

9.1.1 Eastern Metropolitan Regional Council

Responsible Branch:	Governance and Strategy
Responsible Directorate:	Office of the CEO
Authority/Discretion:	Executive/Strategic
Voting Requirement:	Simple Majority Required
Attachments:	1. CONFIDENTIAL - Letter to EMRC confirming the Department's position - 4 June 2025 [9.1.1.1 - 2 pages]
Refer:	Item: 14.1.2 OCM: 24.09.2024 Item: 9.1.1 SCM: 01.10.2024 Item: 14.1.1 OCM: 19.11.2024 Item: 13.2 OCM: 10.12.2024
Officer Declaration:	The officers involved in drafting and reviewing this report do not have any interests to declare in the item.

REASON FOR CONFIDENTIALITY

This is a CONFIDENTIAL REPORT in accordance with section 5.23(2) of the Local Government Act 1995 (WA), which permits the meeting to be closed to the public for the business relating to:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
- (e) *a matter that if disclosed, would reveal —*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

SUMMARY

The Department of Local Government, Sport and Cultural Industries (the Department), has asked the City to advise, by 16 June 2025, whether it wishes to continue with or revoke its previous decisions to withdraw from the Eastern Metropolitan Regional Council (EMRC).

As there have been no changes to the financial implications since the matter was last reported to the Council, it is recommended that the Council reaffirms its commitment to withdraw from the EMRC.

MOTION

That, in accordance with clause 17.1 of the *City of Bayswater Standing Orders Law 2021*, Standing Orders be suspended.

Mayor Filomena Piffaretti Moved, Cr Sally Palmer Seconded

CARRIED UNANIMOUSLY: 8/0

For: Mayor Filomena Piffaretti, Cr Assunta Meleca, Cr Steven Ostaszewskyj, Cr Josh Eveson, Cr Sally Palmer, Cr Nat Latter, Cr Elli Petersen-Pik - Deputy Mayor and Cr Giorgia Johnson.

Against: Nil.

At 6:35pm, Standing Orders were suspended, and the Council asked questions of Matthew McPherson, Chief Executive Officer.

Cr Giorgia Johnson withdrew from the meeting at 6:56pm and returned at 6:57pm.

At 6:58pm, following questions from members, Mr McPherson withdrew from the meeting and did

not return.

Cr Georgia Johnson withdrew from the meeting at 6:58pm.

MOTION

That Standing Orders be reinstated.

Mayor Filomena Piffaretti Moved, Cr Sally Palmer Seconded

CARRIED UNANIMOUSLY: 7/0

For: Mayor Filomena Piffaretti, Cr Assunta Meleca, Cr Steven Ostaszewskyj, Cr Josh Eveson, Cr Sally Palmer, Cr Nat Latter and Cr Elli Petersen-Pik - Deputy Mayor.

Against: Nil.

At 6:58pm, Standing Orders were reinstated.

At 6:59pm, Cr Johnson returned to the meeting.

OFFICER'S RECOMMENDATION

That Council:

1. Reaffirms its decisions of 1 October 2024, 19 November 2024 and 10 December 2024 to withdraw from the EMRC and participate in an orderly windup;
2. Instructs the Chief Executive Officer to write to the Department of Local Government, Sport, and Cultural Industries (the Department), and the Eastern Metropolitan Regional Council and its Member Participants, advising its decision on limb 1 above before 16 June 2025;
3. Authorises the Chief Executive Officer to provide a copy of the Council report and attachments to the Department, if required; and
4. Instructs the Chief Executive Officer to keep this resolution confidential, other than actioning limbs 2 and 3 above.

MOTION

That Council:

1. **In accordance with Regulation 10 of the Local Government (Administration) Regulations 1996, changes its decision of 10 December 2024, in relation to Item 13.2 – Eastern Metropolitan Regional Council, as follows:**
 - (a) **Agrees to remain part of the Eastern Metropolitan Regional Council (EMRC), on the condition that the Shire of Mundaring and the Town of Bassendean also agree to remain as Member Participants no later than 16 June 2025;**
 - (b) **If the Shire of Mundaring and the Town of Bassendean agree to remain Member Participants of the EMRC, authorises the Chief Executive Officer to formally retract the notice of withdrawal issued to the EMRC under the Establishment Agreement on 11 December 2024;**
 - (c) **Notes that should the Shire of Mundaring and the Town of Bassendean agree to remain Member Participants of the EMRC, and limb 1(a) above is enacted,**

