ 3.54	\$ 0.35	\$ 3.89
CRUSHING					
8	Crushing and screening of Rock to produce Ferricrete to specification as set out in Section 9 of the Scope of Supply document (does not include haulage)	m3	\$ 6.48	\$ 0.65	\$ 7.13
9	Crushing and screening of Rock to produce a -12mm Ferricrete (does not include haulage)	m3	\$ 6.98	\$ 0.70	\$ 7.68
10	Crushing and screening of Rock to produce 14mm - 28mm filter rock (does not include haulage)	m3	\$ 7.65	\$ 0.77	\$ 8.42
11	Crushing and screening of Rock to produce 28mm - 50mm filter rock (does not include haulage)	m3	\$ 6.50	\$ 0.65	\$ 7.15
12	Crushing and screening of Rock to produce 60mm - 150mm filter rock (does not include haulage)	m3	\$ 8.11	\$ 0.81	\$ 8.92
13	Crushing and screening of Rock to produce a -100mm product (does not include haulage)	m3	\$ 6.40	\$ 0.64	\$ 7.04
HAULAGE - BASE RATE. (includes loading and stockpiling)					
14	Hauling of product includes loading and stockpiling. Distance 0km - 0.5km	m3	\$ 3.24	\$ 0.32	\$ 3.56
Additional Haulage. (excludes loading and stockpiling)					
15	Extra Hauling of product 0.5km - 1.0km	m3	\$ 0.55	\$ 0.06	\$ 0.61
16	Extra Hauling of product 1.0km - 2.0km	m3	\$ 1.50	\$ 0.15	\$ 1.65
17	Extra Hauling of product 2.0km - 3.0km	m3	\$ 2.51	\$ 0.25	\$ 2.76
Materials Testing - per 5,000m3 of final product					
18	Particle Size Distribution	each	\$ 126.44	\$ 12.64	\$ 139.08
19	Liquid Limit	each	\$ 24.36	\$ 2.44	\$ 26.80
20	Plastic Limit	each	\$ 32.48	\$ 3.25	\$ 35.73
21	Linear Shrinkage	each	\$ 71.92	\$ 7.19	\$ 79.11
22	California Bearing Ratio	each	\$ 191.40	\$ 19.14	\$ 210.54
23	Maximum Dry Compressive Strength	each	\$ 192.56	\$ 19.26	\$ 211.82
24	Maximum Dry Density	each	\$ 114.72	\$ 11.47	\$ 126.19
25	Flakiness Index	each	\$ 96.28	\$ 9.63	\$ 105.91
26	Los Angeles Abrasion	each	\$ 229.68	\$ 22.97	\$ 252.65
18-26A	If required for the lab to conduct the onsite sampling	each	\$ 203.00	\$ 20.30	\$ 223.30

*** The EMRC offers no guarantee of quantities***



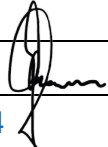
Eastern Metropolitan Regional Council
 226 Great Eastern Highway, Ascot WA 6104
 PO Box 234, Belmont WA 6984
 T (08) 9424 2222
 E mail@emrc.org.au
www.emrc.org.au

COMPANY DIRECTOR DETAILS FORM

COMPANY PARTICULARS	
Company Name in Full:	B&J CATALANO PTY LTD
ABN / ACN:	68008961975 / 008961975
Address of Registered Office:	SOUTH WEST HIGHWAY, BRUNSWICK WA 6224
Principal Place of Business:	BRUNSWICK
Information on previous company names (if applicable):	
DIRECTOR PARTICULARS	
Title:	DIRECTOR
Full Forename(s):	CLEM DAVID
Surname:	CATALANO
Former Name(s):	
Country / State of Residence:	WESTERN AUSTRALIA
Nationality:	AUSTRALIAN CITIZEN
Date of Birth:	11/05/1961
Date of Appointment:	06/12/1995
Telephone:	0418 931 783
Email:	clemcatalano@catalano.com.au
LIST OF CONTRACTORS	
Contractor 1:	AUSTRALIAN ELECTRICAL SERVICES
Contractor 2:	BCE SURVEYING PTY LTD
Contractor 3:	CITY & REMOTE AREA PILOTING / T&J PILOT SERVICES / KEL PILOT SERVICES
Contractor 4:	COATES HIRE
Contractor 5:	MATERIALS CONSULTANTS PTY LTD
Contractor 6:	SWAN TOWING SERVICE PTY LTD
Director's Signature:	
Date:	15/03/2024

