

LATE REPORT - RESIGNATION OF CHIEF EXECUTIVE OFFICER

TRIM Ref: D18/58765
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Attachments: 1. CEO Recruitment Panel Terms of Reference

RECOMMENDATION:

That Council:

1. **ESTABLISHES** a CEO Recruitment Panel to operate under the Terms of Reference included as Attachment 1;
2. **APPOINTS** the following three Council Members to the CEO Recruitment Panel:
 - 2.1. **Mayor Emma Cole (Chairperson);**
 - 2.2. **Deputy Mayor Susan Gontaszewski; and**
 - 2.3. _____;and
3. **REQUESTS** that the CEO Recruitment Panel provides a further report to Council no later than 29 May 2018 to:
 - 3.1 **Recommend a preferred recruitment consultant;**
 - 3.2 **Recommend a process for the selection of a CEO for endorsement by Council.**

PURPOSE OF REPORT:

To commence the process for the replacement of the incumbent Chief Executive Officer (CEO).

BACKGROUND:

The City's CEO, Len Kosova, tendered his resignation to Mayor Cole on Wednesday 11 April 2018, effective from Friday 28th September 2018.

DETAILS:

The CEO recruitment process is one of the most important functions that a Council can undertake and it is crucial that a comprehensive and professional recruitment process is undertaken so that the best possible candidate for the role can be recruited and appointed.

There are three sections of the *Local Government Act 1995* (the Act) that have direct application to the appointment of a CEO:

- Section 5.36(2)(a) and (b) of the Act provides that a local government is not to employ a person to fill the position of CEO unless council believes that the person is suitably qualified for the position and is satisfied with the provisions of the proposed employment contract.
- Section 5.39 contains provisions for the contracts of CEOs.
- Section 5.40 requires that all employees are to be selected in accordance with the principles of merit and equity.

In addition to above, the *Local Government (Administration) Regulations 1996*, regulations 18A, 18B, 18C, 18E, 18F and 19A also deal with advertising, contracts, and the selection and appointment process. The most pressing of these is regulation 18C which requires local governments to approve a process to be used for the selection and appointment of a CEO before the position is advertised.

Due to the importance of the process, the complexities involved and to mitigate any conflicts of interest that may arise from staff members being involved in the recruitment process, it is standard practice for local governments to engage expert recruitment consultants with a sound knowledge of the industry and a strong network of senior executives to assist Council with the recruitment process. A recruitment consultant may be involved in the following aspects of the selection process:

- development or review of the position description;
- development of selection criteria;
- drafting of the advertisement;
- preliminary assessment of the applications;
- final short listing;
- drafting of the questions for interview;
- coordinating interviews; and
- finalising the contract.

If a decision is made to engage a recruitment consultant, the Department of Local Government, Sport and Cultural Industries recommends that it is imperative that Council maintains a high level of involvement in the process and enters into a formal agreement (contract) with the consultant.

It is also common practice for Councils to establish either a committee or panel to coordinate the practicalities of the selection process. If Council establishes a formal committee (in accordance with the Act), then it can delegate its powers and duties to that committee, however any formal committee would be subject to a number of provisions under the *Local Government Act 1995* and the City's Meeting Procedures Local Law 2008.

Typical duties of a recruitment committee or panel would be to:

- Develop a process for the selection and appointment of the CEO to satisfy Regulation 18C.
- Assist in the selection of a recruitment consultant to conduct the CEO recruitment process, within budget parameters established by Council;
- Coordinate the recruitment process, including working with the recruitment consultant to:
 - Attract and select appropriate candidates;
 - Undertake shortlisting;
 - Conduct interviews, screening and psychometric testing etc.
 - Carry out referee checks;
- Prepare a suitable contract for the incoming CEO;
- Report back to Council throughout the process and provide Council with sufficient advice to permit a determining decision regarding the final selection, appointment and contracting of the CEO.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Section 5.26 of the *Local Government Act 1995* states:

“5.36. Local government employees

(1) A local government is to employ —

- (a) a person to be the CEO of the local government; and
- (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.

Regulation 18C of the *Local Government (Administration) Regulations 1996* states:

“18C. Selection and appointment process for CEOs

The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.”

