

**LATE ITEM M19/5721 – GOVERNANCE COMMITTEE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW PROCESS (REC) (ATTACHMENT)**

Ward : All  
 Category : Operational  
 Subject Index : Personnel file  
 Customer Index : Not Applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Item C18/5655 - Chief Executive Officer Recruitment - Special Meeting of Council 12 November 2018  
 M19/5711 - Chief Executive Officer Performance Review 4 November 2019 Special Meeting of Council.  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Kylie Johnson  
 Executive Manger Organisational Development

**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 checked="" type="checkbox"/>	<b>Executive</b>	<b><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></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; 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 type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**LATE ITEM M19/5721 – GOVERNANCE COMMITTEE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW PROCESS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- In accordance with 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 the 20<sup>th</sup> of 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. A confidential attachment of the employment contract has been provided.
- 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 Council to be the reviewers of the CEO performance.
- The Governance Committee will discuss the CEO's performance, future expectations performance criteria, performance development plan and review the salary package, for recommendation to the Council.
- A defined process is proposed for the CEO performance review, as detailed in the agenda item, which incorporates a proposed performance survey by elected members.
- This report was presented to the Special Meeting of Council held 4 November 2019, with Council resolving to refer the matter to the Governance Committee for consideration.
- The Governance Committee considered the CEO performance review process at its meeting held 18 November 2019.
- This report seeks Council endorsement of the process recommended by the Governance Committee.

**BACKGROUND**

On 20 November 2018 Marten Tieleman commenced in the role of Chief Executive Officer at the City of Melville. A five year contract, which is provided as a confidential attachment was finalised with the Chief Executive Officer, which defined the performance criteria for the role.

Clause 7 of the CEO contract details that there needs to be a review of remuneration on an annual basis at a time that is no later than three months after the anniversary of the commencement date.

This matter was presented to a Special Meeting of Council held 4 November 2019, with the Council resolving as follows:

*“That Item M19/5711 – Chief Executive Officer Performance Review be referred to the Governance Committee for consideration and recommendation back to the Council.”*

**LATE ITEM M19/5721 – GOVERNANCE COMMITTEE – CHIEF EXECUTIVE OFFICER  
PERFORMANCE REVIEW PROCESS (REC) (ATTACHMENT)****DETAIL**

The Governance Committee met on Monday 18 November 2019 to consider the Chief Executive Officer Performance Review Process.

The Council has not delegated to the Governance Committee all the powers, functions and duties necessary to make decisions, which includes the ability to select and appoint an external consultant to facilitate the performance review process of the Chief Executive Officer. Meetings of the Committee are not decision making forums and as such are not open to the member of the public.

Ultimately the overall process is 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, and is supported administratively by the Executive Manager Organisational Development, who acts under the Mayor's guidance.

**STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

There are no public consultation/communication aspects relating to this item.

**II. OTHER AGENCIES / CONSULTANTS**

There has been no consultation for the 2019 performance review process with any other agencies/consultants at this stage, although there will be future involvement with respect to appointment of a Performance Review Consultant as identified in the proposed process of the CEO review.

**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 5.38 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.

Section 5.39 (7) of the *Local Government Act 1995* states that a CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal..

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.

**LATE ITEM M19/5721 – GOVERNANCE COMMITTEE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW PROCESS (REC) (ATTACHMENT)**

**FINANCIAL IMPLICATIONS**

The estimated cost of engaging a Performance Review Consultant, who acts as a facilitator to assist with the Performance Review process, is provided for within the current operational budget.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
That the performance criteria for the next twelve months are not determined and agreed	<b>Low</b>	Defined process that includes this stage

**POLICY IMPLICATIONS**

There are no policy implications applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

An alternate option to the past practice is that in accordance with section 5.16 of the *Local Government Act 1995*, the Council delegates to the Governance Committee all the powers, functions and duties necessary to select and appoint an external consultant to facilitate the performance review process of the Chief Executive Officer.

The current practice is that the Governance Committee review the short list of Consultants in conjunction with the Executive Manager Organisational Development who has the administrative responsibility to select and appoint the preferred Consultant.

**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 a resolution by the Council in relation to the Performance Criteria, Performance Development Plan and Salary Review for the Chief Executive Officer.

**COMMITTEE RECOMMENDATION (5721)**

**APPROVAL**

**That the Council approves the process for the Chief Executive Officer Performance Review as provided by the Mayor and amended by the Governance Committee – [CEO Performance Review Process Amended](#)**