

LATE ITEM M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021 (REC) (CONFIDENTIAL ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Personnel File
 Customer Index : Personnel File
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item M21/5812 Chief Executive Officer Performance Review - Ordinary Meeting of Council 16 February 2021
 Item M21/5824 Late Item - Chief Executive Officer Performance Criteria and Key Performance Indicators - Ordinary Meeting of Council - 16 March 2021
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Dean McAuliffe
 Manager People Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input checked="" type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021 (REC) (CONFIDENTIAL ATTACHMENT)**KEY ISSUES / SUMMARY**

- In accordance with the Council resolution (Item C18/5655 – Chief Executive Officer Recruitment – Special meeting of Council 12 November 2018) a five year contract with the Chief Executive Officer (CEO) was entered into which became effective from 20 November 2018.
- In keeping with the requirements of the *Local Government Act 1995* the CEO's contract contains a requirement for an annual review, and there are elements of the employment contract which specify some elements that must occur.
- The annual CEO performance review process is ultimately the determination of the Council. The operational management of the process is through the direction of the Mayor, on behalf of Council and the Governance Committee. The Governance Committee has been determined by the Council to be the reviewers of the CEO performance.
- It has been for the Governance Committee to discuss the CEO's performance, future expectations, performance criteria, performance development plan and review the salary package, for recommendation to the Council.
- Each year a defined process that has been developed by the Administration is reviewed by the Committee and adopted by the Council, incorporates a proposed performance survey to be completed by Elected Members.
- The 2020 review for the 20 November 2019 to 30 June 2020 was concluded in February 2021.
- At the March 2021 Ordinary Meeting of Council the Council endorsed the Performance Indicators for the review period 17 March 2021 – 30 June 2021 and that the next CEO performance review to commence by 01 August 2021 and be completed by September 2021 Ordinary Meeting of Council.
- The current review period is 1 July 2020 to 30 July 2021 during which two different sets of performance indicators apply:
 - 01 July 2020 to 16 March 2021
 - 17 March 2021 to 30 June 2021
- The Council is required to consider the CEO performance against both sets of KPI's that span the performance period 01 July 2020 to 30 June 2021.
- In order to meet the September 2021 timeline a process has been developed and presented to undertake this three month (17 March to 30 June 2021) review.

BACKGROUND

The CEO was appointed on 20 November 2018. The *Local Government Act 1995* requires that the Council review the CEO's performance at least once a year in relation to every year of employment.

At a Special Meeting of Council held 11 February 2020 it was resolved:

“That the Council commence the process for the review of the Chief Executive Officer Performance, Performance Criteria and Remuneration Review for the period up to 30 June 2020 and then annually on that date thereafter. Any remuneration amendments are to take effect from 20 November of that same year.”

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This resolution was to align with the end of the financial year and annual reporting period, the adoption of the budget and so that future reviews will be completed by the outgoing Council and not be undertaken by newly Elected Members after biennial October elections.

The Local Government Act requires that a review be conducted “at least once a year in relation to every year of employment” so the current review will need to be concluded by December 2021 at the latest.

The 2020 review that was for the period 20 November 2019 to 30 June 2020 was concluded by the Council at the 16 February 2021 Council meeting. At the 16 March 2021 meeting the performance indicators were reviewed with new indicators being adopted. This being the case, two sets of performance indicators, one set for the period 1 July 2020 to 16 March 2021 and another set for the 17 March 2021 to 30 June 2021 will apply.

At the March 2021 Ordinary Meeting of Council (Item M21/5824) the Council also resolved that the next performance review commence by 01 August 2021 and be completed by the September 2021 Ordinary Meeting of Council.

DETAIL

The operational management of the CEO review process is through the direction of the Mayor, on behalf of Council and the Governance Committee, and is supported administratively by the People Services Manager, who acts under the Mayor’s guidance. The overall process is ultimately determined by the Council.

In order to meet the September timeline a process has been developed and presented to undertake the twelve month review. It is recommended that the Council consider re-appointing the previous consultant, and use a survey tool previously approved by the Council, to conduct the current review. Discussion has been held with the Mayor on modifying the current process so that Elected Members can have individual or group discussions with the CEO.

Performance indicators to be used for the next 12 month review period (1 July 2021 to 30 June 2022) will also need to be considered, set and agreed. It is recommended that at the conclusion of this review process the Council advertise for consultants to assist with the development of performance indicators for the next review, and undertake the next review. Until the new performance indicators are agreed and set, the current performance indicators and criteria remain in place.

Further it should be noted that the prescribed timeframe for this review also coincides with the activation of the Caretaker Period that is invoked by Council Policy CP-105 - Election Caretaker Period. The Caretaker period will commence on 9 September 2021.

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STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The annual CEO performance review process is the determination of the Council and community consultation is not required.

II. OTHER AGENCIES / CONSULTANTS

There is no requirement for engagement with other agencies or consultants.

STATUTORY AND LEGAL IMPLICATIONS

Section 5.16(1) of the *Local Government Act 1995*, states that "Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation" (Absolute Majority required)

Section 5.23 (2)(a) of the *Local Government Act 1995* states that a meeting by a Council or Committee, or part of a meeting, may be closed to members of the public if a matter affecting an employee is being dealt with.

Section 5.38 of the *Local Government Act 1995* states the requirement to review a CEO's performance at least once a year in relation to every year of employment.

FINANCIAL IMPLICATIONS

Costs will be incurred for the consultant to undertake the scope of work as described in the proposed review process.

The fee for the Performance Review Consultant is provided for each year in the budget.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The risk management implications of non-compliance with processes and legislative requirements may leave the City open to challenge on decisions or processes. There are no Environmental Management Implications in this report.

Risk Statement & Consequence	Level of Risk	Risk Treatment
The milestone dates to complete the CEO performance review are critical dates not met.	Low	Develop and endorse a process for the conduct of the CEO performance review
That the performance criteria for the next twelve months are determined.	Low	Define process that includes this stage.

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Not applicable

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as the requirements for a performance review are mandatory.

CONCLUSION

The CEO performance review process provides feedback opportunities to the Council and Chief Executive Officer on performance over the past twelve months, and clarifies future expectations, which are to be reflected in the performance criteria of the Chief Executive Officer's Contract and the Performance Development Plan.

An outcome of the process is resolution by the Council in relation to the Performance Criteria, Performance Development Plan and Salary Review for the Chief Executive Officer.

It is recommended that the simplified process, the same survey tool used in the last review and the same consultant be appointed to conduct this 1 July 2020 to 30 June 2021 review.

The Chief Executive Officer Performance Review process was distributed to Elected Members under confidential cover on 16 July 2021.

OFFICER RECOMMENDATION (5850)**APPROVAL****That the Council:**

- 1 approve the Chief Executive Officer Performance Review process, and**
- 2 approve the use of the previous survey tool, updated with the agreed Performance Indicators by the consultant, to support the Chief Executive Officer Performance Review for the 1 July 2020 to 30 June 2021 period, and**
- 3 appoint Mr John Phillips of JCP Consulting to assist with the Chief Executive Officer Performance Review 1 July 2020 to 30 June 2021 period.**
- 4 that at the conclusion of the 30 June 2021 Chief Executive Officer Performance Review, the City commence the advertising and appointment of a consultant to develop the performance indicators for, and undertake the 1 July 2021 to 30 June 2022 Chief Executive Officer Performance Review.**