

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. Proposal from the Town of Bassendean EMRC 24 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;*
- (e) *a matter that if disclosed, would reveal —*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

SUMMARY

The Town of Bassendean has submitted a proposal to the City of Bayswater for consideration, in relation to the Eastern Metropolitan Regional Council (EMRC). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

With the confirmed withdrawal of the City of Swan and the Shire of Mundaring, City officers consider that there are too many unknowns to make a reasonable judgement on the ongoing feasibility of the ERM. City officers recommend that the Council reaffirms its commitment to withdraw from the EMRC and declines the offer from the Town of Bassendean to [REDACTED]

OFFICER'S RECOMMENDATION

That Council:

1. Reaffirms its decisions of 1 October 2024, 19 November 2024, 10 December 2024 and 10 June 2025, to withdraw from the EMRC and participate in an orderly windup;
2. Instructs the Chief Executive Officer to write to the Town of Bassendean Mayor and Chief Executive Officer declining the proposal presented in Confidential Attachment 1, no later than 5:00pm, 26 June 2025;
3. Authorises the Chief Executive Officer to provide a copy of this Council report and attachments to the Department of Local Government, Sport and Cultural Industries, if requested; and
4. Instructs the Chief Executive Officer to keep this resolution confidential, other than actioning limbs 2 and 3 above.

MOTION

That Council:

1. **Changes its decisions of 10 December 2024 and 10 June 2025 in relation to Items 13.2 and 9.1.1 – Eastern Metropolitan Regional Council (EMRC), in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*, as follows:**
 - (a) **Agrees to remain part of the Eastern Metropolitan Regional Council with the Town of Bassendean;**
 - (b) **Instructs and 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 the EMRC must agree to the retraction of the City of Bayswater's notice of withdrawal prior to 30 June 2025 for the City to remain as a member of the EMRC;**
2. **Notes the proposal received from the Town of Bassendean on 24 June 2025, provided in Confidential Attachment 1;**
3. **Commits to working with the Town of Bassendean on a review of the equity distribution model contained in the Establishment Agreement that will reduce the financial risk to the City of Bayswater;**
4. **Instructs and authorises the Chief Executive Officer to commence work with the EMRC and the Town of Bassendean on Limb 3, and report back to the Council;**
5. **Instructs the Chief Executive Officer to write to the EMRC and its Member Participants and the Minister for Local Government and the Department of Local Government, Sport and Cultural Industries (the Department) advising them of the Council decision on Limb 1 above, prior to 5pm, 26 June 2025.**
6. **Authorises the Chief Executive Officer to provide a copy of the confidential Council report, minutes and attachments to the Department if requested;**
7. **Requests that the Chief Executive Officer annotates the confirmed minutes for the 10 December 2024 Ordinary Council Meeting, and the 10 June 2025 Special Council Meeting to cross reference this Council resolution;**
8. **Instructs the Chief Executive Officer to keep this resolution confidential, other than actioning Limbs 1 to 7 above.**

Cr Josh Eveson proposed an amendment to limb 3 of the motion, to address that the City of Bayswater still holds the greatest burden of risk and to address the Town of Bassendean's resolution in relation to cycling of the Chairperson and Deputy Chairperson positions. The mover did not accept the amendment and Cr Eveson decided not to move it.

COUNCIL RESOLUTION

That Council:

1. Changes its decisions of 10 December 2024 and 10 June 2025 in relation to Items 13.2 and 9.1.1 – Eastern Metropolitan Regional Council (EMRC), in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*, as follows:
 - (a) Agrees to remain part of the Eastern Metropolitan Regional Council with the Town of Bassendean;
 - (b) Instructs and 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 the EMRC must agree to the retraction of the City of Bayswater's notice of withdrawal prior to 30 June 2025 for the City to remain as a member of the EMRC;
2. Notes the proposal received from the Town of Bassendean on 24 June 2025, provided in Confidential Attachment 1;
3. Commits to working with the Town of Bassendean on a review of the equity distribution model contained in the Establishment Agreement that will reduce the financial risk to the City of Bayswater;
4. Instructs and authorises the Chief Executive Officer to commence work with the EMRC and the Town of Bassendean on Limb 3, and report back to the Council;
5. Instructs the Chief Executive Officer to write to the ERMC and its Member Participants and the Minister for Local Government and the Department of Local Government, Sport and Cultural Industries (the Department) advising them of the Council decision on Limb 1 above, prior to 5pm, 26 June 2025.
6. Authorises the Chief Executive Officer to provide a copy of the confidential Council report, minutes and attachments to the Department if requested;
7. Requests that the Chief Executive Officer annotates the confirmed minutes for the 10 December 2024 Ordinary Council Meeting, and the 10 June 2025 Special Council Meeting to cross reference this Council resolution;
8. Instructs the Chief Executive Officer to keep this resolution confidential, other than actioning Limbs 1 to 7 above.