Please complete and return this form with your tender submission

COMPANY DIRECTOR DETAILS FORM

COMPANY PARTICULARS	
Company Name in Full:	Raubex Construction Pty Ltd
ABN / ACN:	12633 148 928
Address of Registered Office:	10 Tacoma Circuit, Canning Vale WA 6155
Principal Place of Business:	10 Tacoma Circuit, Canning Vale WA 6155
Information on previous company names (if applicable):	
DIRECTOR PARTICULARS	
Title:	Managing Director
Full Forename(s):	Johannes Daniel
Surname:	Roux
Former Name(s):	
Country / State of Residence:	Western Australia
Nationality:	Australian
Date of Birth:	28 May 1965
Date of Appointment:	29 April 2019
Telephone:	0474 979 241
Email:	Hans.r@raubex.com.au
LIST OF CONTRACTORS	
Contractor 1:	Castle Equipments
Contractor 2:	Western Geotechnicals
Contractor 3:	
Contractor 4:	
Contractor 5:	
Contractor 6:	
Contractor 7:	
Director's Signature:	
Date:	25/03/2024

Please complete and return this form with your tender submission

Attachment 11 - Company Directors Details



Eastern Metropolitan Regional Council
 226 Great Eastern Highway, Ascot WA 6104
 PO Box 234, Belmont WA 6984
 T (08) 9424 2222
 E mail@emrc.org.au
 .e r

COMPANY DIRECTOR DETAILS FORM

COMPANY PARTICULARS	
Company Name in Full:	Urban Resources Pty Ltd
ABN / ACN:	47121043034 / 121043034
Address of Registered Office:	Canning Accounting - First Floor 366 Scarborough Beach Road, Osborne Park WA 6017
Principal Place of Business:	33 Cocos Drive, Bibra Lake WA 6163
Information on previous company names (if applicable):	N/A
DIRECTOR PARTICULARS	
Title:	Mr
Full Forename(s):	Stephen John
Surname:	Elliott
Former Name(s):	N/A
Country/ State of Residence:	Australia / Western Australia
Nationality:	Australian
Date of Birth:	09/07/1955
Date of Appointment:	02/08/2006
Telephone:	0418 950 222
Email:	stephen@urbanresources.com.au
LIST OF CONTRACTORS	
Contractor 1:	
Contractor 2:	
Contractor 3:	
Contractor 4:	
Contractor 5:	11\
Director's Signature:	S
Date:	iii i 1-oiLf

Please complete and return this form with your tender submission

6.3 REVIEW OF COUNCIL POLICY 3.3 - MANAGEMENT OF INVESTMENTS POLICY

D2024/12593

PURPOSE OF REPORT

The purpose of this report is to review Council Policy 3.3 - Management of Investments Policy.

KEY POINT(S)

- Council Policy 3.3 - Management of Investments Policy was last reviewed at the meeting of Council held on 23 September 2021.
- It is proposed to increase the Policy limits for AA rated ADI's from 35% for single entities to 45%.
- It is proposed that the existing Policy, as revised with amendments, be adopted.

RECOMMENDATION(S)

That:

1. Revised EMRC Policy 3.3 - Management of Investments Policy forming attachment 2 to this report be adopted by Council.
2. EMRC Policy 3.3 - Management of Investments Policy be next reviewed in the twelve months following the ordinary election day in 2025.

SOURCE OF REPORT

Chief Financial Officer

BACKGROUND

- 1 EMRC Policy 3.3 - Management of Investments Policy was last reviewed at the meeting of Council held on 23 September 2021 (D2021/18149).

REPORT

- 2 The policies of the EMRC, determined by Council as required by Section 2.7(2)(b) of the *Local Government Act 1995* (the Act), guide and inform management and the public about key Council principles. It is important that policies are reviewed periodically and amended where necessary.
- 3 A review of the existing policy has been undertaken with the following objectives used as a basis for undertaking the review:
 - To ensure that the policy meets the definition of a policy;
 - To incorporate in the policy appropriate amendments to account for changes in details such as dates, times and values since the last review;
 - To realign the policy with the adopted revised *10 Year Strategic Plan 2017-2027* and the *Sustainability Strategy*; and
 - To ensure the policy is contemporary and appropriate for the Council.

