

# Agenda

## Special Council Meeting

**Wednesday 5 April 2023**

### Notice of Meeting

A Notice of Meeting was issued on 29 March 2023 as follows:

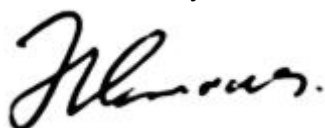
In accordance with Section 5.4(a)(i) of the *Local Government Act 1995*, a Special Council Meeting has been called for the purpose of:

- Considering recommendations from the CEO Review Committee meeting held 15 March 2023; and
- Considering a report from the CEO in relation to the results of various organisational assessments.

The Special Council Meeting will be held in the Council Chambers, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on **Wednesday 5 April 2023** commencing at **7:00 pm**.

***Please note that whilst the meeting is a public meeting, the majority of the items on the agenda are confidential and it is likely that the Council will go behind closed doors for the majority of the meeting.***

Yours sincerely



**JEREMY EDWARDS**  
**CHIEF EXECUTIVE OFFICER**

**31 March 2023**

**Meeting Procedures**

1. All Council meetings, including Special Council Meetings, are open to the public, except for matters dealt with under 'Confidential Items'.
2. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a City Staff Member.
3. Members of the public may ask a question during 'Public Question Time'. For Special Council Meetings, these questions must relate to the purpose of the meeting.
4. Meeting procedures are in accordance with the City's *Standing Orders Local Law 2021*. To facilitate smooth running of the meeting, silence is to be observed in the public gallery at all times, except for 'Public Question Time'.
5. Persons are not permitted to record (visual or audio) at the Council meeting without prior approval of the Council.
6. Council meetings will be livestreamed in accordance with the Council resolution of 24 August 2021. Images and voices may be captured and streamed. If you have any issues or concerns regarding the live streaming and recording of meetings, please contact the City's Governance team.
7. In the event of an emergency, please follow the instructions of City of Bayswater Staff.

**City of Bayswater**

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# Council Chambers Seating Plan



Jeremy Edwards  
CEO



Cr Filomena Piffaretti  
Mayor



Cr Giorgia Johnson



Cr Lorna Clarke



Cr Dan Bull



Cr Elli Petersen-Pik



Cr Catherine Ehrhardt  
Deputy Mayor



Cr Michelle Sutherland



Cr Assunta Meleca



Cr Steven Ostaszewskyj



Cr Sally Palmer



Cr Josh Eveson



Des Abel,  
DCD



Doug Pearson,  
DMPCA



Alan Ferris,  
A/DCS



Luke Botica,  
DWI

Agendas  
and Minutes  
Officer

Press

Gallery

**Nature of Council's Role in Decision Making**

**Advocacy:** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.

**Executive/Strategic:** The substantial direction setting and oversight role of the Council, e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

**Legislative:** Includes adopting local law, town planning schemes and policies.

**Review:** When Council reviews decisions made by officers

**Quasi-Judicial:** When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits/licenses (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

*City of Bayswater Standing Orders Local Law 2021***6.9 DEPUTATIONS**

- (1) Allowance has been established for deputations to be heard at Agenda Briefing Forums the week prior to the Ordinary Council Meeting by any person or group wishing to be received.
- (2) A deputation may be heard at a Council meeting (Ordinary or Special), Agenda Briefing Forum or a Committee meeting open to the public at the discretion of Council, and the depute is to either-
  - (a) apply, before the meeting, to the CEO for approval and can be considered in both a verbal and written format;
  - (b) with the approval of the Presiding Member, at the meeting; and-
  - (c) are to be received by 1.30pm on the day of the forum or meeting receiving the deputation.
- (3) Upon receipt of a request for a deputation the CEO must refer the request to the relevant Council meeting, Agenda Briefing Forum or a Committee meeting.
- (4) Unless the Presiding Member allows, a depute invited to attend the meeting is not to address the meeting for a period exceeding 5 minutes.
- (5) Unless given leave by the Presiding Member, only two members of the deputation may address the meeting, although others may respond to specific questions from Members.
- (6) For the purposes of this clause, unless Council, Agenda Briefing Forum or the Committee determines otherwise, a deputation is taken to comprise all those people either in favour of, or opposed to, the matter which is the subject of the deputation.
- (7) Unless Council, Agenda Briefing Forum or the Committee resolves otherwise, any matter which is the subject of a deputation to the Council, Agenda Briefing Forum or a Committee open to the public is not to be decided by Council, Agenda Briefing Forum or the Committee until the deputation has completed its presentation.
- (8) The Presiding Member may require deputations to leave the meeting while other deputations are being heard in relation to that matter.
- (9) A member of the public who makes a deputation is to state his or her name and suburb where they live, however only the name will be published in the minutes.