- the EMRC must agree to the retraction of the City of Bayswater's and the Shire of Mundaring's notices of withdrawal prior to 30 June 2025 for the City and Shire of Mundaring to remain as members of the EMRC;
2. Should the Shire of Mundaring or the Town of Bassendean not agree to stay on as Member Participants of the EMRC, authorises the Chief Executive Officer to reaffirm the City of Bayswater's withdrawal from the EMRC on 30 June 2025 in accordance with the withdrawal notice given to the ERMC under the Establishment Agreement on 11 December 2024;
 3. Instructs the Chief Executive Officer to write to the Department of Local Government, Sport and Cultural Industries (the Department), and the EMRC and its Member Participants before 16 June 2025, advising of its decision on limbs 1 and 2 above;
 4. Authorises the Chief Executive Officer to provide a copy of this confidential Council report, minutes and attachments to the Department, if required;
 5. Requests the Chief Executive Officer to annotate the confirmed minutes for the 10 December 2024 Ordinary Council Meeting to cross reference these minutes; and
 6. Instructs the Chief Executive Officer to keep this resolution confidential, other than actioning limbs 1 to 5 above.

ABSOLUTE MAJORITY REQUIRED

Mayor Filomena Piffaretti Moved, Cr Nat Latter, Cr Sally Palmer and Cr Josh Eveson Seconded

Mayor Filomena Piffaretti proposed to amend limb 3 of her motion, to remove the words "before 16 June 2025", and replace them with "by 12pm on 11 June 2025.". As the amendment was accepted by the three seconders, it became a part of the substantive motion.

COUNCIL RESOLUTION

That Council:

1. In accordance with *Regulation 10 of the Local Government (Administration) Regulations 1996*, changes its decision of 10 December 2024, in relation to Item 13.2 – Eastern Metropolitan Regional Council, as follows:
 - (a) Agrees to remain part of the Eastern Metropolitan Regional Council (EMRC), on the condition that the Shire of Mundaring and the Town of Bassendean also agree to remain as Member Participants no later than 16 June 2025;
 - (b) If the Shire of Mundaring and the Town of Bassendean agree to remain Member Participants of the EMRC, authorises the Chief Executive Officer to formally retract the notice of withdrawal issued to the EMRC under the Establishment Agreement on 11 December 2024;
 - (c) Notes that should the Shire of Mundaring and the Town of Bassendean agree to remain Member Participants of the EMRC, and limb 1(a) above is enacted, the EMRC must agree to the retraction of the City of Bayswater's and the Shire of Mundaring's notices of withdrawal prior to 30 June 2025 for the City and Shire of Mundaring to remain as members of the EMRC;
2. Should the Shire of Mundaring or the Town of Bassendean not agree to stay on as Member Participants of the EMRC, authorises the Chief Executive Officer to reaffirm the City of Bayswater's withdrawal from the EMRC on 30 June 2025 in accordance

with the withdrawal notice given to the ERMC under the Establishment Agreement on 11 December 2024;

3. Instructs the Chief Executive Officer to write to the Department of Local Government, Sport and Cultural Industries (the Department), and the EMRC and its Member Participants by 12pm on 11 June 2025, advising of its decision on limbs 1 and 2 above;
4. Authorises the Chief Executive Officer to provide a copy of this confidential Council report, minutes and attachments to the Department, if required;
5. Requests the Chief Executive Officer to annotate the confirmed minutes for the 10 December 2024 Ordinary Council Meeting to cross reference these minutes; and
6. Instructs the Chief Executive Officer to keep this resolution confidential, other than actioning limbs 1 to 5 above.

ABSOLUTE MAJORITY REQUIRED

Mayor Filomena Piffaretti Moved, Cr Nat Latter, Cr Sally Palmer and Cr Josh Eveson Seconded

CARRIED: 8/1

For: Mayor Filomena Piffaretti, Cr Assunta Meleca, Cr Steven Ostaszewskyj, Cr Josh Eveson, Cr Sally Palmer, Cr Michelle Sutherland, Cr Nat Latter and Cr Giorgia Johnson.

Against: Cr Elli Petersen-Pik - Deputy Mayor.

BACKGROUND

At its meeting of 10 December 2025, Council authorised the Chief Executive Officer to give notice of the City's withdrawal from the EMRC, as follows:

"That Council:

1. *authorises the Chief Executive Officer to give notice of the City of Bayswater's withdrawal from the EMRC, no later than 31 December 2024, in accordance with the provisions of the EMRC Establishment Agreement;*
2. *requests the Chief Executive Officer work with Member Participants and the EMRC to seek Ministerial agreement through either direct approval or a variation to the EMRC Establishment Agreement to allow the windup date to be extended from 30 June 2025 to a date not exceeding 30 June 2027;*
3. *agrees that should a Member Participant not agree to seeking Ministerial approval to extend the date then limb 2 above will no longer apply and the City will withdraw from the EMRC on 30 June 2025, in accordance with clause 9.7 of the EMRC Establishment Agreement;*
4. *authorises the Chief Executive Officer to advise the EMRC and Member Participants of its decision detailed in limbs 1 to 3 above;*
5. *instructs the Chief Executive Officer to keep this resolution confidential, other than actioning limb 4 above."*

The City of Swan and Shire of Mundaring Councils have also resolved to exit to withdraw from the EMRC. However, the Town of Bassendean resolved to stay on as a member.