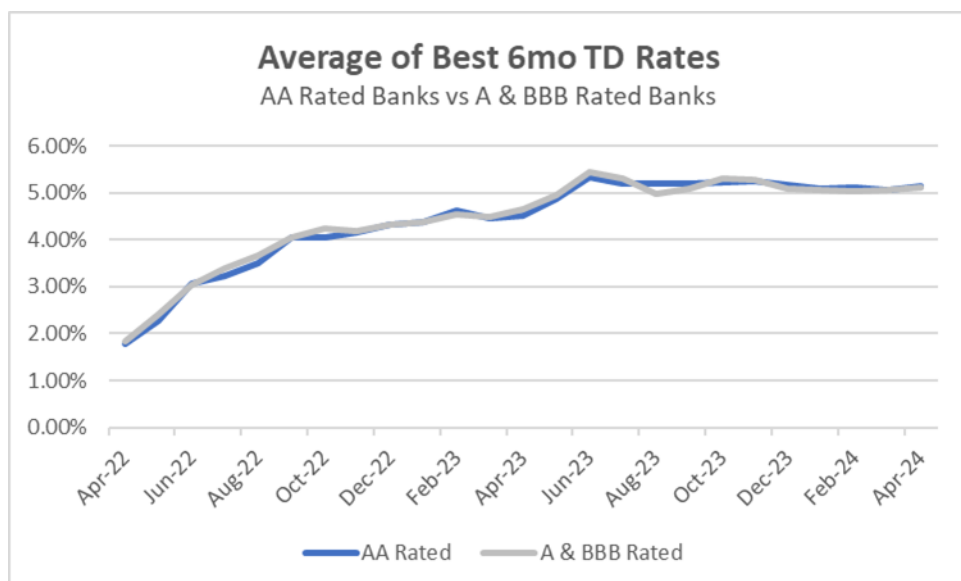
- 4 The three main actions undertaken when reviewing a policy include:
- Maintain the current policy without amendment;
 - Maintain the policy with amendments; and
 - Delete the policy if it is no longer required, for example, if these are covered under the *Local Government Act 1995* and regulations or has been incorporated into another policy.
- 5 Proposed amendments to the EMRC Investments Policy are as follows:
- Increasing the maximum allowable exposure to the individual banks in AA rating category.
 - Updating the S&P Global Ratings (S&P) long-term rating definitions as per S&P’s website:

AAA	'AAA' is the highest rating assigned by S&P. An obligor rated 'AAA' has an "extremely strong capacity to meet financial commitments"
AA	An obligor rated 'AA' has a "very strong capacity to meet financial commitments"
A	An obligor rated 'A' has a "strong capacity to meet financial commitments, but is somewhat susceptible to economic conditions and changes in circumstances"
BBB	An obligor rated 'BBB' has "adequate capacity to meet financial commitments, but is more subject to adverse economic conditions"

Source: <https://www.spglobal.com/ratings/en/about/intro-to-credit-ratings>

- Adding a paragraph under section 11 Investment Advisor to ensure any brokerage/commission is fully rebated to all clients within the advisor’s entire business to ensure there is no follow on conflict of interest in recommendations to Council.
- 6 Since the early 2010s, post the Global Financial Crisis (GFC) period, term deposit (TD) rates from the major banks had been largely in line with or even better than most lower rated banks. Over recent years, there has been some ‘normalisation’ of credit margins where a few lower rated banks offer higher rates than the major banks, however, this has not been consistent. On a regular basis, there has been at least two of the major banks offering very competitive, and often better, TD rates versus their lower rated peers.

The graph below shows how little difference there has been between the two best 6 month TD rates from the highest AA rated banks versus those in the A and BBB rating category over the past two years:



- 7 When TD rates from various banks are in line with each other, and non-fossil fuel objectives are taken into consideration, the bank with the highest credit rating is preferred.
- 8 Council has proactively taken advantage of the best TD rates from the highest rated banks when possible, however the 35% investment policy limit with any single entity in the AA credit rating category has proven to be unnecessarily restrictive given this category includes the highest rated Australian banks, the four majors.
- 9 By allowing a larger, but still prudent, exposure to single entities in the AA rated category, Council will be able to take better advantage of competitive rates from the four majors, including Westpac which has an active Green TD program, thus keeping overall return high and maintaining a sound credit profile for the portfolio.
- 10 At the last review, the policy limit in the AA rated category was reduced to 35% in part due to the higher level of available funds for investment. Due to the current decline in available investment funds, partly as a result of distribution, increasing the policy limit in the AA rated category back to 45% will allow the EMRC to allocate investments towards the four major banks, maximising the opportunity to invest at higher available interest rates.
- 11 By way of comparison, the proposed overall and individual limits to the AA category is inline with or more conservative than most of EMRC’s member councils. Note, most banks with long term ratings in the AA category have short term ratings of A-1+. Bassendean, Bayswater and Swan reference short term categories:

Council	Overall AA Limits	Single entity AA Limits
EMRC	100%	45%
Bassendean	100% (as A-1+)	50% (as A-1+)
Bayswater	100% (as A-1+)	45% (as A-1+)
Mundaring	90%	30%
Swan	100% (as A-1+)	45% (as A-1+)

- 12 The main proposals for the Management of Investments Policy are detailed in the following Points 11, 12 and 13.

