

minutes

Chief Executive Officer Recruitment and Performance Review Committee

MEETING HELD ON

MONDAY 21 FEBRUARY 2022

Acknowledgement of Traditional Custodians

The City of Joondalup acknowledges the traditional custodians of the land, the Whadjuk people of the Noongar nation, and recognises the culture of the Noongar people and the unique contribution they make to the Joondalup region and Australia. The City of Joondalup pays its respects to their Elders past and present and extends that respect to all Aboriginal and Torres Strait Islander peoples.

This document is available in alternate formats upon request

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Note:

Clause 15.10 of the City's *Meeting Procedures Local Law 2013* states:

This local law applies generally to committee meetings except for clause 7.1 in respect of members seating and clause 7.8 in respect of limitation on members speaking.

CITY OF JOONDALUP

MINUTES OF THE CHIEF EXECUTIVE OFFICER RECRUITMENT AND PERFORMANCE REVIEW COMMITTEE MEETING HELD IN CONFERENCE ROOM 1, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY 21 FEBRUARY 2022.

ATTENDANCE

Committee Members

Mayor Hon. Albert Jacob, JP	<i>Presiding Member</i>	
Cr Tom McLean, JP		
Cr Daniel Kingston		
Cr Russell Poliwka	<i>Deputising for Cr May</i>	<i>from 6.12pm</i>
Cr Suzanne Thompson		
Cr Christine Hamilton-Prime, JP		
Cr John Chester		

Observers

Cr Adrian Hill
Cr John Raftis

Officers

Mr James Pearson	Chief Executive Officer
Mrs Rebecca Maccario	Acting Director Governance and Strategy
Mrs Kylie Bergmann	Manager Governance
Mr Glenn Heaperman	Manager Human Resources

DECLARATION OF OPENING

The Presiding Member declared the meeting open at 5.47pm.

DECLARATIONS OF FINANCIAL INTEREST / PROXIMITY INTEREST / INTEREST THAT MAY AFFECT IMPARTIALITY

Disclosure of Financial Interest

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

Name / Position	Mr James Pearson, Chief Executive Officer.
Item No. / Subject	Item 3 - Progress Report: Chief Executive Officer Performance Review.
Nature of Interest	Financial Interest.
Extent of Interest	Mr Pearson holds the position of Chief Executive Officer.

APOLOGIES AND LEAVE OF ABSENCE

Apology

Cr Christopher May

Leave of Absence Previously Approved

Cr John Logan 17 to 21 March 2022 inclusive.

CONFIRMATION OF MINUTES

MINUTES OF THE CHIEF EXECUTIVE OFFICER RECRUITMENT AND PERFORMANCE REVIEW COMMITTEE HELD ON 29 NOVEMBER 2021

MOVED Cr Chester, **SECONDED** Cr McLean that the minutes of the meeting of the Chief Executive Officer Recruitment and Performance Review Committee held on 29 November 2021 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Kingston, Hamilton-Prime, McLean and Thompson.

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

In accordance with Clause 5.2 of the City's *Meeting Procedures Local Law 2013*, this meeting is not open to the public.

PETITIONS AND DEPUTATIONS

Nil.

DETAILS

Below is a comparison, for the scheduling of the 2022 CEO Recruitment and Performance Review Committee meetings.

CEO Recruitment and Performance Review Committee	Other Committee Meetings
21 February 2022	21 February 2022 (Policy)
23 May 2022	No other committee meetings scheduled for this date
28 November 2022	28 November 2022 (Major Projects & Finance)

Given that this report is being presented to the CEO Recruitment and Performance Review Committee on 21 February 2022, the only other meeting that is scheduled prior to another committee meeting is 28 November 2022.

Issues and options considered

The only meeting of the CEO Recruitment and Performance Review Committee that may require rescheduling, in line with Cr Kingston's request, is the meeting scheduled for 28 November 2022.

The Committee can choose to either:

- reschedule the committee meeting scheduled for 28 November 2022 to an alternative date
- keep the meeting date for 28 November 2022 but move the meeting to an earlier time to allow additional time for the CEO Recruitment and Performance Review Committee or
- keep the meeting date for 28 November 2022, with no changes to the start time.

The administration considers that 30 minutes is ample time for the CEO Recruitment and Performance Review. In the event the Committee meeting runs over schedule, the *City of Joondalup Meeting Procedures Local Law 2013*, allows for a further 30 minutes before the next Committee meeting is required to commence (refer clause 3.11).

It is the administration's recommendation that the Committee meeting date for 28 November 2022 remain as is, with no change to the date or start time.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
 Local Government (Administration) Regulations 1996.
 City of Joondalup Meeting Procedures Local Law 2013.
 Local Government Legislation Amendment Act 2019.

