

Legal action presses pause button on WCC hiring new CEO



Former Warrnambool City Council CEO Peter Schneider. Image: WCC

JUST IN: Warrnambool City Council sacked CEO Peter Schneider has successfully stopped the WCC from hiring a replacement until a judgment is handed down in his Supreme Court challenge.

The Supreme Court hopes to hand down its decision by 1 June 2021, with the hearing scheduled for March 23 and 24.

Mr Schneider had applied for an injunction in the Supreme Court to stop the council going ahead with hiring a new CEO.

The injunction hearing was held in the Melbourne Supreme Court this morning before the Honourable Justice Michael McDonald.

The injunction application was dismissed, however, when the WCC agreed to suspend the hiring process.

It was revealed during the hearing that the WCC was due to meet next Monday, March 15, to make a decision on the new CEO.

Justice McDonald today expressed his concern several times about the recruitment process underway, saying it didn't "sit very well with the administration of justice", given Mr Schneider's case is yet to be heard.

Justice McDonald also raised concerns several times about whether applicants for the CEO job had been told about Mr Schneider's court action.

Justice McDonald said he doubted any applicant who was "fully appraised" of the situation would be likely to "relocate their family from interstate, resigning from their job or whatever, if Peter Schneider could walk back in the door and take up his position".

"I can't understand why anyone properly advised would do so," he said.

Today's hearing gave some fascinating insights into what we can expect from the full hearing.

One was that Mr Schneider, if successful, is seeking to be reinstated immediately or, as it was put today, "walk back into the door to take up his position".

Based on what was said in the hearing today, this is entirely possible.

Justice McDonald indicated that the nub of the argument was whether the council was legally able to sack Mr Schneider for "no reason or any reason", or whether this part of his contract is over-ridden by the Local Govt Act which says all employees must be treated fairly.

The March 23-24 hearing will also examine whether Mr Schneider, as a CEO, had protections under the council's Enterprise Bargaining Agreement (EBA).

From the arguments put forward by lawyers for both sides this morning, Mr Schneider's court action is shaping up as a test

case on just how far a “no reason or any reason” clause can stretch.

It has also exposed the decision by four of the seven former city councillors to dump Mr Schneider is not as cut and dried as they hoped it would be.