13 Updating the Risk Management Guidelines Tables

- The Risk Management Guidelines tables are the framework for sound investment management aimed at controlling the credit quality and term limits on the entire portfolio.
- It is proposed to increase the maximum allowable exposure to the individual ADIs in AA rating category from 35% to 45%.
- This will still leave EMRC in line with or on the more conservative side of AA limits versus those allowed by most of EMRC’s member councils whilst giving EMRC more opportunity to take advantage of higher rates on offer from banks in this rating category.
- No changes to the Overall Portfolio Limits are being proposed.

14 Overall Portfolio Limits

- To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category.
- No changes are recommended:

S&P Long Term Rating	Current Portfolio Maximum %	Proposed Portfolio Maximum %
AAA	100%	100%
AA	100%	100%
A	100%	100%
BBB	40%	40%

15 Single Entity Exposure

- Exposure to an individual institution will be restricted by its credit rating so that single entity exposure is limited, as detailed in the table below.
- Increase of AA category limit from 35% to 45% is proposed:

S&P Long Term Rating	Current Portfolio Maximum %	Proposed Portfolio Maximum %
AAA	45%	45%
AA	35%	45%
A	35%	35%
BBB	20%	20%

16 Reporting

- An investment report is prepared each month detailing the compliance with the criteria outlined in the policy
- The investment report is presented to Council at the next ordinary meeting of Council following the end of the month along with the monthly financial reports to which the investment report relates.
- A copy of the last investment report presented to Council, at its May 2024 meeting is attached forming Attachment 3 of this report.

STRATEGIC/POLICY IMPLICATIONS

17 Reporting on EMRC Strategic Policy implications align with the revised Strategic Plan 2017-2027 and the Sustainability Strategy:

Target – Sustainability integrated into management processes.

FINANCIAL IMPLICATIONS

18 As at 30 April 2024, the EMRC has \$78.5 million in investments.

SUSTAINABILITY IMPLICATIONS

19 As reflected in the report.

RISK MANAGEMENT

Risk – Reduced Interest Earning Capacity		
Consequence	Likelihood	Rating
Moderate	Unlikely	Moderate
Action/Strategy		
➤ Council to adopt the new and revised Council Policy 3.3		

MEMBER COUNCIL IMPLICATIONS

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

ATTACHMENT(S)

1. Management of Investments Policy 3.3 with tracked changes (D2024/12594)
2. Management of Investments Policy 3.3 - Final (D2024/12593)
3. April 2024 Investment Report I (D2024/15160)

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION(S)

That:

1. Revised EMRC Policy 3.3 - Management of Investments Policy forming attachment 2 to this report be adopted by Council.
2. EMRC Policy 3.3 - Management of Investments Policy be next reviewed in the twelve months following the ordinary election day in 2025.



Council Policy 3.3

Management of Investments Policy

Strategic Plan Objective

~~3.4 To continue to improve financial and asset management practices. To achieve the EMRC Plan for the Future in accordance with the revised 10 Year Strategic Plan 2017-2027 and the Sustainability Strategy.~~

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Purpose

To provide for the investment of EMRC's surplus funds at the most favourable rate of return whilst ensuring prudent consideration of risk and security for the investment type and that liquidity requirements are being met.

To ensure that investments are managed with care, diligence and skill and that the management of the portfolio is carried out to safeguard the portfolio and not for speculative purposes.

Establish guidelines to ensure investments:

- Meet legislative requirements;
- Optimise investment income and returns within acceptable risk parameters;
- Ensure that investments match the liquidity needs of the EMRC; and

Are invested at the most favourable rate of interest available to it at the time whilst having due consideration of risk and security for that investment type.

Legislation

Local Government Act 1995 s.6.14

Local Government (Financial Management) Regulations 1996 – r. 19-19C, 28 & 49

Local Government (Financial Management) Amendment Regulations 2017 s.19C(2)(b)

Trustees Act 1962 - Part III

Policy Statement

1 Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of EMRC's investment portfolio. This policy requires officers to disclose any conflict of interest to the CEO.

2 Delegation of Authority

Authority for implementation of the Management of Investments Policy is delegated by Council to the CEO in accordance with the *Local Government Act 1995*. The CEO may in turn delegate the day-to-day management of Council's investment portfolio to the Chief Financial Officer.

3 Investment Ratings

Investment ratings in this policy are based on those issued by S&P Global Ratings (S&P), Standard & Poor's.

In the event a proposed investment is not rated by S&P Standard & Poor's but is rated by either Fitch Ratings or Moody's by a rating which is analogous to the ratings of S&P Standard & Poor's, then the EMRC may make the investment relying on the Fitch Ratings or Moody's ratings.

In the event that the rating of an investment held by the EMRC falls below the ratings allowed under this policy for new investments, the affected investment is to be assessed and a recommendation made to the Investment Committee to decide as to whether:

- It is to be liquidated, where allowed under the terms of the investment; or
- It is to be held to maturity.
- The recommendation to the Investment Committee may be made by electronic mail (email) to expedite the approval process by circular resolution.

