

Council

Temporary Employment or Appointment of CEO

Introduction

This policy is to be read in conjunction with delegation 152 and addresses the requirements of section 5.39C of the Local Government Act 1995, that requires a Local Government to adopt, by absolute majority, a policy that sets out the process to be followed in relation to:

- Employment of a person in the position of CEO for a term not exceeding one year; and
- Appointment of an employee to act in the position of CEO for a term not exceeding one year.

Purpose

This policy details, in accordance with Section 5.39C of the *Local Government Act 1995* (the Act), the Shire of Capel's processes for appointing an Acting or Temporary Chief Executive Officer (CEO) for periods of less than 1 year of planned or unplanned leave or an interim vacancy in the substantive office.

Policy statement

1. Definitions
 - a. *Acting CEO* means a person employed or appointed to fulfil the statutory position of CEO during a period where the substantive CEO remains employed but is on planned or unplanned leave.
 - b. *Temporary CEO* means a person employed or appointed to fulfil the statutory position of CEO for the period of time between the end of the substantive CEO's employment and the appointment and commencement of a newly appointed substantive CEO.
2. Acting and Temporary CEO Requirements and Qualification
 - a. When the CEO is on planned or unplanned leave, or the CEO's employment with the Local Government has ended, an Acting or Temporary CEO is to be appointed in accordance with this Policy to fulfil the functions of CEO as detailed in Section 5.41 of the *Local Government Act 1995*, and other duties as set out in the Act and associated Regulations.
 - b. Through this policy and in accordance with section 5.36(2)(a) of the Act, the Council determines that employees appointed to the substantive position of Director are considered suitably qualified to perform the role of Acting or Temporary CEO.
3. Appointment of an Acting CEO – Planned and unplanned leave for periods up to 6 weeks
 - a. The CEO is authorised to appoint a Director in writing as Acting CEO, where the CEO is on planned or unplanned leave for periods not exceeding 6 weeks, subject to the CEO's consideration of the Director's performance, availability, operational requirements and where appropriate, the equitable access to the professional development opportunity.

- b. The CEO must appoint an Acting CEO for any leave periods greater than 2 days and less than The CEO is to advise the Council when and for what period of time the Director is appointed as Acting CEO.
 - c. If the CEO is unavailable or unable to make the decision to appoint an Acting CEO in accordance with (2), then the appointment of an Acting CEO is to be referred to the Council.
 - d. The Council may, by resolution, extend an Acting CEO period under subclause (4) beyond 6 weeks if the substantive CEO remains unavailable or unable to perform their functions and duties.
4. Appointment of an Acting CEO for extended leave periods greater than 6 weeks but less than 1 year
- a. This clause applies to the following periods of extended leave:
 - i. The substantive CEO's Extended Planned Leave which may include accumulated annual leave, long service leave or personal leave; and
 - ii. The substantive CEO's Extended Unplanned Leave which may include any disruption to the substantive CEO's ability to continuously perform their functions and duties
 - b. The Council will, by resolution, appoint an Acting CEO for periods greater than 6 weeks but less than 1 year, as follows:
 - i. Appoint one employee, or multiple employees for separate defined periods, as Acting CEO to ensure the CEO position is filled continuously for the period of extended leave; or
 - ii. Conduct an external recruitment process in accordance with clause 5(a)(iii).
 - c. The Shire President will liaise with the CEO, or in their unplanned absence the Directors to coordinate Council reports and resolutions necessary to facilitate an Acting CEO appointment.
 - d. Subject to the Council's resolution, the Shire President will execute in writing the Acting CEO appointment with administrative assistance from the Directors.
5. Appointment of a Temporary CEO – Substantive Vacancy
- a. In the event that the substantive CEO's employment with the Shire of Capel is ending, the Council when determining to appoint a Temporary CEO may either:
 - i. by resolution, appoint a Director as the Temporary CEO for the period of time until the substantive CEO has been recruited and commences their employment with the Local Government; or
 - ii. by resolution, appoint a Director as the interim Temporary CEO for the period of time until an external recruitment process for a Temporary CEO can be completed; or
 - iii. following an external recruitment process in accordance with the principles of merit and equity prescribed in section 5.40 of the Act, appoint a Temporary CEO for the period of time until the substantive CEO has been recruited and commences employment with the Local Government.
 - b. The Shire President will liaise with the Directors to coordinate Council reports and resolutions necessary to facilitate a Temporary CEO appointment.
 - c. The Shire President is authorised to execute in writing the appointment of a Temporary CEO in accordance with the Council's resolution/s, with administrative assistance from the Directors.
6. Remuneration and conditions of an Acting or Temporary CEO

- a. Unless the Council otherwise resolves, an employee appointed as Acting CEO shall be remunerated at not less than 80% of the cash component only of the substantive CEO's total reward package.6 weeks.
- b. The Council will determine by resolution, the remuneration and benefits to be offered to a Temporary CEO when entering into a contract in accordance with the requirements of Sections 5.39(1) and (2)(a) of the Act.
- c. Subject to relevant advice, the Council retains the right to terminate or change, by resolution, any Acting or Temporary CEO appointment.

Application

This policy applies to the statutory position of Chief Executive Officer (CEO) of the Shire of Capel.

Procedure

Department:	CEO	Next review:	September 2023
Reviewer:	Manager Organisation Development, CEO	Legislation:	
Adopted:	29.09.2021 (OC188/2021)	Delegation:	
Amended:		Risk:	
Policy ref #:		Version:	2