



SPECIAL MEETING OF COUNCIL

For the purpose of appointing a Designated Senior Officer
to the position of Acting Chief Executive Officer until an interim or permanent
Chief Executive Officer is appointed to the position.

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
THURSDAY, 17 DECEMBER 2015.

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Special Council Meeting

17 December 2015

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

9.05am – The Shire President, Cr Morrell, declared the meeting open.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

9.07am – Cr Bartlett entered the room.

9.08am – The Director of Community & Regulatory Services entered the room.

MEMBERS:

Cr David Morrell (Shire President)
 Cr Kelli Gillies (Deputy Shire President)
 Cr Yasmin Bartlett
 Cr Ceinwen Gearon
 Cr Jan Lewis
 Cr John Sampson
 Cr Rob Whooley

STAFF:

Mr Kim Dolzadelli (Director of Finance & Administration)
 Mrs Annette Harbron (Director of Planning & Sustainability)
 Mr Gregg Harwood (Director of Community & Regulatory Services)
 Mrs Teiga Murray (Finance Officer - Administration)

APOLOGIES:

Cr Dawn Pedro
 Cr Roger Seeney
 Mr Martin Buczak (Acting Director of Infrastructure Services)

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 5
 Members of the press in attendance at the commencement of the meeting: 0

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Kim Dolzadelli	5.1	Financial	Mr Dolzadelli is a designated Senior Officer to whom the report relates.
Mrs Annette Harbron	5.1	Financial	Mrs Harbron is a designated Senior Officer to whom the report relates.
Mr Gregg Harwood	5.1	Financial	Mr Harwood is a designated Senior Officer to whom the report relates.

3. ANNOUNCEMENT BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

Nil

5. OFFICER REPORTS**5.1 APPOINTMENT OF AN ACTING CHIEF EXECUTIVE OFFICER**

File Ref:	PER.19 & CR.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Financial Interest – The Director of Finance & Administration, Director of Community & Regulatory Services and Director of Planning & Sustainability declare a financial interest as this report deals with the appointment of a current Director to the position of Acting CEO.
Date:	16 December 2015
Author:	Cr David Morrell, Shire President
Authorising Officer:	Cr David Morrell, Shire President
Attachments:	Copy of email to Councillors containing advice received from Jenni Law, Department of Local Government

Summary:

Council is being requested to appoint an Acting Chief Executive Officer.

Background:

At its meeting held on 1 December 2015, Council resolved as follows (Resolution No. 271215);

“That the Shire President and Deputy Shire President to enter into negotiations with the Chief Executive Officer to mutually end the employment relationship (with the consent of the Chief Executive Officer), subject to a Deed of Settlement and Release;

Authorise the Shire President and the Deputy Shire President to negotiate the financial component of the Deed of Settlement and Release.”

The former Chief Executive Officer, Mr Dale Stewart, finished his employment with the Shire of Denmark on 14 December 2015.

Council did not at the time consider the appointment of an Acting Chief Executive Officer and it is now necessary for Council to consider the appointment.

Consultation:

Consultation has occurred with the Director of Planning and Sustainability Services, the Director of Finance and Administration and Ms Jenni Law, Director Local Government Regulation & Support at the Department of Local Government and Communities. Attachment 5.1 is an email containing the discussion points with respect to advice provided by Jenni Law.

Ms Jenni Law has advised that she is more than happy to speak via phone hook-up on the meeting day should Councillors wish to ask any questions in relation to this matter.

Statutory Obligations:

Local Government Act 1995

Part 5 Division 4

Section 5.36 Local government employees (extract)

(1) A local government is to employ —

(a) a person to be the CEO of the local government; and

(3) A person is not to be employed in the position of CEO unless the council —

(a) believes that the person is suitably qualified for the position; and

(b) is satisfied* with the provisions of the proposed employment contract.

* Absolute majority required.

Part 5 Division 4

Section 5.39 Contracts for CEO and senior employees (extract)

(1a)(a) An employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting

Local Government (Administration) Regulations 1996

Part 4

Regulation 18A Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3)) (extract)

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State unless it is proposed that the position be filled by –
- (b) a person who will be acting in the position for a term not exceeding one year.