4 Approved Investments

Approved investments are those investments permitted by s.6.14(1) of the *Local Government Act 1995* as specified in the *Trustees Act 1962 Part III* subject to the limitations expressed in Regulation 19C of the *Local Government (Financial Management) Regulations 1996*.

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5 Preference for Non-Fossil Fuel Investments

When making investment decisions, the EMRC will give preference to institutions that do not invest in or finance the fossil fuel industry, where:

- The investment complies with EMRC's investment policy;
- The rate of interest is favourable to EMRC relative to alternative options available at the time;
- The credit rating of the investment is comparable to alternative options available at the time.

Non-fossil fuel investment considerations will be part of the overall selection process to best meet EMRC's investment strategy objectives while ensuring compliance with prevailing legislation and this Investment Policy.

6 Prohibited Investments

This investment policy prohibits any investment which is not an Approved Investment.

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7 Risk Management Guidelines

Investments obtained are to be considered in light of the following key criteria:

- Preservation of Capital – the requirement for preventing losses in an investment portfolio's total value;
- Diversification – the requirement to place investments in a broad range of products so as not to be over exposed to a particular sector of the investment market;
- Market Risk - the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices;
- Liquidity Risk - the risk an investor is unable to redeem the investment at a fair price within a timely period;
- Maturity Risk - the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities; and
- Investments must be rated at not less than the S&P Standard & Poor's ratings (or Moody's or Fitch Ratings equivalent as detailed in section 3) specified below.



Furthermore investments are to comply with three key criteria relating to:

7.1 Overall Portfolio Limits

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category.

S&P Long Term Rating	Portfolio Maximum %
AAA & AA	100%
AA & A	100%
BBB	40%

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7.2 Single Entity Exposure

Exposure to an individual institution will be restricted by its credit rating so that single entity exposure is limited, as detailed in the table below:

S&P Long Term Rating	Portfolio Maximum %
AAA & AA	45%
AA & A	35%
BBB	20%

Commented [EG1]: It is recommended to increase the Single Entity exposure limit for banks in the AA category to 45% from 35%. This will better allow Council to benefit from the competitive rates frequently offered by Australia's highest rated banks. The change will also bring Council's policy limits more inline with EMRC's member councils.

The limits are to be adhered at the time of investment. It is recognised that the limit percentage may exceed the threshold over time due to investment or withdrawal of the overall amount of investment.

For the purpose of this policy, the funds held in Municipal account are excluded from the total investment calculation for threshold limits.

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7.3 Term to Maturity Framework

Term	Minimum %	Maximum %
Portfolio % ≤1 year	40%	100%
Portfolio % >1 year ≤ 3 year	0%	60%

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Standard & Poor's S&P long-term rating definitions:

AAA	An obligation rated 'AAA' has the highest rating assigned by S&P Standard & Poor's. An obligor rated 'AAA' has an "extremely strong capacity to meet financial commitments" capacity to meet its financial commitment on the obligation is extremely strong.
AA	An obligor rated 'AA' has a "very strong capacity to meet financial commitments" An obligation rated 'AA' differs from the highest rated obligations only to a small degree. The obligor's capacity to meet its financial commitment on the obligation is very strong.
A	An obligor rated 'A' has a "strong capacity to meet financial commitments, but is somewhat susceptible to economic conditions and changes in circumstances" An obligation rated 'A' is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher rated categories. However, the obligor's capacity to meet its financial commitment on the obligation is still strong.
BBB	An obligor rated 'BBB' has "adequate capacity to meet financial commitments, but is more subject to adverse economic conditions" An obligation rated BBB exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity to the obligor to meet its financial commitment on the obligation.

Source: <https://www.spglobal.com/ratings/en/about/intro-to-credit-ratings>

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8 Measurement Source

The investment return for the portfolio is to be regularly reviewed. The market value and investment maturities are to be assessed at least once a month to coincide with management reporting.

9 Procedures

Investments placed by Council's authorised advisor/s and managers must be appropriately documented at the time of placement.

Appropriate procedures and controls in regards to record keeping, reconciliation, authorisation forms and accounting for investments shall be prepared and maintained to give effect to this policy.

All investments must be authorised in writing by the CEO, or EMRC's authorised managers as per the CEO's delegated authority, prior to the investments being made.

10 Reporting

An investment report is to be prepared each month detailing compliance with the criteria outlined in this policy.

The investment report is to be presented to Council at the next ordinary meeting of the Council following the end of the month to which the report relates. If the statement is not prepared in time to present it to that meeting it is to be presented at the next Ordinary Meeting of the Council following that meeting.