Mayor Filomena Piffaretti Moved, Cr Josh Eveson, Cr Sally Palmer, Cr Nat Latter, Cr Assunta Meleca and Cr Steven Ostaszewskyj Seconded

CARRIED: 7/2

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

Against: Cr Michelle Sutherland and Cr Elli Petersen-Pik - Deputy Mayor.

BACKGROUND

At its meeting of 10 December 2024, Council authorised the Chief Executive Officer to give formal notice of the City’s withdrawal from the EMRC. This decision was communicated to the EMRC and other Member Participants on 11 December 2024.

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

On 4 June 2025, the EMRC Member Participants attended a meeting with officers of the Department of Local Government, Sport and Cultural Industries (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 Member Participant of the EMRC from 1 July 2025. The Department advised Member Participants to consider their positions in relation to this matter, outlining two options:

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

At a Special Council Meeting held 10 June 2025, the City of Bayswater Council resolved to change its decision of 10 December 2025 and to remain a Member Participant of the EMRC subject to the Shire of Mundaring and the Town of Bassendean also resolving to remain Member Participants. This resolution was communicated to the Department and all Member Participants on 11 June 2025.

On 11 June 2025, the Shire of Mundaring resolved to reaffirm its existing position to withdraw from the EMRC as of 30 June 2025. This meant that the City of Bayswater Council’s earlier decision to withdraw from the ERMC was also reaffirmed.

EXTERNAL CONSULTATION

Nil.

OFFICER’S COMMENT

The Town of Bassendean Chief Executive Officer has emailed a proposal through to the City of Bayswater Chief Executive Officer regarding the continuation of the EMRC. [REDACTED]

[REDACTED]

[REDACTED]

The proposal from the Town of Bassendean

[REDACTED]

[Redacted]

[Redacted]

[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Options for consideration

The following options are outlined for Council's consideration.

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

The Council could reaffirm its decisions of 1 October 2024, 19 November 2024, 10 December 2024 and 10 June 2025 to withdraw from the EMRC and participate in an orderly windup and decline the offer being made by the Town of Bassendean. City officers consider that this option exposes the City to the least amount of financial risk.

The Minister has clarified that the Town of Bassendean cannot continue to operate the EMRC as the sole Member Participant. The City of Swan and the Shire of Mundaring have confirmed that they are withdrawing from 30 June 2025. Should the Council decline the offer from the Town of Bassendean and reaffirm its decision to withdraw from the EMRC, this means that the EMRC will progress to an orderly wind-up, whether that be the result of Ministerial Orders, or through a resolution by the Town of Bassendean and the EMRC.

An orderly wind-up, alongside the other four Member Participants, means that the City of Bayswater will receive an equitable share of the equity in the EMRC.

The financial uncertainty of continuing as a Member Participant in the EMRC once the City of Swan (as the largest equity shareholder) and the Shire of Mundaring have withdrawn from the EMRC still remains.

Under the current arrangements (with all four Member Participants), the City of Bayswater’s equity share is 24%. If the Shire of Mundaring had chosen to remain as a Member Participant, the City’s equity share (as a percentage) would have been 56%. [REDACTED]

The proposal from the Town of Bassendean in no way guarantees that the City will not risk some of its current equity share of \$38.7M [REDACTED]

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]

City officers consider that this option exposes the City to the least amount of financial risk and is the City’s recommended option.

