



18 November 2021

NOTICE OF MEETING

Dear Committee Member,

The next CEO Performance Review Committee meeting will be held at 4.30pm on Monday, 22 November 2021 in the Weir Room, Shire of Mundaring Administration Centre.

The attached agenda is presented for your consideration.

Yours sincerely

Jonathan Throssell
CHIEF EXECUTIVE OFFICER

Please Note

If an Elected Member has a query regarding a report item or requires additional information in relation to a report item, please contact the senior employee (noted in the report) prior to the meeting.



AGENDA
CEO PERFORMANCE REVIEW COMMITTEE MEETING
22 NOVEMBER 2021

ATTENTION/DISCLAIMER

The purpose of this Committee Meeting is to discuss and make recommendations to Council about items appearing on the agenda and other matters for which the Committee is responsible. The Committee has no power to make any decisions which are binding on the Council or the Shire of Mundaring unless specific delegation of authority has been granted by Council. No person should rely on or act on the basis of any advice or information provided by a Member or Employee, or on the content of any discussion occurring, during the course of the Committee Meeting.

The Shire of Mundaring expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a Member or Employee, or the content of any discussion occurring during the course of the Committee Meeting.

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**CEO PERFORMANCE REVIEW COMMITTEE MEETING
WEIR ROOM, SHIRE OF MUNDARING ADMINISTRATION CENTRE – 4.30PM**

1.0 OPENING PROCEDURES

Acknowledgement of Country

Shire of Mundaring respectfully acknowledges the Whadjuk people of the Noongar Nation, who are the traditional custodians of this land. We acknowledge Elders past, present and emerging and respect their continuing culture and the contribution they make to the region.

1.1 Announcement of Visitors

1.2 Attendance/Apologies

Members	Cr James Martin	President
	Cr Trish Cook	South Ward
	Cr Doug Jeans	Central Ward
	Cr Paige McNeil	Central Ward (Deputy President)
	Cr John Daw	East Ward
Staff	Jonathan Throssell	Chief Executive Officer
	Garry Bird	Director Corporate Services
	Andrea Douglas	Minutes Secretary

Apologies

Guests Nil

1.3 Election of Presiding Person and Deputy Presiding Person

2.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

3.0 DECLARATION OF INTEREST

3.1 Declaration of Financial Interest and Proximity Interests

Elected Members must disclose the nature of their interest in matters to be discussed at the meeting (*Part 5 Division 6 of the Local Government Act 1995*).

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (*Sections 5.70 and 5.71 of the Local Government Act 1995*).

3.2 Declaration of Interest Affecting Impartiality

An Elected Member or an employee who has an interest in a matter to be discussed at the meeting must disclose that interest (*Shire of Mundaring Code of Conduct, Local Government (Admin) Reg. 34C*).

4.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

RECOMMENDATION

That the Minutes of the CEO Performance Review Committee Meeting held 30 September 2021 be confirmed.

5.0 PRESENTATIONS

Nil

6.0 REPORTS OF EMPLOYEES

6.1 Chief Executive Officer Performance Review Committee - Review of Terms of Reference

File Code	GV.MTG 6/3
Author	Garry Bird, Director Corporate Services
Senior Employee	Jonathan Throssell, Chief Executive Officer
Disclosure of Any Interest	Impartiality CEO and DCS
Attachments	1. Chief Executive Officer Performance Committee Terms of Reference ↓

SUMMARY

The Chief Executive Officer Performance Review Committee (CEOPRC) is required to review the Terms of Reference (ToR) for the Committee after every ordinary election.

In accordance with this requirement to review, the adopted ToR's are presented for review by the Committee.

BACKGROUND

The Committees Terms of Reference (**Attachment 1**) defines the CEOPRC's objectives to fulfil the following functions:

1. Undertake an annual assessment of the CEO's performance in accordance with the provisions of the CEO's contract of employment;
2. In conjunction with the CEO, develop key result areas to deliver the key priorities of the Corporate Business Plan, and other methods that will be used to assess the CEO's future performance and to meet the expectation of Council; and
3. Review the CEO's remuneration package annually and make recommendations to Council in relation to remuneration, in accordance with the CEO's contract of employment, having consideration to the CEO's performance, current level of remuneration, and the Salaries and Allowances Determination; Appointments to the Committee are made by Council following ordinary local government elections for a term expiring on the date of the subsequent ordinary local government elections.

The Committee Structure comprises the Shire President and four elected members. The Committee is supported by the appointment of an independent facilitator, who is not a member of the committee, but appointed to provide specialist advice to the Committee in the performance of its annual review of the Chief Executive Officers performance and establish Key result Area's for the following year.