11 Investment Advisor

The CEO has delegated authority to appoint an investment adviser when considered appropriate.

The local government's investment advisor must be licensed by the Australian Securities and Investment Commission. The advisor must be an independent person who has no actual or potential conflict of interest in



relation to investment products being recommended; and is free to choose the most appropriate product within the terms and conditions of the investment policy.

Any commissions paid to the advisor by banks/product providers will be rebated, or otherwise onforwarded, to Council as per ASIC requirements for an independent investment advisor. No part of the Investment Advisory business even if not directly relating to Council's investments is to operate on a brokerage/commission basis unless all brokerage/commission is fully rebated to any and all of its clients, as these can still create a conflict of interest in recommendations to Council.

Commented [EG2]: We are seeing commission-driven brokers/platform providers trying pass themselves off as independent advisors. This is against ASIC regulations for being able to call themselves independent investment advisors. Prudential passes all commissions onto our clients.

12 Investment Strategy

EMRC's investment strategy is to optimise investment income within its acceptable levels of risk whilst ensuring the security of these funds enabling the EMRC to meet its business objectives.

Key considerations in this regard include funding requirements identified in the Five Year Plan.

To implement the requirement for diversification, Council's authorised advisors and managers will comply with the Overall Portfolio Limits, Single Entity Exposure, and Term to Maturity limits, as detailed in section [7.1, 7.2 and 7.3\(a\)\(b\)\(c\)](#).

The EMRC may invest all of the total investments in Commonwealth/State/Territory bonds.

An indicative sample list of complying authorised deposit-taking institutions (ADI's) is reflected in the Appendix and may vary from time to time.

As indicated in this policy.

Appendix: Indicative Sample List of Compliant Authorised Deposit-Taking Institutions (ADI's)

As at ~~May 2024~~ August 2024:

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ADI Name	Standard & Poor's S&P Long Term Credit Rating (Long/Short)	EMRC Policy Limit per ADI Based on Short/Long-Term Credit Rating Limits
ANZ Banking Group Ltd.	AA-	45%
Bank of Western Australia Ltd.	AA-	45%
Commonwealth Bank of Australia	AA-	45%
National Australia Bank Ltd.	AA-	45%
Westpac Banking Corp.	AA-	45%
Suncorp Metway Ltd	A+ <u>AA-</u> A+	35% <u>35%</u>
Macquarie Bank Ltd	A+	35%
ING Bank	A	35%
Bank of Queensland ME Bank	A- <u>BBB+</u>	35% <u>20%</u>
Bendigo & Adelaide Bank Rural Bank	BBB+ <u>A-</u>	35% <u>20%</u>
Rural Bank	BBB+	20%
Great Southern Bank (ex-CUA)	BBB	20%
ME Bank	BBB	20%
AMP Bank Ltd	BBB+	20%

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29 June 2000
27 July 2000
2 May 2002
17 June 2004
23 February 2006
18 September 2008 (reported to Council and referred to
Investment Committee)
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25 November 2010
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6 December 2012
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23 September 2021
27 June 2024

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Next Review
Responsible Unit

Following the Ordinary Elections in 202~~5~~³
Business Support

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Council Policy 3.3

Management of Investments Policy

Strategic Plan Objective

To achieve the EMRC Plan for the Future in accordance with the revised *10 Year Strategic Plan 2017-2027* and the *Sustainability Strategy*.

Purpose

To provide for the investment of EMRC's surplus funds at the most favourable rate of return whilst ensuring prudent consideration of risk and security for the investment type and that liquidity requirements are being met.

To ensure that investments are managed with care, diligence and skill and that the management of the portfolio is carried out to safeguard the portfolio and not for speculative purposes.

Establish guidelines to ensure investments:

- Meet legislative requirements;
- Optimise investment income and returns within acceptable risk parameters;
- Ensure that investments match the liquidity needs of the EMRC; and

Are invested at the most favourable rate of interest available to it at the time whilst having due consideration of risk and security for that investment type.

Legislation

Local Government Act 1995 s.6.14

Local Government (Financial Management) Regulations 1996 – r. 19-19C, 28 & 49

Local Government (Financial Management) Amendment Regulations 2017 s.19C(2)(b)

Trustees Act 1962 - Part III

Policy Statement

1 Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of EMRC's investment portfolio. This policy requires officers to disclose any conflict of interest to the CEO.

2 Delegation of Authority

Authority for implementation of the Management of Investments Policy is delegated by Council to the CEO in accordance with the *Local Government Act 1995*. The CEO may in turn delegate the day-to-day management of Council's investment portfolio to the Chief Financial Officer.

3 Investment Ratings

Investment ratings in this policy are based on those issued by S&P Global Ratings (S&P)..