Option 2: Rescind previous decision to withdraw from the EMRC and accept the Bassendean Equity Transfer

The Council could accept the proposal made by the Town of Bassendean and change its earlier decisions to withdraw from the EMRC.

The financial implications of this decision remain the same as those outlined in earlier reports. The City is unable to establish, in definitive terms, the market value or financial viability of the EMRC due to uncertainty around:

[Redacted]

- 1 [Redacted]
- 2 [Redacted]
- 3 [Redacted]
- 4 [Redacted]
- 5 [Redacted]

[Redacted]

[Redacted]

Quantifying the market value of a unique entity like the EMRC is very difficult and subjective.

Advantages

- Potential that the long-term financial return could be better than option 1 (assumes 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 – anticipated in 2025/26).
- Opportunity for the EMRC to seek additional Member Participants.

Disadvantages

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

This option exposes the City to a higher level of financial risk and is not the City’s recommended option.

LEGISLATIVE COMPLIANCE

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

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 Council decision of 10 June 2025 was also communicated to the Department, the EMRC and Member Participants on 11 June 2025.

The *City of Bayswater Standing Orders Local Law 2021* allow the Council to consider a motion to revoke or change a decision of Council, 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.

Legal Implications

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 Minister has indicated that it is open to the City of Bayswater Council to change or revoke its decision, so long as the decision is made prior to 1 July 2025 and the EMRC also agrees to the retraction of the City’s notice of withdrawal by 30 June 2025.

If the Council wishes to change its decision of 10 December 2024 and 10 June 2025, to withdraw from the EMRC, this will need to be done with the support of an absolute majority (at least 6 Elected Members) to consider any motion to change the Council decision, and an absolute majority to carry the motion (in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*), as this will be the second time that the Council is considering a change to its resolution regarding withdrawing from the EMRC.

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.	

A major risk consideration is protecting the City’s \$38.7M equity interest in EMRC.

[REDACTED]

The City has a balanced (medium) appetite for financial risks (up to \$150,000). [REDACTED]

[REDACTED]

FINANCIAL IMPLICATIONS

The financial implications as reported previously are still relevant with the conclusion that Option 1 is the more risk averse approach that better protects the City’s \$38.7M equity interest. Option 2 presents too many uncertainties.

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.

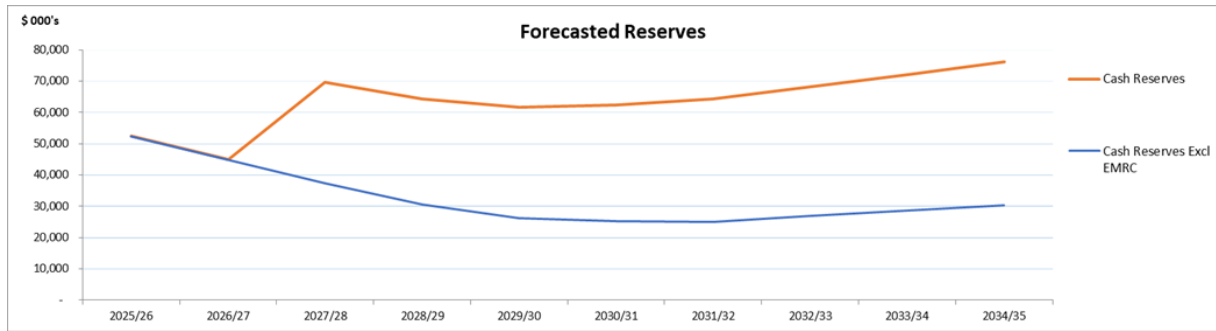
Based on Member Participant equity balances as at 30 June 2024 the EMRC will need to finance up to \$141.7M to payout the City of Kalamunda, the Shire of Mundaring and the City of Swan. This amount will be reduced if exiting Member Participants were to accept a discount.

City officers anticipate that this could be a prolonged process given recent withdrawals and subsequent negotiations.



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, 10 December 2024 and 10 June 2025, City officers recommend that the Council reaffirms its position to withdraw from the EMRC, declines the offer from the Town of Bassendean, and progresses with an orderly windup in order to protect its \$38.7m equity interest in line with its financial risk appetite.