On 4 June 2025, the EMRC member councils attended a meeting with officers from the Department, who advised on behalf of the Minister that a regional local government must have at least two local government participants. Therefore, the Town of Bassendean could not remain as the sole participant of the EMRC from 1 July 2025. **Attachment 1** contains a letter sent to the EMRC by the Department on 4 June 2025, outlining the Department’s position on the matter.

The Department advised the member councils to consider their positions in relation to the matter, and to provide the Department with a final position no later than Monday, 16 June 2025, with the options being:

1. For the Town of Bassendean and the ERMC to pass resolutions to wind up the EMRC in accordance with the terms of the EMRC Establishment Agreement; or
2. For one of more of the City of Bayswater, City of Swan or Shire of Mundaring to revoke their decision to withdraw from the EMRC prior to 1 July 2025.

Officers from the Department also verbally informed the Member Councils that if neither of the two options above were enacted, the Minister would issue orders for withdrawal of Bassendean from the EMRC, precipitating an orderly windup.

EXTERNAL CONSULTATION

The City has corresponded and discussed this matter with the City’s legal advisors (McLeods) and other representatives from the Member Participants.

OFFICER’S COMMENT

There are two options for the Council to consider in relation to the EMRC:

- Option 1: Reaffirm its decisions of 1 October 2024, 19 November 2024 and 10 December 2024 to withdraw from the EMRC and participate in an orderly windup.
- Option 2: Revoke its decision to withdraw from the EMRC.

Option 1:

City officers recommend that the Council reaffirm its decisions of 1 October 2024, 19 November 2024 and 10 December 2024 to withdraw from the EMRC and participate in an orderly windup, given the financial risk to the City of remaining as a member.

The financial implications, which have not changed since the matter was reported to the Council at its December Ordinary Meeting, are detailed in the financial implications section of this report below. Under this option all Member Participants will receive an equitable amount on withdrawal.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

City officers consider that this option exposes the City to the least amount of financial risk.

Option 2:

The Council may choose to revoke its previous notice to withdraw from the EMRC and to participate in an orderly windup. For this to take effect, the EMRC would also need to agree to the withdrawal of the City’s notice of withdrawal prior to 30 June 2025.

Financial implications

The financial implications of this option have not changed since the matter was last reported to the Council in December 2024. Remaining in the ERMC presents financial uncertainty. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Therefore, any assumptions and financial predications are unknown. [REDACTED]

[REDACTED]

Legal implications

In accordance with the Establishment Agreement, the Council decision of 10 December 2024, to withdraw from the EMRC, was communicated through a formal ‘notice to withdraw’ to the EMRC on 11 December 2024. Member Participants were also advised of the Council resolution.

The Establishment Agreement is silent on the ability to revoke a ‘notice to withdraw’ after it has been given. However, the notice does not come into effect until 30 June 2025.

The *City of Bayswater Standing Orders Local Law 2021* allow the Council to consider a motion to revoke or change a decision, including in situations where action may already have been taken to implement the decision, so long as the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

LEGISLATIVE COMPLIANCE

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*
- *EMRC Establishment Agreement*
- *The City of Bayswater Standing Orders Local Law 2021*

The *Local Government (Administration) Regulations 1996* provide that a revocation motion requires the support of at least one third of the number of offices of Council (whether vacant or not). The revocation motion would also need to be carried by an Absolute Majority of the Council (6 members).

RISK MANAGEMENT CONSIDERATION

The table below shows the level of risk for each impact category, if the Officer’s recommendation is not adopted by the Council.

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low

Financial	Medium	High
Reputation and Stakeholders	Medium	Medium
Service Delivery	Medium	Medium
Environment	Low	Medium
Governance and Compliance	Low	Medium
Strategic Risk	SR03 - Council plans, decision making process and/or activities fail to invest in the management, protection and improvement of its natural environment. SR06 - City does not have the adequate financial capacity to deliver planned services and maintain assets.	

FINANCIAL IMPLICATIONS

The financial implications as reported in the December 2024 OCM are still relevant and are generally repeated below, with the conclusion that Option 1 the more risk averse approach that better protects the City’s \$38.7m equity interest.

It should be noted that the proposed Long Term Financial Plan assumes withdrawal from the EMRC, which has a significant positive impact on the City’s available reserves.