In the event a proposed investment is not rated by S&P but is rated by either Fitch Ratings or Moody's by a rating which is analogous to the ratings of S&P, then the EMRC may make the investment relying on the Fitch Ratings or Moody's ratings.

In the event that the rating of an investment held by the EMRC falls below the ratings allowed under this policy for new investments, the affected investment is to be assessed and a recommendation made to the Investment Committee to decide as to whether:

- It is to be liquidated, where allowed under the terms of the investment; or
- It is to be held to maturity.
- The recommendation to the Investment Committee may be made by electronic mail (email) to expedite the approval process by circular resolution.

4 Approved Investments

Approved investments are those investments permitted by s.6.14(1) of the *Local Government Act 1995* as specified in the *Trustees Act 1962 Part III* subject to the limitations expressed in Regulation 19C of the *Local Government (Financial Management) Regulations 1996*.

5 Preference for Non-Fossil Fuel Investments

When making investment decisions, the EMRC will give preference to institutions that do not invest in or finance the fossil fuel industry, where:

- The investment complies with EMRC's investment policy;
- The rate of interest is favourable to EMRC relative to alternative options available at the time;
- The credit rating of the investment is comparable to alternative options available at the time.

Non-fossil fuel investment considerations will be part of the overall selection process to best meet EMRC's investment strategy objectives while ensuring compliance with prevailing legislation and this Investment Policy.

6 Prohibited Investments

This investment policy prohibits any investment which is not an Approved Investment.

7 Risk Management Guidelines

Investments obtained are to be considered in light of the following key criteria:

- Preservation of Capital – the requirement for preventing losses in an investment portfolio's total value;
- Diversification – the requirement to place investments in a broad range of products so as not to be over exposed to a particular sector of the investment market;
- Market Risk - the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices;
- Liquidity Risk - the risk an investor is unable to redeem the investment at a fair price within a timely period;
- Maturity Risk - the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities; and
- Investments must be rated at not less than the S&P ratings (or Moody's or Fitch Ratings equivalent as detailed in section 3) specified below.

Furthermore, investments are to comply with three key criteria relating to:

7.1 Overall Portfolio Limits

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category.

S&P Long Term Rating	Portfolio Maximum %
AAA & AA	100%
A	100%
BBB	40%

7.2 Single Entity Exposure

Exposure to an individual institution will be restricted by its credit rating so that single entity exposure is limited, as detailed in the table below:

S&P Long Term Rating	Portfolio Maximum %
AAA & AA	45%
A	35%
BBB	20%

The limits are to be adhered at the time of investment. It is recognised that the limit percentage may exceed the threshold over time due to investment or withdrawal of the overall amount of investment.

For the purpose of this policy, the funds held in Municipal account are excluded from the total investment calculation for threshold limits.

7.3 Term to Maturity Framework

Term	Minimum %	Maximum %
Portfolio % ≤ 1 year	40%	100%
Portfolio % > 1 year ≤ 3 year	0%	60%

S&P long-term rating definitions:

AAA	'AAA' is the highest rating assigned by S&P. An obligor rated 'AAA' has an "extremely strong capacity to meet financial commitments"
AA	An obligor rated 'AA' has a "very strong capacity to meet financial commitments"
A	An obligor rated 'A' has a "strong capacity to meet financial commitments, but is somewhat susceptible to economic conditions and changes in circumstances"
BBB	An obligor rated 'BBB' has "adequate capacity to meet financial commitments, but is more subject to adverse economic conditions"

Source: <https://www.spglobal.com/ratings/en/about/intro-to-credit-ratings>

8 Measurement

The investment return for the portfolio is to be regularly reviewed. The market value and investment maturities are to be assessed at least once a month to coincide with management reporting.

9 Procedures

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The EMRC may invest all of the total investments in Commonwealth/State/Territory bonds.

An indicative sample list of complying authorised deposit-taking institutions (ADI's) is reflected in the Appendix and may vary from time to time.

Financial Considerations

As indicated in this policy.

Appendix: Indicative Sample List of Compliant Authorised Deposit-Taking Institutions (ADI's)

As at May 2024:

ADI Name	S&P Long Term Credit Rating	EMRC Policy Limit per ADI Based on Long-Term Credit Rating Limits
ANZ Banking Group Ltd.	AA-	45%
Bank of Western Australia Ltd.	AA-	45%
Commonwealth Bank of Australia	AA-	45%
National Australia Bank Ltd.	AA-	45%
Westpac Banking Corp.	AA-	45%
Suncorp Metway Ltd	A+	35%
Macquarie Bank Ltd	A+	35%
ING Bank	A	35%
Bank of Queensland	A-	35%
Bendigo & Adelaide Bank	A-	35%
Great Southern Bank (ex-CUA)	BBB	20%
AMP Bank Ltd	BBB+	20%