RISK MANAGEMENT IMPLICATIONS:

Medium There is minimal risk with establishment of a CEO Recruitment Panel. However, as outlined in the report, the appointment of a CEO is one of the most important actions that a Council can take and a poor process or appointment may present a risk in relation to the future performance of the organisation.

STRATEGIC IMPLICATIONS:

In keeping with the City's Strategic Plan 2013-2023:

"4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

- (a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced."

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The costs associated the selection and recruitment process will primarily relate to the appointment of a recruitment consultant which are expected to be in the order of \$25,000 to \$35,000 and will be set out in more detail in a future report to Council. In addition there will be some advertising costs which will depend on the extent and breadth of the executive search. The vast majority of these funds will be spent in the 2018/19 financial year and will provided for in the 2018/19 Budget. However, there is sufficient funds available in the 2017/18 Budget to cover advertising and any other initial payments.

COMMENTS:

Administration recommends the establishment of a CEO Recruitment Panel and has developed a proposed Terms of Reference included as **Attachment 1**. During the previous recruitment process for a new CEO, Council appointment the Mayor, Deputy Mayor and one other Council Member and this has been replicated within the proposed Terms of Reference. Administration considers that a panel of three is appropriate to avoid a decision deadlock, and whereas a panel of five or more in addition to recruitment consultant can result in a cumbersome interview process. However, there is no set number of Council Members that might make up a panel and Council is at liberty to appoint as many or as few Council Members as it sees fit.

Council could choose to establish a formal CEO Recruitment Committee under section 5.8(2)(a) of the *Local Government Act 1995*. The primary advantage of establishing a formal committee is that it would allow Council to delegate its powers and / or duties to the committee which may allow the process to be somewhat expedited. Unlike a panel, committee meetings are bound by a number of provisions of the Act and the City's Meeting Procedures Local Law meaning which set out rules pertaining to the publication of meeting papers and the process of the meetings etc. Therefore, if no delegations are intended to be given, then there is no advantage for a committee to be established rather than a panel.

A third option might be to expand the purpose of the CEO Performance Review Panel that was established by Council on 6 February 2018 to incorporate the recruitment of a new CEO. However, recruitment is quite different to performance review and therefore Council may decide that a different mix of skills and members is more appropriate.

Importantly on 19 April 2016, Council adopted its "in principle support" for the recommendations set out in the [Raising the Bar Discussion Paper](#). Two of these recommendations relate to the appointment of a CEO and - while they are merely recommendations and therefore completely non-binding - it is appropriate that they should be considered by the CEO Recruitment Panel when developing the proposed process for the selection of a new CEO:

1. That there should be a requirement that the recruitment brief and advertisement must be approved by Council before commencement of advertising the CEO position.

2. That there should be a requirement for all Council Members to, at a formal meeting of Council, review and approve the proposed contract before an offer of employment is made to a CEO or the reappointment of an existing CEO. This responsibility cannot be delegated to the Mayor or a recruitment committee.

A tentative timeframe for the process is set out below, which includes an accommodation for the endorsed recommendations set out above. Although the timeframe will be dependent on the subsequent process that is adopted by Council the scheduling of Special Council Meetings when Council decisions are required may reduce this indicative timeframe.

Step	Date	Action
1	1 May 2018	Council establishes a CEO Recruitment Panel.
2	29 May 2018	Council considers recommendations from the CEO Recruitment Panel on the preferred recruitment consultant and a process for the selection of a CEO.
3	Early June 2018	Development of recruitment brief and advertisement by the panel and appointed recruitment consultant.
4	Mid-June 2018	A Special Council Meeting to approve the recruitment brief and advertisement.
5	Late June-July 2018	Advertising of the position and sourcing of candidates in accordance with the process adopted by Council.
6	August 2018	The interview and selection process occurs.
7	September 2018	A contract is negotiated with the preferred candidate. Council approve the proposed contract before an offer of employment is made.
8	October 2018	A Special Council meeting will be convened to appoint a new CEO.
9	January 2019	Likely start date for a new CEO (allowing for a 3 month notice period)

The commencement of the CEO recruitment process, through the establishment of a CEO Recruitment Panel and determination of a selection process in a timely manner remains vitality important.