The following table, as extracted from the EMRC’s 2023/24 Annual Financial Report reflects the equity balances of the Member Participants:

The following table shows the total interest in the EMRC as at year end:

Member Council	2024		2023	
	%	\$	%	\$
Town of Bassendean	5.56	8,821,409	4.69	8,328,620
City of Bayswater	24.44	38,741,912	20.37	36,194,706
City of Kalamunda	0.00	0	17.29	30,718,215
Shire of Mundaring	13.55	21,485,320	11.43	20,305,412
City of Swan	56.45	89,490,827	46.22	82,126,789
Total Equity	100.00	158,539,468	100.00	177,673,742

Based on Member Participant equity balances, and without making assumptions regarding impairments (discounted value), the EMRC will need to finance up to \$141.7m to payout the City of Kalamunda, the Shire of Mundaring and the City of Swan. This amount will be reduced if exiting Member Participants were to accept a discount. However, any discount is arbitrary and likely to lead to a prolonged negotiation process.



The following table reflects surplus funds as of 30 June 2024 available to the EMRC:

Current Assets	94,271,356
* Current Liabilities	(40,583,440)

Net Current Assets	<u>53,687,916</u>
Less Reserve Funds	<u>(45,552,164)</u>
Available Surplus Funds	<u>8,135,752</u>

* Includes \$21M Belmont Payment

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Option 1: Reaffirm the City’s decision to withdraw from the EMRC and participate in an orderly windup

Advantages

- All Member Participants receive an equitable amount on withdrawing
- The assets can be jointly sold as a going concern, which may result in a better return than selling as individual components/assets
- This option exposes the City to the least financial risk as it better protects the City’s equity, currently valued at \$38.7m

Disadvantages

- [REDACTED]
- [REDACTED]
- [REDACTED]

Option 2: Rescind previous decision to withdraw from the EMRC

Advantages

- Potential that the long-term financial return could be better than option 1 (assuming a later and more orderly windup)
- Opportunity for EMRC to increase long term supply contracts
- Under the recent Local Government Amendment Act 2024, there is an option for the EMRC to borrow against their own general funds and freehold land (once proclaimed in 2025/26)
- Opportunity for the EMRC to seek additional Member Participants

Disadvantages

- [REDACTED]
- [REDACTED]

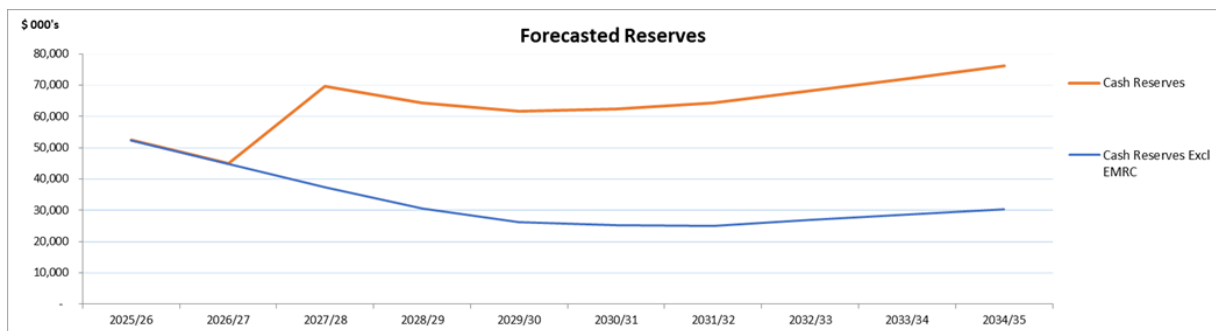
- [REDACTED]
- [REDACTED]
- [REDACTED]

If the City was to remain in the EMRC, but continue to work towards an orderly windup, the pros and cons would be similar [REDACTED]. However, there are too many unknowns to make a reasonable judgement on its feasibility.

In summary, Option 1 is the more risk averse approach that better protects the City’s \$38.7m equity interest. Option 2 presents too many uncertainties.

Draft Long Term Financial Plan

The following chart illustrates the positive impact that the proceeds received from the withdrawal from the EMRC would have on the City’s reserves over the next 10 years, which includes additional accumulative income from investing those proceeds. Clearly the reserve position is far more favourable, and in turn the City’s ability to fund new projects, with the benefit of those funds.



STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Theme: Environment and Liveability

Goal E4: Lessen the City's Impact on the environment through its buildings, infrastructure, services and targets, such as zero emissions by 2040, and empower the community to live sustainably.

Theme: Leadership and Governance

Goal L2: Plan and deliver projects and services in a sustainable way.
Work together to deliver the best outcomes for the community by managing our resources in a financially sustainable way.

CONCLUSION

Consistent with its previous resolutions of 1 October 2024, 19 November 2024, and 10 December 2024, City officers recommend that the Council reaffirms its position to withdraw

from the EMRC and progress with an orderly windup in order to protect its \$38.7m equity interest in line with its financial risk appetite.

