



# Minutes

## Special Council Meeting 27 June 2022

### Attention

**These Minutes are subject to confirmation.**

Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the Ordinary Meeting of Council following this meeting to ensure that there has not been a correction made to any resolution.

## Information

Special Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

## Public Question Time

Public question time at a Special Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City's website: [Public question time | City of Nedlands](#)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

## Addresses by Members of the Public

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City's website: [Public Address Registration Form | City of Nedlands](#)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

## Disclaimer

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

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## 1. Declaration of Opening

The Presiding Member declared the meeting open at 6.00pm and drew attention to the disclaimer on page 2.

### 1.1 Councillor Amiry – Online Participation

Councillor Amiry requested to participate in this Special Council Meeting online.

In order for Councillor Amiry to participate, three conditions must be met in accordance with regulation 14A(1) of the Local Government (Administration) Regulations 1996.

- a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and
- b) the person is in a suitable place; and
- c) the council has approved of the arrangement.

Councillor Amiry has advised that she will be situated in a private room at 17 Glenthorne Rd, Hammersmith, London for the duration of the meeting.

To fulfil this request, Council consideration is required as follows:

Moved – Councillor Coghlan  
Seconded – Councillor Hodsdon

#### **That Council:**

1. **approves a private room at 17 Glenthorne Rd, Hammersmith, London as a suitable place for the purposes of Regulations 14A(l)(b) and 14A(4); and**
2. **approves the participation of Councillor Amiry at the Special Council Meeting held 27 June 2022 online via teams pursuant to Regulation 14A(l)(c).**

**CARRIED UNANIMOUSLY 12/-**

## 2. Present and Apologies and Leave of Absence (Previously Approved)

<b>Councillors</b>	Mayor F E M Argyle Councillor B Brackenridge Councillor R A Coghlan Councillor R Senathirajah Councillor H Amiry Councillor L J McManus Councillor K A Smyth Councillor F J O Bennett Councillor A W Mangano Councillor N R Youngman Councillor O Combes Councillor B G Hodsdon Councillor J D Wetherall	(Presiding Member) Melvista Ward Melvista Ward Melvista Ward Coastal Districts Ward Coastal Districts Ward Coastal Districts Ward Dalkeith Ward Dalkeith Ward Dalkeith Ward Hollywood Ward Hollywood Ward Hollywood Ward
<b>Staff</b>	Mrs N M Ceric Ms Shelley Mettam	Executive Officer Manager Human Resources
<b>Invited</b>	Mr Gregor McNally Mr Shawn Murphy	Consultant Hunter Executive Group CEO Hunter Executive
<b>Public Gallery</b>	There were no members of the public present or online.	
<b>Press</b>	Nil.	
<b>Leave of Absence (Previously Approved)</b>	Nil.	
<b>Apologies</b>	Nil	

## 3. Public Question Time

Public questions submitted to be read at this point.

Nil.

## 4. Addresses by Members of the Public

Addresses by members of the public who have completed Public Address Registration Forms to be made at this point.

Nil.

**5. Disclosures of Financial Interest**

The Presiding Member reminded Council Members and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

There were no disclosures of financial interest.

**6. Disclosures of Interests Affecting Impartiality**

The Presiding Member reminded Council Members and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Confidential declarations to be made behind closed doors during the Confidential items.

**7. Declarations by Members That They Have Not Given Due Consideration to Papers**

Nil.

## 8. CPRC01.05.22 – Chief Executive Officer Performance Review Policy

<b>Meeting &amp; Date</b>	CEO Performance Review Committee Meeting – 24 May 2022 Special Council Meeting – 27 June 2022
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Shelley Mettam – Manager Human Resources
<b>Attachments</b>	1. Chief Executive Officer Performance Review Policy

### Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Smyth

Seconded – Councillor Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 13/-**

### **Council Resolution / CEO Performance Review Committee Recommendation / Recommendation**

**That Council adopts the CEO Performance Review Policy as per attachment 1.**

### **Purpose**

The CEO Recruitment and Selection Committee for the recruitment of the long-term CEO, requested in its meeting of 12 May 2022 that the CEO Performance Review Committee meet in order that it may:

1. initiate a CEO Performance Review Policy (as per Guidelines) that can be cited in the CEO Employment Contract; and
2. prepare the CEO Performance Criteria based on the CEO Performance Criteria Comparisons (attachment 1) as tabled at the CEO Recruitment & Selection Committee Meeting on 12 May 2022 that can be cited in the Contract.

