



Item No: 16.6

File No: 12.14.1.4

Date: 16 April 2018

Attachment: Nil

Meeting: Council

Title: CEO Contract Renewal

Responsible Manager: Mayor Grigg

Author: Richard Altman (RA Consulting)

Key Focus Area: Council consistently meets its legislative compliance obligations

Type of Report: **Decision Required**

Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(a) of the Act being:

information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

Recommendation (Public)

Pursuant to s90(3)(a)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council, orders that all members of the public, except Consultant Richard Altman and the Acting Council Secretariat Jo Biskup be excluded from attendance at the meeting for the Item 16.6 CEO Contract Renewal.

The Council is satisfied that, pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), being the proposed participants.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because disclosure of details may prematurely be disclosed before the details have been discussed with the participants.

Recommendation

That the CEO's Employment Agreement be renewed for a period of four years to be effective from 1 July 2018 and end on 30 June 2022.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Item 16.6 CEO Contract Renewal in confidence under section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and any documentation relevant to this Agenda Item be retained in of two years excepting that Council authorises the release of the minutes to substantive party/parties to enable enactment of the resolution.

and

Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* and re-admit the public.

Purpose of the Report

To provide Members with the recommendation of the CEO Performance Review Committee to provide a contractual renewal of the Chief Executive Officer.

Background

At the meeting of the CEO Performance Review Committee held on Monday 9 April 2018 to review the performance and contractual renewal of the Chief Executive Officer, the following was resolved:

CEO20/16-17

The CEO Performance Review Committee recommend to Council that the CEO's Employment Agreement be renewed for a period of four years to be effective from 1 July 2018, and end on 30 June 2022.

The CEO's Employment Agreement will end on 5 January 2019. The current term is for five years.

Clause 3, of the CEO's Employment Agreement sets out the following:

1. FURTHER EMPLOYMENT AGREEMENT

- 1.1 The Employer must notify the CEO following the completion of the final performance review prior to the expiry of this Agreement or at least six (6) months from the Expiry Date whichever is the greater whether or not a new employment agreement is to be offered to the CEO.
- 1.2 If the CEO accepts any offer of a new employment agreement, the terms and conditions of that employment shall be set out in a further written agreement. In the absence of any such written agreement, the terms and conditions of this Agreement shall continue to apply.
- 1.3 If a new employment agreement is entered into between the parties under this clause, the CEO will be deemed to have continuity of service with the Employer for the purpose of determining the CEO's accrued benefits under the new agreement.

Clause 3.1 requires Council to notify the CEO of their intentions following the last performance review, or at least six months prior to the end of the Agreement, whichever is the greater. The next performance review, and the last performance review to be conducted by this Council, will be in August 2018. As a result, Council must inform the CEO at least by 5 July 2018 of their intentions. Council have a number of options. Some of those options include the following:

- Renew the CEO Employment Agreement for a further five year period.
- Renew the CEO Employment Agreement for a period less than five years.
- Not renew the CEO Employment Agreement.

Should Council choose not to renew the CEO Employment Agreement for a further term, Council will need to put in place arrangements for recruitment of a new CEO, or make some interim arrangements

for a CEO. If Council made that decision at the earliest possible time at the April Council meeting, they would only have a four month time period, at most, to make alternative arrangements. The process of recruiting a new CEO and having them join the organisation would take a minimum of three to four months, or longer depending on the notice period of the successful candidate.

Any arrangements for a new CEO would need to be complete before the caretaker period commences in September 2018. Given Council elections will occur in November 2018, and a new Council will be elected and be formed following the elections, it is important that some clear arrangements are in place for a CEO. It would be difficult for a new Council to commence and then need to recruit a new CEO as one of their first tasks. The change of CEO could cause some lack of continuity issues for a new Council.

Council have the option of renewing the CEO Employment Agreement. In most cases a minimum period would be three years. CEO's generally want some security and certainty about their role and their future. Should a shorter time period be offered, it may send a negative message to the CEO and she may start a process of seeking new employment. Many senior executives are looking for five years.

Council needs to balance the requirements of the CEO against the needs of Council, and consider the timing of the next election. Any extension of the Employment Agreement needs to be established before the caretaker period commences. Council can decide to renew the contract from the expiry date of 5 January 2019, or from a date they determine.

An option for the Council is to renew the CEO Employment Agreement for a period of four years from 1 July 2018. (This is effectively a 3.5 year extension as the current Agreement expires in January 2019). The Agreement would then have an end date of 30 June 2022. The next Council election after that date is November 2022. Council would then need to make a decision about any renewal of the Employment Agreement following the performance review of 2021 (Clause 3.1). The performance review is required to be complete by August of each year as set out in Clause 10.1 of the Agreement. This ensures Council have time to consider the options and renew the Agreement, or recruit a new CEO before the elections on November 2022. Notification would then be made to the CEO in September 2021 of Council's intention.