



Attachments

Chief Executive Officer's Recruitment and Performance Review
Committee Meeting

Tuesday, 20 February 2024

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Agenda Item 5.1.1 - Attachment 1

Unconfirmed Minutes 11 July 2023



Published Minutes

Chief Executive Officer's Performance Review Occasional
Committee Meeting

Tuesday, 11 July 2023

Date:	Tuesday 11 July 2023
Time:	8:30am
Location:	Council Chambers, Ashburton Hall, Ashburton Avenue, Paraburdoo
Distribution Date:	Friday 14 July 2023



Shire of Ashburton
Chief Executive Officer's Performance Review Occasional Committee Meeting

The Chief Executive Officer recommends the endorsement of these minutes at the next Chief Executive Officer's Performance Review Occasional Committee Meeting.

K Donohoe
Chief Executive Officer
12 July 2023

These minutes were confirmed by Council as a true and accurate record of proceedings at the Chief Executive Officer's Performance Review Occasional Committee Meeting held on Tuesday, 11 July 2023.

Presiding Member _____

Date _____

Disclaimer

The Shire of Ashburton warns anyone who has an application lodged with Council must obtain, and should only rely on, written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by Council in respect of the application. No responsibility whatsoever is implied, or accepted, by the Shire of Ashburton for any act, omission, statement, or intimation occurring during a Council meeting.

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1 Declaration Of Opening

The Presiding Member declared the meeting open at 8:42am.

1.1 Acknowledgement Of Country

As representatives of the Shire of Ashburton Council, we respectfully acknowledge the local Indigenous people, the traditional custodians of this land where we are meeting upon today and pay our respects to them and all their elders both past, present and emerging.

2 Announcement Of Visitors

Nil

3 Attendance

3.1 Present

Elected Members:	Cr K White Cr M Lynch Cr R De Pledge Cr M Gallanagh Cr L Rumble JP Cr T Mladenovic Cr A Smith	Shire President (Presiding Member), Onslow Ward Deputy Shire President, Tom Price Ward Ashburton Ward Pannawonica Ward Paraburdoo Ward Tom Price Ward Tom Price Ward
Employees:	Kenn Donohoe A Furfaro A Heraty	Chief Executive Officer (entered the meeting at 8:47am) Governance Officer Manager Organisational Development
Guests:	John Phillips – JCP Consulting	
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	
Members of media:	There were no members of the media in attendance at the commencement of the meeting.	

Chief Executive Officer's Performance Review Occasional
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3.2 Apologies

Cr A Sullivan Paraburdoo Ward

3.3 Approved Leave Of Absence

Cr J Richardson Tableland Ward From 11 July 2023 to 8 August 2023

4 Declaration By Members

4.1 Due Consideration By Councillors To The Agenda

Councillors noted they have given due consideration to all matters contained in this agenda.

4.2 Declaration Of Interest

A member who has an Impartiality, Proximity or Financial interest in any matter to be discussed at this meeting must disclose the nature of the interest either in a written notice, given to the Chief Executive Officer, prior to the meeting, or at the meeting immediately before the matter is discussed.

A member who makes a disclosure in respect to an interest must not preside at the part of the meeting which deals with the matter, or participate in, or be present during any discussion or decision-making process relative to the matter, unless the disclosing member is permitted to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

The following declarations of interest are disclosed –

7.1 Chief Executive Officer Key Performance Indicators	
Name	Kenn Donohoe
Nature of interest	Direct Financial
Interest description	CEO Performance Annual Review. Contract of employment.

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Committee Meeting Minutes

11 July 2023

5 Confirmation Of Minutes

5.1 Confirmation Of Previous Minutes

5.1.1 Minutes Of The Chief Executive Officer's Performance Review Occasional Committee Meeting Held On 13 June 2023

Committee Decision

Moved Cr T Mladenovic

Seconded Cr R De Pledge

That the Minutes of the Chief Executive Officer's Performance Review Occasional Committee Meeting held 13 June 2023 (Item 5.1.1 Attachment 1) be confirmed as a true and accurate record.