On the 21<sup>st</sup>, May 2022 the CEO Performance Review Committee were presented with a draft CEO Performance Review Policy for recommendation to Council for adoption.

Therefore, the purpose of this report is to provide Council with the CEO Performance Review Policy (attachment 1) for adoption and for inclusion in the Long- Term CEO Employment Contract for negotiation with the recommended candidate.

## **Voting Requirement**

Simple Majority.

## **Background**

The City of Nedlands is in the process of recruiting a Long-Term CEO. Following advertising, shortlisting and interviews, the CEO Recruitment and Selection Committee is finalising the process to select a candidate for recommendation to Council for endorsement and subsequent offer to the selected CEO.

Consistent with the advertised details of the role as well as the position description, the incoming recommended CEO will be offered an employment contract and identified performance criteria to establish the requirements of the role and establish the parameters that the CEO will work within. The employment contract must be compliant with the Local Government Act and associated criteria and establish a clear set of workable performance measures, consistent with the principles of the LG CEO Performance Standards.

The establishment of performance criteria in the form of key performance measures is a collaborative process with the incoming CEO, in order to establish meaningful and workable goals that include “buy-in” from the intended CEO.

## **Discussion**

### **CEO Performance Review Policy**

To ensure compliance with s.5.38(1) of the Local Government Act 1995, a local government must review the performance of the CEO if the CEO is employed for a term of more than one year.

The Standards for CEO Recruitment, Performance and Termination for review of performance of CEO's are contained within the Local Government (Administration) Amendment Regulations 2021 and detail the statutory requirements for undertaking a CEO Performance Appraisals.

Division 3- Standards for review of performance of CEO's sets out the minimum regulatory standards for undertaking the review. This policy facilitates Division 3 s.16(3) which requires the process to be set out in a written document.

The attached draft CEP Performance Review Policy incorporates these requirements and is provided for consideration and endorsement.



## **Key Results Areas**

The Guidelines for Local Government Performance Review establish minimum standards for performance review, being:

1. Performance criteria is specific, relevant, measurable, achievable and time-based.
2. Performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and Council.
3. The CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.
4. The collection of evidence regarding performance outcomes is thorough and comprehensive.
5. Assessment is made free from bias and based on the CEO's achievement against documented performance criteria, and decision and actions are impartial and transparent.
6. The council has endorsed the performance review assessment by absolute majority.

## **Performance criteria**

The Guidelines state "the CEO is responsible for undertaking core tasks, the achievement of which will contribute to the effectiveness of council". They also note that it is important that the "outcomes associated with these tasks are measurable and clearly defined. These *could* be as follows:

- service delivery targets from the council's Strategic Community Plan
- budget compliance
- organisational capability
- operational and project management
- timeliness and accuracy of information and advice to councillors
- management of organisational risks
- leadership (including conduct and behaviour) and human resource management
- stakeholder management and satisfaction
- implementation of council resolutions
- financial performance and asset management.

In 2021, the CEO Performance Review Committee developed proposed Key Performance Indicators related to the above criteria in application to the (then) CEO.

It is proposed that the Committee reappraises the criteria for potential discussion and application to the Long-Term CEO.