Policy Implications:

Policy P040106 – Senior Employees & Acting Chief Executive Officer relates and reads as follows;

“The following are designated senior employees for the purposes of S.5.37 of the Local Government Act 1995 -

- *Director of Finance & Administration;*
- *Director of Planning & Sustainability;*
- *Director of Infrastructure Services, and;*
- *Director of Community & Regulatory Services.*

For the purposes of Section 5.36 (2) of the Local Government Act 1995, the Council has determined that employees that are appointed in one of the above positions are suitably qualified to be appointed as Acting CEO by the CEO, from time to time, subject to the following conditions;

1. *The employee is not Acting in the position;*
2. *The term of appointment is not longer than 3 months consecutive;*
3. *That the employee’s employment conditions are not varied other than the employee is entitled to a salary equivalent to that of the CEO during the Acting period.”*

Budget / Financial Implications:

Council Policy P040106 provides, in part, the following:

“That the employee’s employment conditions are not varied other than the employee is entitled to a salary equivalent to that of the CEO during the Acting period”.

The 2015/16 budget makes provision for periods of Acting appointments.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Sustainability Implications:

➤ **Governance:**

It is imperative that the Shire of Denmark has in place a Chief Executive Officer or an Acting Chief Executive Officer to ensure that the Shire’s governance objectives are met and that day to day matters can be enacted on behalf of Council.

The Shire of Denmark’s adopted Governance Objective is to:

“The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.”

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not appoint an Acting Chief Executive Officer	Possible (3)	Major (4)	High (10-16)	Business Disruption	Accept Recommendation

Comment/Conclusion:

It is imperative that Council has an appointed Chief Executive Officer or an Acting Chief Executive Officer to ensure that the business of Council can be enacted.

Council Policy P040106 recognises the incumbent officers in the positions of Director of Finance & Administration, Director of Planning & Sustainability, Director of Infrastructure Services and Director of Community & Regulatory Services as designated senior employees. Furthermore that for the purposes of Section 5.36 (2) of the Local Government Act 1995, the Council has determined that employees that are appointed in one of the above positions are suitably qualified to be appointed as Acting CEO by the CEO, from time to time, subject to conditions contained within the Policy, as noted in the Policy section of this Item.

Of the four designated senior employees, the current incumbent of the Director of Infrastructure Services holds the position in an Acting capacity therefore as per Council Policy P040106 it is not appropriate to appoint this person to the role of Acting Chief Executive Officer.

Of the three remaining designated senior employees the following should be assessed when considering an appointment to the role of Acting Chief Executive:

Director of Finance and Administration

Will be on Leave from Monday 21 December 2015 returning Monday 4 January 2016.

Director of Community & Regulatory Services

Will be on Leave from Monday 21 December 2015 returning Monday 11 January 2016.

Director of Planning and Sustainability

Will be working through this period during normal business times.

The author also notes that the Director of Planning and Sustainability, Mrs Annette Harbron, has recently held the position of Acting Chief Executive Officer (appointment under Delegation D040206) whilst the former Chief Executive Officer was on leave. The author believes that Mrs Harbron has undertaken the position of Acting Chief Executive Officer in an extremely professional manner and has ensured continued stability to staff during recent changes.

Voting Requirements:
Absolute Majority.

COUNCIL RESOLUTION & RECOMMENDATION	ITEM 5.1
MOVED: CR GILLIES	SECONDED: CR GEARON
That Council:	
<ol style="list-style-type: none"> 1. Appoint Ms Annette Harbron, Director of Planning and Sustainability, effective immediately, to the position of Acting Chief Executive Officer, until such time that Council either appoints an Interim or permanent Chief Executive Officer and their subsequent commencement; 2. Apply the applicable salary level equivalent to the former Chief Executive Officer's cash component; and 3. Acknowledges the advice received from the Department of Local Government & Communities that upon appointment by Council, the Acting Chief Executive Officer has the same level of delegations afforded to the position of Chief Executive Officer. 	
CARRIED UNANIMOUSLY: 7/0	Res:291215

** Absolute majority required.*

6. CLOSURE OF MEETING

9.14am - There being no further business the Shire President, Cr Morrell, declared the meeting closed.

The Acting Chief Executive Officer recommends the endorsement of these minutes at the next meeting.

Signed: _____
Annette Harbron – Acting Chief Executive Officer

Date: _____

These minutes were confirmed at the meeting of the _____

Signed: _____
(Presiding Person at the meeting at which the minutes were confirmed.)