STATUTORY / LEGAL IMPLICATIONS

It is a requirement under s. 5.36 of the *Local Government Act 1995* that all employees whose employment is for a term of one year or more, including the CEO, have their performance reviewed on an annual basis. In order to meet this statutory obligation, the Shire has formed a CEOPRC to undertake this process.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.8 – Compliance with the Local Government Act 1995 and all relevant legislation and regulations

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: That the Terms of Reference for the Committee do not comply with the statutory requirements of the Committee and they reflect other roles and responsibilities assigned to the Committee by Council.		
Likelihood	Consequence	Rating
Unlikely	Minor	Low
Action / Strategy		
That the Terms of Reference are reviewed at least every two years and when any changes to legislation are made that may relate.		

EXTERNAL CONSULTATION

Nil

COMMENT

Staff have reviewed the ToR and have no recommended amendments.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the Committee notes no changes are required to be made to the existing Terms of Reference for the CEO Performance Review Committee.



CEO PERFORMANCE REVIEW COMMITTEE

TERMS OF REFERENCE

1. Name

The name of the Committee shall be the Shire of Mundaring CEO Performance Review Committee.

2. Head of Power

The Committee is established by Council under Section 5.8 of the *Local Government Act 1995*.

3. Definitions

Act means the *Local Government Act 1995*.

Committee means the Shire of Mundaring CEO Performance Review Committee as stipulated in this document.

Council means the Council of the Shire of Mundaring.

Chief Executive Officer (CEO) means the Chief Executive Officer of the Shire of Mundaring.

Elected Member means a Councillor of the Shire of Mundaring Council.

Independent Facilitator means the person appointed by Council to assist with the performance review process and who is acceptable to both parties, ie. CEO and Council.

KRAs means Key Result Areas as agreed between the CEO and Committee to deliver the key priorities of the Shire of Mundaring Corporate Business Plan.

Salaries and Allowances Determination means the determination provided by the Salaries and Allowances Tribunal under Section 7A of the *Salaries and Allowances Act 1975* which requires the Tribunal at intervals of not more than 12 months, to "inquire into and determine, the amount of remuneration, or the minimum and maximum amounts of remuneration, to be paid or provided to chief executive officers of local governments".

4. Objectives

- 4.1 The Committee is established to fulfil the following functions:
 - 4.1.1 Undertake an annual assessment of the CEO's performance in accordance with the provisions of the CEO's contract of employment;
 - 4.1.2 In conjunction with the CEO, develop key result areas to deliver the key priorities of the Corporate Business Plan, and other methods that will be used to assess the CEO's future performance and to meet the expectation of Council;
 - 4.1.3 Review the CEO's remuneration package annually and make recommendations to Council in relation to remuneration, in accordance with the CEO's contract of employment, having consideration to the CEO's performance, current level of remuneration, and the Salaries and Allowances Determination;
 - 4.1.4 Provide positive communication opportunities between Council and the CEO; and
 - 4.1.5 Provide guidance to Council in assessing the CEO's performance.

5. Committee Structure

- 5.1 The Committee shall consist of Shire President and four elected members;
- 5.2 An independent facilitator, who is not a member of the Committee, shall be appointed by Council to assist with the performance review process and who is acceptable to both parties i.e. CEO and Council; and
- 5.3 A quorum will be three members.

The Committee is supported administratively by the Director Corporate Services and his or her nominees, principally the Corporate Services Directorate.

6. Terms of Appointment

Appointment to the Committee shall be determined by the Council following ordinary local government elections, for a term to expire on the date of the subsequent ordinary local government elections. If a member of the Committee resigns prior to an ordinary local government election, the Council will appoint a replacement.

7. Presiding Member

- 7.1 The Committee is to determine the Presiding Member of the Committee at the first meeting of the Committee immediately following the establishment of the Committee or following each biennial local government election, whichever is applicable;

- 7.2 The Committee is to determine a Deputy Presiding Member of the Committee at the first meeting of the Committee immediately following the establishment of the Committee or following each biennial local government election, whichever is applicable;
- 7.3 If the Chairperson is absent from a meeting, the Deputy Presiding Member is to preside at that meeting.
- 7.4 The role of the Presiding Member includes:
 - 7.4.1 overseeing and facilitating the conduct of meetings in accordance with the Act and the Shire's Meeting Procedures Local Law 2015;
 - 7.4.2 ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner; and
 - 7.4.3 where a matter has been debated significantly and no new information is being discussed, to call the meeting to order and ask for the debate to be finalised and the motion to be put.