## **Key Relevant Previous Council Decisions:**

CEO Performance Review Committee Meeting 23 February 2021

CEO Performance Review Committee Meeting 26 August 2021

CEO Key Results Areas Report – Key Issues and Next Steps

## Committee Recommendation

That Council:

1. seek the Department of Local Government's assistance to recommend:
  - a. an interim-CEO with a corporate governance and community leadership focus; and
  - b. a change-focused transformation lead Chief Operating Officer (COO) specialising in local government organisational reform.
2. commence the recruitment process for a long-term CEO six months after the above reform team is in place;
3. the current Council approved KRAs to be incorporated into the long-term CEO's employment contract when recruited;
4. recommend the following change-focused KRAs for the interim CEO, putting the community at the centre of what we do:
  - Create, agree and implement an organization wide reform plan (with Council agreement to fund it);
  - Create and implement a communication and community engagement strategy;
  - Implement accurate and streamlined financial reporting (Inc planning for Underground Power);
  - Revise all processes and ensure right people are in the right job (Performance Management);
  - Implement accurate Governance controls;
  - Create a Corporate Business Plan.
5. council ensures the engagement of a senior Governance and Risk Officer is employed to assist Council.

## Consultation

The draft CEO Performance Review Policy has been reviewed by the CEO Performance Review Committee and the CEO Recruitment & Selection Committee.

When drafting the policy administration as requested reviewed comparisons from other local governments (Harvey, Stirling, Busselton and Armadale) and from WALGA.

## Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

A majority of the KRAs are key components of the Integrated Planning and Reporting Framework. Once complete, the City can progress a robust review of the Strategic Community Plan and revisit the City's vision and aspirations.

The key benefit on all listed actions is the improvement of service delivery to the Community and increase transparency.

The required changes are a major reform program for the City, and this will need very tightly managed with clear risk mitigation at every level. The risks of change to core systems are the most significant and highest risk and this would be mitigated by a focused team and effective risk management.

## **Budget/Financial Implications**

The CEO Performance Review is required annually under section 5.38 of the *Local Government Act 1995* and includes the setting of key results areas to apply to the CEO.

Within existing budget.

## **Legislative and Policy Implications**

The CEO Recruitment & Selection process is done in accordance with the Local Government Act 1995. The Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination outline the recommended practice for local governments in undertaking these processes and will assist local governments in meeting the model standards prescribed in the Local Government (Administration) Amendment Regulations 2021.

## **Recruitment and Selection Standard**

The minimum standard for recruitment and selection will be met if:

- S1.1** The council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- S1.2** The council has approved, by absolute majority, the Job Description Form (JDF) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The JDF is made available to all applicants.
- S1.3** The local government has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.
- S1.4** The local government attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The local government must advertise a vacancy for the position of CEO in the manner prescribed.
- S1.5** The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- S1.6** The local government has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- S1.7** The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.
- S1.8** The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- S1.9** The council has endorsed by absolute majority the final appointment.
- S1.10** The council has approved the employment contract by absolute majority.
- S1.11** The local government re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten (10) consecutive years.

## Decision Implications

Adoption of the CEO Performance Review Policy for inclusion in the CEO's Employment Contract will assist the Chief Executive Officer meet both Council's statutory obligations in accordance with the provisions of Section 5.38(1) of the Local Government Act 1995 and any terms and conditions of the employment contract.

It is a requirement of the regulations that the process by which the CEO's performance will be reviewed is documented and agreed to by both parties. Therefore, by adopting the CEO Performance Review Policy and it being cited in the CEO employment contract for negotiations with the preferred candidate would fulfil this requirement.

## Conclusion

Therefore, to ensure the progression of the CEO recruitment process and the Performance Review of the appointed CEO the Committee now recommends Council adopt the CEO Performance Review Policy for inclusion in the contract for the long term Chief Executive Officer.

### Closure of Meeting to the Public

Moved – Councillor Youngman

Seconded - Councillor Hodsdon

**That the meeting be closed to the public in accordance with Section 5.23 (a) of the Local Government Act 1995 to allow confidential discussion on the following Items.**

**CARRIED UNANIMOUSLY 13/-**

The meeting was closed to the public at 6.07 pm.