<b>1</b>	<b>OFFICIAL OPENING .....</b>	<b>6</b>
<b>2</b>	<b>ACKNOWLEDGEMENT OF COUNTRY .....</b>	<b>6</b>
<b>3</b>	<b>ANNOUNCEMENTS FROM THE PRESIDING MEMBER .....</b>	<b>6</b>
<b>4</b>	<b>ATTENDANCE .....</b>	<b>6</b>
	<b>4.1 Apologies .....</b>	<b>6</b>
	<b>4.2 Approved Leave of Absence .....</b>	<b>7</b>
	<b>4.3 Applications for Leave of Absence .....</b>	<b>7</b>
<b>5</b>	<b>DISCLOSURE OF INTEREST SUMMARY .....</b>	<b>7</b>
<b>6</b>	<b>PUBLIC QUESTION TIME .....</b>	<b>7</b>
	<b>6.1 Public Question Time .....</b>	<b>7</b>
<b>7</b>	<b>PRESENTATIONS .....</b>	<b>8</b>
	<b>7.1 Petitions.....</b>	<b>8</b>
	<b>7.2 Presentations .....</b>	<b>8</b>
	<b>7.3 Deputations .....</b>	<b>8</b>
	<b>7.4 Delegates Reports .....</b>	<b>8</b>
<b>8</b>	<b>METHOD OF DEALING WITH AGENDA BUSINESS .....</b>	<b>8</b>
<b>9</b>	<b>REPORTS.....</b>	<b>9</b>
	<b>9.1 Terms of Reference Review - CEO Review Committee .....</b>	<b>9</b>
<b>10</b>	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....</b>	<b>13</b>
<b>11</b>	<b>QUESTIONS FROM MEMBERS WITHOUT NOTICE .....</b>	<b>13</b>
<b>12</b>	<b>NEW BUSINESS OF AN URGENT NATURE.....</b>	<b>13</b>
<b>13</b>	<b>MEETING CLOSED TO THE PUBLIC .....</b>	<b>13</b>
	<b>13.1 Matters for Which the Meeting May be Closed .....</b>	<b>13</b>
	<b>13.1.1 CEO Review Committee - 15 March 2023 .....</b>	<b>13</b>
	<b>13.1.1.1 Chief Executive Officer Performance Review (Probation) 2023....</b>	<b>13</b>
	<b>13.1.2 Chief Executive Office Report - Results of Organisational Assessments</b>	
	<b>.....</b>	<b>14</b>
	<b>13.2 Public Reading of Resolutions That May be Made Public .....</b>	<b>14</b>
<b>14</b>	<b>CLOSURE .....</b>	<b>14</b>

**1 OFFICIAL OPENING****2 ACKNOWLEDGEMENT OF COUNTRY**

In accordance with the City of Bayswater's Reflect Reconciliation Action Plan November 2019-November 2020, the Presiding Member will deliver the Acknowledgement of Country.