Carried 7/0

6 New Business Of An Urgent Nature Introduced By Council Decision

Nil

7 Confidential Matters

Procedural Motion – *Shire of Ashburton Standing Orders Local Law 2012*

Committee Decision

Moved Cr L Rumble JP

Seconded Cr M Lynch

That Council move behind closed doors at 8:45am, pursuant to clause 6.2 of the *Shire of Ashburton Standing Orders Local Law 2012* to consider the following confidential items.

7.1 Chief Executive Officer Key Performance Indicators 2023/2024

Pursuant to sub section 5.23 (2) (c) of the Local Government Act 1995 which provides:

- (a) a matter affecting an employee or employees**

Carried 7/0

Chief Executive Officer's Performance Review Occasional
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Kenn Donohoe disclosed a direct financial interest in Item 7.1 (detailed in Item 5.2).

7.1 Chief Executive Officer Key Performance Indicators 2023/2024

File Reference	PE.1808
Applicant or Proponent(s)	Not Applicable
Author	A Heraty, Manager Organisational Development
Authorising Officer	A Heraty, Manager Organisational Development
Previous Meeting Reference	Chief Executive Officer's Performance Review Occasional Committee 13 June 2023 – Item 6.1 Ordinary Council Meeting 13 June 2023 - Item 6.1 – 115/2023
Disclosure(s) of interest	Author – Nil
	Authorising Officer – Nil
Attachments	1. CEO Review 2023 Consultant Report to Council - Confidential

Reason for Confidentiality

Section under the Act	<i>This matter is to be considered behind closed doors pursuant to s.5.23(2)(a) of the Local Government Act 1995 as the subject matter relates to:</i>
Sub-clause and Reason:	<i>"s.5.23(2)(a) a matter affecting an employee or employees."</i>

Report Purpose

Council is requested to adopt the amended Key Performance Indicators (refer to Attachment 1), as measurement criteria for the Chief Executive Officer (CEO) to complete during the 2023/2024 financial year.

Voting Requirements

Simple Majority

Chief Executive Officer's Performance Review Occasional
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Committee Decision

Moved **Cr M Lynch**

Seconded **Cr T Mladenovic**

That with respect to the Chief Executive Officer's Key Performance Indicators 2023/2024, the Chief Executive Officer's Performance Review Occasional Committee recommends that Council, adopts the amended Chief Executive Officer Key Performance Indicators as detailed in Attachment 1, as the measurement criteria for the 2023/2024 financial year.

Carried 7/0

Chief Executive Officer's Performance Review Occasional
Committee Meeting Minutes

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Procedural Motion – *Shire of Ashburton Standing Orders Local Law 2012*

Committee Decision

Moved Cr R De Pledge

Seconded Cr L Rumble JP

That the Chief Executive Officer's Performance Review Occasional Committee re-open the meeting to the public at 8:46am.

Carried 7/0

At 8:47am, Kenn Donohoe entered the meeting.

The Shire President read aloud the decision made behind closed doors.

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8 Next Meeting

The next Chief Executive Officer's Performance Review Occasional Committee Meeting will be determined at a later date.

9 Closure Of Meeting

There being no further business, the Presiding Member closed the meeting at 8:48am.



Agenda Item 6.1 - Attachment 1

Standards for CEO Recruitment, Performance and Termination



Standards for CEO Recruitment, Performance and Termination

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Statutory Framework

Local Government Act 1995 (the Act)

5.39A Model standards for CEO recruitment, performance and termination

- (1) Regulations must prescribe model standards for local governments in relation to the following —
 - (a) the recruitment of CEOs;
 - (b) the review of the performance of CEOs;
 - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.

5.39B Adoption of model standards

- (1) In this section —

model standards means the model standards prescribed under section 5.39A(1).

- (2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt* standards to be observed by the local government that incorporate the model standards.

* Absolute majority required.

- (3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend* the adopted standards to incorporate the amendments made to the model standards.

* Absolute majority required.