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Not applicable.

Policy Not applicable.

Risk management considerations

Should forward planning of committee meetings not be identified, then there is a risk for meetings to be held on an ad-hoc basis, lacking coordination with other key meetings and corporate planning processes.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The current committee meeting dates, as adopted by the CEO Recruitment and Performance Review Committee, align with the quarterly *Corporate Business Plan* reporting requirements, as many of the CEO's Key Performance Indicators are contained within the *Corporate Business Plan*.

In addition, further special committee meetings will be determined for the purpose of undertaking the CEO's annual performance review.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Kingston, SECONDED Cr Hamilton-Prime that the current schedule of meeting dates for the CEO Recruitment and Performance Review Committee remain as is, with no amendment to dates and times.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Kingston, Hamilton-Prime, McLean and Thompson.

ITEM 2 CITY OF JOONDALUP STANDARDS FOR CEO RECRUITMENT, PERFORMANCE AND TERMINATION

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBERS	00561, 108783, 101515
ATTACHMENTS	Attachment 1 City of Joondalup Standards for CEO Recruitment and Selection, Performance Review and Termination
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For the Chief Executive Officer Recruitment and Performance Review Committee to consider matters aligned to the City of Joondalup Standards for Chief Executive Officer (CEO) Recruitment, Performance and Termination as required by the *Local Government (Administration) Amendment Regulations 2021*.

EXECUTIVE SUMMARY

The *Local Government (Administration) Amendment Regulations 2021* (CEO Standards Regulations) introduced new regulations within the *Local Government (Administration) Regulations 1996* including new mandatory minimum model standards for the recruitment, selection, performance review and early termination of local government Chief Executive Officers (Model CEO Standards).

At its meeting held on 20 April 2021 (CJ056-04/21 refers), Council adopted the Standards and noted that a review of City of Joondalup policy and procedural requirements relating to the new requirements within the *Local Government (Administration) Regulations 1996* and the standards would be undertaken and presented to the Chief Executive Officer Recruitment and Performance Review Committee at a future meeting.

Matters considered in the report to Council are provided within this report.

BACKGROUND

The *Local Government (Administration) Amendment Regulations 2021* were published in the *Government Gazette* on 2 February 2021, which introduced new regulations and mandatory minimum standards into the *Local Government (Administration) Regulations 1996* for the recruitment, selection, performance review and early termination of local government CEOs. In the main the Model CEO Standards have been included as a new schedule 2 to the *Local Government (Administration) Regulations 1996*.

At its meeting held on 20 April 2021 (CJ056-04/21 refers), Council adopted the Standards and noted that a review of City of Joondalup policy and procedural requirements relating to the new requirements within the *Local Government (Administration) Regulations 1996* and the standards would be undertaken and presented to the Chief Executive Officer Recruitment and Performance Review Committee at a future meeting.

The Council noted the current CEO's employment contract terms and conditions and City processes against the standards and identified only a few minor differences, which can be accommodated within the new standards. Specifically, these relate to the following:

- Clause 8: The Model Standards require appointment of an "Independent person" to the selection panel. The Chief Executive Officer Recruitment and Performance Review Committee does not currently have an "Independent person" as part of its membership (Independent person is not the consultant engaged to assist).

This will not present an issue until a CEO recruitment process is required.

- Clause 13: Recruitment to be undertaken on expiry of certain CEO contracts, which relates to the recruitment to be undertaken if the CEO has held the position for a period of 10 or more consecutive years.

The current CEO employment contract has a renewable clause within it, however, there is no immediate impact given the contract is less than five years old, and upon renewal this may need to be varied to ensure that the 10-year limit/horizon is recognised.

- Terms of Reference of the CEO Recruitment and Performance Review Committee, as the Guidelines suggest broader content in the Terms of Reference when it comes to the recruitment and selection responsibilities which the Committee hold.

The suggestion is that this could be managed by a revised Terms of Reference, the options of which are included within this report.

- Division 3: It is recommended in the Guidelines that an "Independent Observer" be part of the CEO Performance Review, the Committee of which currently includes only Elected Members. Significantly the regulations do not detail how this proposal might operate.

The Guideline also recommends Council develop a policy to guide the performance review process, the employment contract is highly prescriptive and may make the need for a policy unnecessary. This matter is discussed further within the report.

- The City has reviewed its current policies; delegations; and procedures to ensure they meet the requirements of the Model CEO Standards, including:
 - delegation for appointment of an Acting CEO (refer Item 1.6 under the Council's Register of Delegated Authority)
 - procedures for appointment of the CEO (refer to the role of the Chief Executive Officer Recruitment and Performance Review Committee)
 - procedures for performance review of the CEO (governed by procedures contained within the CEO Employment Contract)
 - procedures for termination of the CEO (governed by the terms and conditions of the Employment Contract)
 - Terms of Reference of the Chief Executive Officer Recruitment and Performance Review Committee.