Noongar Language

*Ngalla City of Bayswater kaatanginy baalapa Noongar Boodja baaranginy, Wadjuk moort Noongar moort, boordiar's koora koora, boordiar's ye yay ba boordiar's boordawyn wah.*

English Language Interpretation

*We acknowledge the Traditional Custodians of the Land, the Whadjuk people of the Noongar Nation, and pay our respects to Elders past, present and emerging.*

**3 ANNOUNCEMENTS FROM THE PRESIDING MEMBER****4 ATTENDANCE****Members**North Ward

Cr Filomena Piffaretti, Mayor  
Cr Josh Eveson  
Cr Michelle Sutherland

Central Ward

Cr Assunta Meleca  
Cr Steven Ostaszewskyj  
Cr Sally Palmer

South Ward

Cr Catherine Ehrhardt, Deputy Mayor  
Cr Elli Petersen-Pik

West Ward

Cr Dan Bull  
Cr Giorgia Johnson

**Officers**

Mr Jeremy Edwards	Chief Executive Officer
Ms Amanda Albrecht	Manager, Governance, Organisational Planning and Development
Ms Karen D'Cunha	Coordinator Governance

**Observers**

Press -  
Public -

**4.1 Apologies**

## 4.2 Approved Leave of Absence

Councillor	Date of Leave	Approved by Council
Cr Lorna Clarke	2 April 2023 to 23 April 2023	Ordinary Council Meeting 28 March 2023
Cr Petersen-Pik	11 April 2023 to 19 April 2023	Ordinary Council Meeting 28 March 2023
Cr Michelle Sutherland	14 April 2023 to 17 April 2023	Ordinary Council Meeting 28 March 2023

## 4.3 Applications for Leave of Absence

## 5 DISCLOSURE OF INTEREST SUMMARY

In accordance with section 5.65 of the *Local Government Act 1995*:

A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

## 6 PUBLIC QUESTION TIME

In accordance with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the *City of Bayswater Standing Orders Local Law 2021* the following procedures relate to public question time:

1. A member of the public who raises a question during question time, is to state his or her name and address.
2. Each member of the public with a question is entitled to ask up to 3 questions. At a Special Council Meeting these questions must relate to the purpose of the meeting.
3. The minimum time to be allocated for public question time is 15 minutes.
4. Questions from the public must relate to a matter affecting the local government, and at a Special Council Meeting, the purpose for which that meeting has been called
5. A summary of each question raised by members of the public at the meeting and a summary of the response to the question will be included in the minutes of the meeting.
6. Where a question is taken on notice at the meeting, a summary of the response to the question will be provided in writing to the member of public and included in the agenda for the following meeting.

### 6.1 Public Question Time

**7 PRESENTATIONS****7.1 Petitions****7.2 Presentations****7.3 Deputations**

Deputations are to be heard at the Special Council Meeting at **7:00pm** on **Wednesday, 5 April 2023**, in the Council Chambers, City of Bayswater Civic Centre, 61 Broun Avenue, Morley. Deputations must relate to the purpose of the Special Council Meeting.

**7.4 Delegates Reports****8 METHOD OF DEALING WITH AGENDA BUSINESS**

With the exception of items identified to be withdrawn for discussion, the remaining reports will be adopted by exception (enbloc).

An adoption by exception resolution may not be used for a matter:

- (a) that requires a 75% majority or a special majority;
- (b) in which an interest has been disclosed;
- (c) that has been the subject of a petition or deputation;
- (d) that is a matter on which a Member wishes to make a statement; or
- (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.



## 9 REPORTS

### 9.1 Terms of Reference Review - CEO Review Committee

<b>Responsible Branch:</b>	Governance and Organisational Planning and Development
<b>Responsible Directorate:</b>	Office of the CEO
<b>Authority/Discretion:</b>	Executive/Strategic
<b>Voting Requirement:</b>	Simple Majority Required
<b>Attachments:</b>	1. Terms of Reference CEO Review Committee As Amended [9.1.1 - 1 page]
<b>Refer:</b>	Nil

#### SUMMARY

The CEO Review Committee reviewed its Terms of Reference at the meeting held 11 October 2022, and noted some anomalies. The Committee sought further advice from City officers, which is provided below. It is recommended that these anomalies be addressed in the biennial review of the Terms of Reference for all Committees prior to the 2023 Ordinary Election.