- (4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.
- (5) The model standards are taken to be a local government's adopted standards until the local government adopts standards under this section.
- (6) The CEO must publish an up-to-date version of the adopted standards on the local government's official website.
- (7) Regulations may provide for —
 - (a) the monitoring of compliance with adopted standards; and
 - (b) the way in which contraventions of adopted standards are to be dealt with.

Local Government (Administration) Regulations 1996

Schedule 2 of the regulations prescribes the Model Standards for CEO recruitment, performance and termination



Standards for CEO Recruitment, Performance, and Termination

Division 1 — Preliminary provisions

1. Citation

This is the *Shire of Ashburton Standards for CEO Recruitment, Performance and Termination*.

2. Terms used

(1) In these standards —

Act means the *Local Government Act 1995*;

additional performance criteria means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

applicant means a person who submits an application to the local government for the position of CEO;

contract of employment means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

contractual performance criteria means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

job description form means the job description form for the position of CEO approved by the local government under clause 5(2);

local government means the Shire of Ashburton

selection criteria means the selection criteria for the position of CEO determined by the local government under clause 5(1) and set out in the job description form;

selection panel means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

(2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — Standards for recruitment of CEOs

3. Overview of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.



4. Application of Division

- (1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.
- (2) This Division does not apply —
 - (a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or
 - (b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

5. Determination of selection criteria and approval of job description form

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
 - (a) the duties and responsibilities of the position; and
 - (b) the selection criteria for the position determined in accordance with subclause (1).

6. Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

7. Job description form to be made available by local government

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the Local Government (Administration) Regulations 1996 regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
 - (i) email a copy of the job description form to an email address provided by the person; or
 - (ii) mail a copy of the job description form to a postal address provided by the person.



8. Establishment of selection panel for employment of CEO

(1) In this clause —

independent person means a person other than any of the following —

- (a) a council member;
 - (b) an employee of the local government;
 - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
- (a) council members (the number of which must be determined by the local government); and
 - (b) at least 1 independent person.

9. Recommendation by selection panel

- (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
- (a) a summary of the selection panel's assessment of each applicant; and
 - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
- (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
 - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
- (4) The selection panel must act under subclauses (1), (2) and (3) —
- (a) in an impartial and transparent manner; and
 - (b) in accordance with the principles set out in section 5.40 of the Act.



- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
 - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and
 - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
 - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

10. Application of cl. 5 where new process carried out

- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
- (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
 - (a) clause 5 does not apply to the new recruitment and selection process; and
 - (b) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process.

11. Offer of employment in position of CEO

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

12. Variations to proposed terms of contract of employment

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).



- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

13. Recruitment to be undertaken on expiry of certain CEO contracts

- (1) In this clause —

commencement day means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

- (2) This clause applies if —

- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —
- (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
 - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;

and

- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.
- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

14. Confidentiality of information

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.



Division 3 — Standards for review of performance of CEOs

15. Overview of Division

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

16. Performance review process to be agreed between local government and CEO

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

17. Carrying out a performance review

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
 - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
 - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

18. Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

19. CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.



Division 4 — Standards for termination of employment of CEOs

20. Overview of Division

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

21. General principles applying to any termination

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
 - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
 - (b) notifying the CEO of any allegations against the CEO; and
 - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
 - (d) genuinely considering any response given by the CEO in response to the allegations.

22. Additional principles applying to termination for performance related reasons

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
 - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
 - (b) informed the CEO of the performance issues; and
 - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
 - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12 month period, reviewed the performance of the CEO under section 5.38(1) of the Act.



23. Decision to terminate

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

24. Notice of termination of employment

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government’s reasons for terminating the employment of the CEO.

Office use only			
File reference	GV20		
Relevant delegations	Nil		
Adoption/amendment method	Council – Absolute Majority		
Related legislation	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>		
Related organisational documents	Nil		
Initial Council consideration	Date	20 April 2021	Resolution #
Amendment record	Date	20 February 2024	Resolution # xxx/2024
	Date		Resolution #
	Date		Resolution #
Next Review	2026		

Document responsibilities	
Responsible Directorate	Office of Chief Executive Officer
Responsible Business Unit	Organisational Development
Responsible Officer	Manager Organisational Development