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Next Review

Following the Ordinary Elections in 2025

Responsible Unit

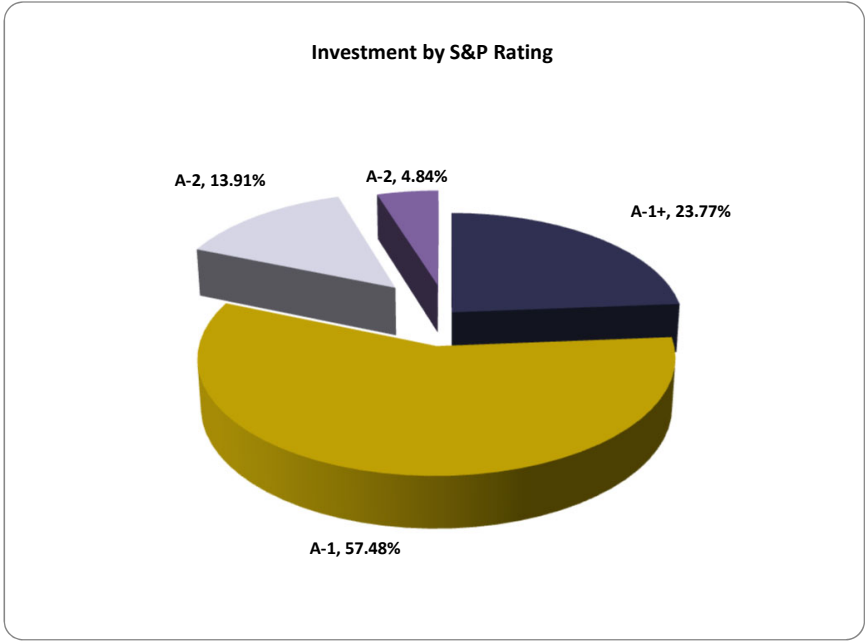
Business Support

EMRC Investment Report

April 2024

I. Overall Portfolio Limits

S&P Long Term Rating	S&P Short Term Rating	Short Term % Portfolio	Investment Maximum %
AA-	A-1+	23.77%	100.00%
A	A-1	57.48%	100.00%
A-	A-2	13.91%	100.00%
BBB	A-2	4.84%	40.00%
		100.00%	



II. Single Entity Exposure

	S&P Long Term Rating	S&P Short Term Rating	Short Term % Portfolio
ANZ Banking Group	AA-	A-1+	0.00%
AMP	BBB	A-2	4.84%
NAB	AA-	A-1+	12.70%
Westpac / St. George Bank	AA-	A-1+	11.07%
Suncorp	A+	A-1	32.07% *
BOQ / ME Bank	A-	A-2	13.91%
Commonwealth Bank	AA-	A-1+	0.00%
ING	A	A-1	25.41%
Macquarie Bank	A+	A-1	0.00%
		100.00%	

* Non-Fossil Fuel ADI (Authorised Deposit Taking Institution)

III. Term to Maturity Framework

Maturity Profile	Investment Policy Guidelines		
	% Portfolio	% Min	% Max
Less Than 1 Year	100.00%	40%	100%
Greater than 1 year & less than or equal to 3 years	0.00%	0%	60%
	100.00%		

IV. Fossil Fuel Divestment

	% Portfolio
Non-Fossil Fuel ADI's	32.07%
Fossil Fuel ADI's	67.93%
	100.00%

7 CONFIDENTIAL MATTER 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(S)

MOVED

SECONDED

7.1 EMRC SUPPORT FOR AUSTRALIAN RESEARCH COUNCIL RESEARCH HUB FOR VALUE-ADDED PROCESSING OF CARBON WASTE(D2024/14272)

This item is recommended to be confidential because it contains matters of a commercial-in-confidence nature.

See Confidential Item circulated with the Agenda under Separate Cover.

7.2 REVIEW OF SECONDARY WASTE CHARGE - (D2024/14262)

This item is recommended to be confidential because it contains matters of a commercial-in-confidence 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(S)

MOVED

SECONDED

8 FUTURE AGENDA FORUMS

The next meeting of Agenda Forum will be held on Thursday 11 July 2024 (if required) at the EMRC Administration Office, 1st Floor, 226 Great Eastern Highway, Ascot WA 6104 commencing at 6.00pm.

Forums 2024

Thursday	11	July	(if required)	at	EMRC Administration Office
Thursday	08	August	(if required)	at	EMRC Administration Office
Thursday	12	September	(if required)	at	EMRC Administration Office
Thursday	10	October	(if required)	at	EMRC Administration Office
Thursday	14	November	(if required)	at	EMRC Administration Office

9 DECLARATION OF CLOSURE OF MEETING