#### **COMMITTEE RECOMMENDATION** **(OFFICER'S RECOMMENDATION)**

**That Council requests the Chief Executive Officer to prepare a report for Council with a review of the Terms of Reference for all Committees prior to the 2023 Ordinary Election.**

#### BACKGROUND

At the Ordinary Council Meeting held 26 October 2021, the Council adopted the Terms of Reference for the CEO Review Committee for the term 26 October 2021 to 20 October 2023.

At this meeting, the Council also directed each Committee to review their terms of reference at their first meeting and recommend any changes considered necessary to improve the efficiency or effectiveness of the Committee to Council.

At its first meeting, held 11 October 2022, the CEO Review Committee duly reviewed the Terms of Reference and noted two anomalies for clarification.

Training in CEO Performance Reviews	<p>The Committee noted an error in the sentence structure, which should read:</p> <p>At least one member will be required to <u>undertake</u> appropriate training in <u>undertaking</u> Chief Executive Officer performance reviews.</p>
Roles of Representatives:	<p>The Committee noted that the Terms of Reference stated that representatives on this Committee are:</p> <ul style="list-style-type: none"> <li>• Spokesperson for the City of Bayswater</li> </ul> <p>The Committee sought clarification as to why this had been included, given that the Mayor is identified in the <i>Local Government Act 1995</i> as speaking on behalf of the local government.</p>

City officers undertook to follow this up and report back to the Committee.

## EXTERNAL CONSULTATION

No consultation has occurred with the public or other agencies on this matter.

## OFFICER'S COMMENTS

At the Ordinary Council Meeting held 26 October 2021, the City introduced a new template for the Terms of Reference to be established for all Committees. This was recommended to Council to ensure consistent formatting and content for all minor committees.

The error noted by the Committee in relation to the Training in CEO Performance Review has been corrected, as this was a minor administrative error that does not change the intent of the Terms of Reference.

In relation to the Roles of Representatives, and the reference made to Committee Members being a 'Spokesperson for the City of Bayswater', City officers understand that the wording was included to cover situations where the Mayor may not be a member of the Committee. Under these circumstances it may be more appropriate for a Committee member to speak on matters relating to the Committee.

City officers consider that this wording may result in confusion to Committee members, given that the Mayor is responsible for speaking on behalf of the City of Bayswater. It is recommended that this is removed from the Terms of Reference.

However, the reference made under Roles of Representatives to Committee Members being 'a Spokesperson for the City of Bayswater' is included in all of the Terms of Reference for Committees. Therefore, any change made to the CEO Review Committee Terms of Reference should arguably also be made to all other Committee Terms of Reference.

Given that the 2023 Ordinary Election is now only seven months away, City officers recommend that this correction is made as part of the biennial review of the Terms of Reference for all Committees. This will occur as a part of the review of Committees, following the 2023 Ordinary Election.

## LEGISLATIVE COMPLIANCE

Nil.

## RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the officer's recommendation has been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
<b>Conclusion</b>	The Committee recommendation will ensure that a consistent approach is taken to all Committee Terms of Reference.	

## **FINANCIAL IMPLICATIONS**

Nil.

## **STRATEGIC IMPLICATIONS**

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

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**

It is recommended that the Council considers a review of all Committee Terms of Reference prior to the Ordinary Election 2023, to ensure consistency of approach, content and format.

