Mayor Seeking Legal Advice Policy

1. INTRODUCTION

1.1 The Chief Executive Officer (the **CEO**) is responsible for either obtaining or authorising an employee to obtain legal advice for and on behalf of the Council.

1.2 This Policy identifies the circumstances when it is deemed appropriate for the Mayor to directly source legal advice for and on behalf of Council, when the CEO is either not available to do so or where a matter relates to the CEOs conduct and/or performance.

1.3 The extent of this authorisation for the Mayor is for the purposes of ensuring that legal advice is sought for appropriate reasons such as to clarify ambiguity or uncertainty as to the Council's legal rights, obligations, or liabilities and to ensure that when advice is sought, that it occurs in accordance with the correct process and that the legal advice received is dealt with accordingly.

2. POLICY APPLICATION & PROCEEDURES

2.1 Where it is not possible or appropriate for the CEO to seek legal advice, while the Mayor should ideally seek a Council resolution to obtain legal advice, where this is not possible due to matter of urgency, or otherwise the timing of the Council Meeting at which the authorisation would be sought, the Mayor may seek advice independently and directly.

2.2 Once obtained legal advice will be:

2.2.1 provided to the CEO, unless the circumstance relates to the CEOs conduct and/or performance, and or exercise of the CEOs powers; and

2.2.2 reported to the Council at the next meeting and must considered 'in confidence' pursuant to section 90(3)(h) of the *Local Government Act 1999*; and

2.3 In circumstances where the Council is to consider a matter related to the CEO (i.e.: inclusive of but not limited to urgent employment issues related to the CEO, or where the Council is investigating an evidence based alleged failure by the CEO, or where a matter relates to the exercise of the CEO's powers), and it is the view of the Mayor that the consideration of this matter by the Council should occur with the benefit of legal advice the advice will be obtained as a matter of necessity by the Mayor to ensure that the Council's actions and decisions are lawful and/or to address issues of liability.

2.4 In said circumstances, the Mayor:

2.4.1 will not confer with or otherwise seek advice from Council staff where the legal advice relates to the CEO's employment or other personal matters;

2.4.2 may confer with relevant Senior Council staff if the matter concerns an issue that is not confidential to the CEO, such as a conflict of interest matter relating to matters disclosed in the register of interests;

2.5 Where the Mayor has obtained the legal advice other than in accordance with a Council resolution, Council should, as a matter of caution, retrospectively endorse the Mayor's decision to obtain the legal advice.

3. RECORD KEEPING AND CONFIDENTIAL DOCUMENTS

3.1 Where the Mayor obtains legal advice in accordance with this Policy and it is not appropriate to provide that advice to the CEO, the advice must nevertheless be saved in the Council's records management system but in such a way as to ensure that it cannot be accessed by the CEO.

3.2 The documents will be made accessible only to the relevant Information Management Officer, or in the absence thereof a Senior Council staff member (for the sole purposes of entering, storing and delegation of said documents) and the Executive Support Officer to the CEO and Mayor. These restricted access records will be maintained in accordance with the *State Records Act 1997* and will remain subject to assessment as part of any relevant application made under the *Freedom of Information Act 1991* or any oversight body investigation.

4. DELEGATION

4.1 In order to allow for the effective application of this Policy, the Council delegates the authority to the Mayor to procure legal services in the first instance up to and including the value of $5,000.

5. DOCUMENT AND ADMINISTRATION CONTROL

COUNCIL POLICY	
Policy title:	Mayor Seeking Legal Advice Policy
Responsible officer:	Chief Executive Officer or in their absence, the General Manager Assets, Infrastructure and Regulatory Services.
Version:	1.1
First issued/adopted:	5 February 2024
Review frequency:	Within 12 months of each local government general election, or as necessary subject to legislative requirements.

Last reviewed:	14 August 2025
Next review date:	No later than November 2027
Applicable legislation/related documents:	*Local Government Act 1999* *State Records Act 1997* *Freedom of Information Act 1991*