DETAILS

At its meeting held on 20 April 2021 (CJ056-04/21 refers), Council adopted the Standards for CEO recruitment, Performance and Termination.

There are a number of matters that require the Council's consideration, either in the near future or when the current CEO's employment contract is to be renewed, or when a new CEO is to be appointed.

Terms and Conditions of CEO Employment Contract

The terms and conditions of the current CEO employment contract are very detailed with regard, amongst other things, the performance review process (including timeframes), which provides little flexibility.

The Department's Guideline recommends Council develop a policy to guide the performance review process, the employment contract is highly prescriptive and at this time makes the need for a policy unnecessary.

There are also some matters related to the Standards not included in the employment contract, however, this was due to the contract being signed before the legislation came into effect.

Currently, there is nothing urgent that requires consideration and a decision of the Chief Executive Officer Recruitment and Performance Review Committee or Council.

It is considered, however, that the Council should consider a review of the terms and conditions of the CEO employment contract to ensure it is contemporary in approach; aligned to the Standards; and examines any policies/protocols that might be aligned to the Standards; at the next opportunity that allows (that is when the current CEO's employment contract is to be renewed, or when the process is to recommence and a new CEO is to be appointed).

Independent Persons

Clause 8 of the Model Standards require appointment of an "Independent Person" to the selection panel.

Division 3 of the Department's Guideline also recommend that an "Independent Observer" be part of the CEO Performance Review. The CEO Recruitment and Performance Review Committee does not currently have an "Independent person" as part of its membership (note: independent person is not the consultant engaged to assist). Significantly the regulations do not detail how this proposal might operate.

It is considered that with regard the appointment of:

- an "Independent Person" to the selection panel there is nothing urgent that requires consideration and a decision of the Council
- an "Independent Observer" being part of the CEO Performance Review process, the suggestion within the Department's Guideline be noted at this time given the Department has not defined the purpose nor role of such a person, either within the Guideline or the Model Standards.

It is suggested that when next considering membership of the Committee, Council give consideration as to whether determine to appoint one or more persons to the Committee who are external and independent to the Council:

New Policy – Temporary Employment or Appointment of an Acting CEO

Section 5.39C of the Act requires the City to prepare and adopt a policy relating to the temporary employment or appointment of an acting CEO.

At its meeting held on 17 August 2021 (CJ128-08/21 refers), Council adopted a new policy.

Terms of Reference of the CEO Recruitment and Performance Review Committee

Terms of Reference of the CEO Recruitment and Performance Review Committee, as the Guidelines suggest broader content in the Terms of Reference when it comes to the recruitment and selection responsibilities which the Committee hold.

The procedures related to the above have generally been in the remit of the Chief Executive Officer Recruitment and Performance Review Committee, the role of which is as follows:

- 1 Recommend to Council the selection and appointment process of a Chief Executive Officer.
- 2 Recommend to Council the preferred consultant to assist with the recruitment process for a Chief Executive Officer.
- 3 Undertake the interview of preferred applicant(s) on the advice of the appointment consultant's shortlisted applicants for the position of Chief Executive Officer.
- 4 Recommend to Council the appointment of a preferred applicant as Chief Executive Officer under the terms and conditions of an agreed Chief Executive Officer Employment Contract.
- 5 Review the Chief Executive Officer's performance in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment Contract.
- 6 Prepare and table the concluded report, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract to Council.
- 7 Review the Chief Executive Officer's performance on an on-going basis as and when deemed necessary in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment Contract.
- 8 Review the Key Performance Indicators to be met by the Chief Executive Officer.
- 9 Review the Chief Executive Officer's remuneration package, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract.
- 10 Review the Chief Executive Officer's Employment Contract and make recommendations to Council in relation to varying the contract as and when necessary.

It is considered that the Terms of Reference of the Committee meet the requirements of the Model Standard; and the terms and conditions as detailed in the CEO's employment contract. It is not considered that there are any requirements to amend the Terms of Reference at this time.

Issues and options considered

The report is for noting only. The Chief Executive Officer Recruitment and Performance Review Committee may determine whether there are any matters related to the City of Joondalup Standards for CEO Recruitment, Performance and Termination as required by the *Local Government (Administration) Amendment Regulations 2021*, however it is not considered that there are any urgent matters requiring consideration.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
Local Government (Administration) Amendment Regulations 2021.
Local Government (Administration) Regulations 1996.

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Demonstrate accountability through robust reporting that is relevant and easily accessible by the community.