<b>TERMS OF REFERENCE</b> <b>Chief Executive Officer Review Committee</b>	
<b>Purpose:</b>	<p>The purpose of the Chief Executive Officer Review Committee is:</p> <ol style="list-style-type: none"> <li>1. To ensure compliance with Section 5.39 and 5.39A of the <i>Local Government Act 1995</i> (WA); and</li> <li>2. To ensure the annual review of performance is consistent with the principles and standards outlined by the Department of Local Government in the Operational Guideline 'Guidelines For Local Government CEO Recruitment and Selection, Performance Review and Termination' (<a href="https://www.dlgsc.wa.gov.au/department/publications/publication/appointing-a-ceo">https://www.dlgsc.wa.gov.au/department/publications/publication/appointing-a-ceo</a>), specifically: <ul style="list-style-type: none"> <li>• The principles of fairness, integrity and impartiality;</li> <li>• The minimum approved standards; namely <ul style="list-style-type: none"> <li>○ S2.1 Performance criteria is specific, relevant, measurable, achievable and time-based.</li> <li>○ S2.2 The performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and council.</li> <li>○ S2.3 The CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.</li> <li>○ S2.4 The collection of evidence regarding performance outcomes is thorough and comprehensive.</li> <li>○ S2.5 Assessment is made free from bias and based on the CEO's achievements against documented performance criteria, and decisions and actions are impartial and transparent.</li> <li>○ S2.6 The council has endorsed the performance review assessment by absolute majority.</li> </ul> </li> <li>• To make recommendations to Council on any proposed changes to the Chief Executive Officer's Contract of Employment or Conditions of Employment.</li> </ul> </li> </ol>
<b>Training in CEO Performance Reviews:</b>	At least one member will be required to <u>undertake</u> appropriate training in <u>undertaking</u> Chief Executive Officer performance reviews.
<b>Elected Member membership:</b>	<p>Three Elected Members*.</p> <p><i>*minimum three required under legislation</i></p>
<b>External Member membership:</b>	Nil.
<b>Role of Representatives:</b>	<p>The roles and responsibilities of the City of Bayswater representatives on this Committee are:</p> <ul style="list-style-type: none"> <li>• Member in own right; and</li> <li>• Spokesperson for City of Bayswater.</li> </ul>
<b>Delegated Authority:</b>	Nil.
<b>Meetings:</b>	Committee meetings are to be in accordance with the <i>City of Bayswater Standing Orders Local Law 2021</i> .
<b>Meeting Frequency:</b>	Quarterly or as required.
<b>Meeting Date and Time:</b>	When suitable.
<b>Location:</b>	City of Bayswater Civic Centre
<b>Liaison Officer:</b>	Chief Executive Officer.

**10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****11 QUESTIONS FROM MEMBERS WITHOUT NOTICE****12 NEW BUSINESS OF AN URGENT NATURE****13 MEETING CLOSED TO THE PUBLIC****13.1 Matters for Which the Meeting May be Closed****13.1.1 CEO Review Committee - 15 March 2023****13.1.1.1 Chief Executive Officer Performance Review (Probation) 2023**

<b>Responsible Branch:</b>	Governance and Organisational Planning and Development
<b>Responsible Directorate:</b>	Office of the Chief Executive Officer
<b>Authority/Discretion:</b>	Legislative/Executive/Strategic
<b>Voting Requirement:</b>	<b><i>ABSOLUTE MAJORITY REQUIRED</i></b>
<b>Attachments:</b>	1. CONFIDENTIAL - CEO Performance Review Report 2022-23 - Combined with Attachments 2. CEO Probation Review Appraisal - 8 March 2023
<b>Refer</b>	Nil

Mr Jeremy Edwards has declared a financial interest in this item, as he holds the position of Chief Executive Officer.

This report has been prepared by the Manager, Governance and Organisational Planning and Development. The Manager, Governance and Organisational Planning has declared an impartiality interest as she is a direct report to the Chief Executive Officer.

**REASON FOR CONFIDENTIALITY**

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

- (a) a matter affecting an employee or employees.

**COMMITTEE RECOMMENDATION TO COUNCIL**  
**(OFFICER'S RECOMMENDATION)**

That the recommendation as contained in the "Confidential Report" be adopted.

**13.1.2 Chief Executive Office Report - Results of Organisational Assessments**

<b>Responsible Directorate:</b>	Office of the CEO
<b>Authority/Discretion:</b>	Legislative/Executive/Strategic
<b>Voting Requirement:</b>	Simple Majority Required

**REASON FOR CONFIDENTIALITY**

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

- (a) a matter affecting an employee or employees.

**OFFICER'S RECOMMENDATION**

That the recommendation as contained in the "Confidential Report" be adopted.

**13.2 Public Reading of Resolutions That May be Made Public****14 CLOSURE**