8. Meetings of the Committee

- 8.1 The Committee will meet at least three times per year to facilitate an annual assessment of the CEO's performance.
- 8.2 An ordinary or a special meeting of the Committee is to be held:
 - 8.2.1 if called for by either the Chairperson or at least two Committee members in a notice to the CEO setting out the date and purpose of the proposed meeting; or
 - 8.2.2 if so decided by the Committee; or
 - 8.2.3 if called for by Council.
- 8.3 The Committee may invite Shire employees, appointed facilitator or others to attend meetings and provide pertinent information, where necessary.

9. Powers of the Committee

- 9.1 The Committee is a formally appointed committee of Council and is responsible to that body.
- 9.2 The Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility.
- 9.3 The Committee does not have any delegated authority.
- 9.4 The Committee recommendations must be adopted by Council before implementation.

10. Voting

- 10.1 Each member of the Committee at a meeting will have one vote.
- 10.2 In accordance with section 5.21 (3) of the *Local Government Act 1995*, the Presiding Member, in the event of an equality of votes, is to cast a second vote.

11. Review Process

The review process comprises the following steps:

- 11.1 Council appoints an independent facilitator to assist with the performance review process and who is acceptable to both parties, ie. CEO and Council.
- 11.2 Committee meets to confirm process with independent facilitator;
- 11.3 CEO provides a written report and self-rating to the Committee against the Key Focus Areas (KFAs);
- 11.4 All elected members will participate in the performance review process;
- 11.5 All elected members shall individually and independently rate and discuss the performance of the CEO against each of the KRAs and provide such assessment directly and confidentially to the independent facilitator;
- 11.6 The independent facilitator will consolidate all scores and comments from interviews to present a first draft of the assessment report to the Committee to discuss and agree overall ratings;
- 11.7 The CEO meets with the Committee and independent facilitator for feedback and discussion;
- 11.8 The Committee agrees on final ratings;
- 11.9 The Committee and CEO agree to KFAs for the forthcoming year in review;
- 11.10 The independent facilitator completes the final report, with final ratings and specific comments against each KFA;
- 11.11 The CEO meets with the Committee and independent facilitator for discussion of remuneration package changes; and
- 11.12 The final report, new KFAs and any remuneration packages recommendations are provided to Council for consideration prior to September each year in accordance with the CEO contract of employment.

12. Timetable

ACTION	TIMING	RESPONSIBILITY
Elected Member: Session on CEO Appraisal process included in induction program	Post Local Government elections (October - alternate years)	Governance
Appointment of CEOPRC	Post Local Government elections	Council
Appoint independent external facilitator	Following Local Government elections	Council
Committee and facilitator to schedule meetings and interviews	November each year	CEOPRC
CEO briefings for CEOPRC	October December March	CEO
Commencement of Appraisal Process: Briefing to Council	June	CEOPRC / Facilitator
CEO Self-Assessment	July	CEO
Questionnaire and CEO Report to Councillors	July	Facilitator
Interviews	July	Facilitator – Elected Members and CEO
Draft Councillor feedback report to CEOPRC	July	Facilitator
CEOPRC Meeting: Review feedback report and finalise as Appraisal Report	August	CEOPRC / Facilitator
Appraisal report provided to CEO; briefing for CEO	August	Facilitator
CEOPRC Meeting: Appraisal; Review/update key focus areas/objectives	August	CEOPRC / CEO / Facilitator
Draft Council Report	August	Facilitator
Report to Council; briefing	September	CEOPRC / Facilitator
Schedule ensuing year's process	September	Council / CEOPRC

13. Dispute

Where the CEO disagrees with the feedback he/she is entitled to request Council consider the rating.

14. Reporting Requirements

Recommendations arising from the Committee's deliberations shall be presented to the earliest available ordinary meeting of Council.

14. Alteration to Rules of Procedure

The Committee is to conduct a review of its terms of reference providing Council with recommendations for any changes every two years.

15. Termination of Committee

Termination of the Committee shall be at the discretion of Council and in accordance with the Act.

7.0 URGENT BUSINESS (LATE REPORTS)

8.0 CONFIDENTIAL REPORTS

Meeting Closed to Public

The Local Government Act 1995, Part 5, Section 5.23 states in part:

- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees; and
 - (b) the personal affairs of any person; and
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.

RECOMMENDATION

That Council closes the meeting to members of the public, in accordance with s5.23(2) of the *Local Government Act 1995*, in order to consider the confidential reports as detailed below:

8.1 CEO Performance Review - Appointment of Facilitator

Item 8.1 is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (a and e(ii)) as it contains information relating to a matter affecting an employee or employees and a matter that if disclosed, would reveal information that has a commercial value to a person.

8.2 CEO Performance Evaluation Framework 2021/2022 - Progress Report

Item 8.2 is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (b) as it contains information relating to the personal affairs of any person.

9.0 CLOSING PROCEDURES

9.1 Date, Time and Place of the Next Meeting

To be determined.

9.2 Closure of the Meeting