Policy Not applicable.

Risk management considerations

Local governments were required to adopt the Model CEO Standards (with or without amendment) within three months of the CEO Standards Regulations coming into effect. Although a local government would need to abide by the requirements of the Model CEO Standards if it does not adopt its own standards within that time, a local government would be deemed non-compliant with the legislative provisions.

The City has reviewed the current CEO's contract terms and conditions against the Model CEO Standards and identified only a few minor differences, which can be accommodated within the new standards adopted for the City. As such, it is considered that the Model CEO Standards apply to the City's current legislative obligations.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The *Local Government (Administration) Amendment Regulations 2021* (CEO Standards Regulations) bring into effect changes to the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* by introducing mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government chief executive officers.

The Model CEO Standards provide a framework for local governments to select a CEO in accordance with the principles of merit, probity, equity and transparency.

The City of Joondalup, as are all local governments, are required to prepare and adopt the Model CEO Standards. The City has reviewed the Model CEO Standards and it is considered they can be applied to the City of Joondalup.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Hamilton-Prime, SECONDED Cr McLean that Chief Executive Officer Recruitment and Performance Review Committee NOTES the review of City of Joondalup policy and procedural requirements relating to the requirements within the *Local Government (Administration) Regulations 1996* and the City of Joondalup Standards for Chief Executive Officer Recruitment, Performance and Termination.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Kingston, Hamilton-Prime, McLean and Thompson.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1CEO220221.pdf](#)

BACKGROUND

At the Chief Executive Officer Recruitment and Performance Review Committee (the Committee) meeting held on 28 September 2021 the following was resolved:

“That the Chief Executive Officer Recruitment and Performance Review Committee:

- 1 *ADOPTS the Chief Executive Officer Recruitment and Performance Review Committee’s Confidential Concluded Annual Performance Review Report as in Attachment 2 to this Report, and endorses the overall rating of “met or exceeded the performance requirements set by Council for the period ending 30 June 2021”;*
- 2 *ADOPTS the Key Performance Indicators for the 2021-22 review period as detailed in Attachment 1 to this Report.*

At this meeting, the Chief Executive Officer outlined his commitment to providing quarterly progress reports to the Committee towards achieving the KPIs.

At the Council meeting held on 12 October 2021 (CJ148-10/21 refers), the Key Result Areas and Key Performance Indicators for the Chief Executive Officer for 2021-22 were adopted.

The Chief Executive Officer Recruitment and Performance Review Committee Meeting 29 November 2021 NOTED the progress towards the Key Performance Indicators for the Chief Executive Officer for the period 1 July 2021 to 30 September 2021.

DETAILS

The Committee is responsible to review the Chief Executive Officer’s performance on an on-going basis as and when deemed necessary in accordance with the appropriate provisions contained within the Chief Executive Officer’s employment contract; as well as reviewing the key performance indicators to be met by the Chief Executive Officer.

The 2021-2022 quarter two progress report provides information relating to the progress of the CEO KPIs for the period 1 October 2021 to 31 December 2021 (Attachment 1 refers).

Legislation / Strategic Community Plan / Policy implications

- Legislation** Section 5.38 (1) and (3) of the *Local Government Act 1995*.
- “Annual review of employees’ performances.*
- (1) A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.*
- (3) A review under subsection (1) must be conducted at least once in relation to each year of the person’s employment”.*

Strategic Community Plan

- Key theme** Governance and Leadership.
- Objective** Corporate capacity.

Strategic initiative Demonstrate accountability through robust reporting that is relevant and easily accessible by the community.

Continuously strive to improve performance and service delivery cross all corporate functions.

Policy City of Joondalup Standards for CEO Recruitment, Performance and Termination.

Risk management considerations

The performance review process is designed to evaluate and assess the Chief Executive Officer's Performance against KPIs on a periodic basis.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

Not applicable.

VOTING REQUIREMENTS

Simple Majority.

Cr Poliwka entered the Room at 6.12pm.

MOVED Cr Thompson, **SECONDED** Cr Kingston that the Chief Executive Officer Recruitment and Performance Review Committee **NOTES** the progress towards the Key Performance Indicators for the Chief Executive Officer for the period 1 October 2021 to 31 December 2021.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Kingston, Hamilton-Prime, McLean, Poliwka and Thompson.

URGENT BUSINESS

Nil.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

Nil.

CLOSURE

There being no further business, the Presiding Member declared the Meeting closed at 6.23pm the following Committee Members being present at that time:

Mayor Hon. Albert Jacob, JP
Cr Tom McLean, JP
Cr Daniel Kingston
Cr Russell Poliwka
Cr Suzanne Thompson
Cr Christine Hamilton-Prime, JP
Cr John Chester