City of Nedlands

## Council Policy

### Chief Executive Officer Performance Review Policy

**Status** Council

**Responsible Division** Office of the Chief Executive Officer

#### Objective

To ensure compliance with s.5.38(1) of the Local Government Act 1995 a local government must review the performance of the CEO if the CEO is employed for a term of more than one year. The Standards for CEO Recruitment, Performance and Termination for review of performance of CEO's are contained within the Local Government (Administration) Amendment Regulations 2021 and detail the statutory requirements for undertaking a CEO Performance Appraisals. Division 3- Standards for review of performance of CEO's sets out the minimum regulatory standards for undertaking the review. This policy facilitates Division 3 s.16(3) which requires the process to be set out in a written document.

**Commented [SC1]:** After reading the CEO guidelines and relevant sections of the Act as mentioned here, requirement that we state the relevant sections that apply to the policy, in this objective.

#### Context

This policy links to the City's strategic values: Great Governance and Civic Leadership - We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Commented [SC2]:** Linked this section to the City's value in the Strategic Community Plan to ensure good governance and transparency for the purpose of this policy.

#### Statement

1. This policy is applicable to all CEOs employed within the City of Nedlands
2. Policy Purpose

It is important that each performance process has the same objective, to:

- Be transparent and impartial;
- Be planned and structured;
- Be objective, based on facts and evidence;
- Ensure feedback is within the review period;
- Ensure assessment is conducted in a fair and reasonable manner, based on agreed performance criteria;
- Be open and accountable;
- Provide a written record;
- Gain input from all elected members;
- Support and facilitate CEO development; and
- Recognise achievement and support performance improvement

**Commented [SC3]:** Beneficial to include a basis on the minimum standards that must be adhered to whilst conducting the performance process



### 3. Facilitator/ Independent Consultant

If the Committee does not have the resources and/or expertise to undertake the performance review process to the expected standard, the Committee may, through the administrative support provided, engage an external consultant facilitator to assist.

A consultant must not have an interest which would impact on their ability to carry out their functions in a fair and impartial manner.

The role of a facilitator/consultant in the review process should include the following:

- To guide and navigate CEO performance expectations, both past and future;
- Guide objective versus subjective comments;
- Develop an opportunity to build relationships;
- Create an environment of procedural fairness and trust;
- Listen, acknowledge, respect and guide;
- Prepare the performance agreement and assessment plan;
- Set performance goals;
- Collect, collate and report performance evidence;
- Survey and interview Elected Members;
- Assist with provision of feedback to the CEO, providing an objective view regarding any performance management related issues;
- Formulate plans to support improvement (if necessary); and
- Facilitate Council and CEO in determination of Key Performance Indicators (KPIs) and deliverables.

**Commented [SC4]:** Even if the City currently does not engage a facilitator/independent consultant, would recommend this remains in this policy regardless

### 4. Performance Measurement

Setting performance measurement criteria is an essential step in performance management.

One of the key responsibilities of the CEO is to oversee the implementation of the Council's strategic direction. Best practice dictates that aligning the CEO's performance criteria to the goals contained in the City's Strategic Community Plan and the City's Corporate Business Plan (CBP) is an important requisite. Alignment to the CBP will ensure the CEO is appropriately resourced to deliver on expectations.

Goals are to be specific, measurable, achievable and time-based, defining clear deliverables. It is important that goals are flexible to allow regular adjustment. Council needs to have realistic expectations of the CEO in achievement of the performance criteria.



Key results areas focus on the Council's priorities each year. Council and the CEO will set KPIs to target priorities for the CEO within the Key Result Areas (KRA).

KPIs will be measured yearly with defined deliverables but progress towards being reported every six months during the twelve months.

In addition to the achievement of the KPI's by the CEO, Council will consider:

- That the CEOs methods of achieving outcomes are acceptable and sustainable;
- That the CEO has demonstrated change management and risk management skills when circumstances change and impact on performance outcomes;
- That council, staff and community have been inspired to maintain trust in local government.

**Commented [SC5]:** Measurements as per CoN standards and the department guidelines

## 5. Contract

The CEO and Council should mutually agree on the planned criteria and structured review process.

The City's agreed CEO review procedure shall be contained within the CEO contract (as per Part 5, Division 4, Section 5.39(3)(b), *Local Government Act 1995*). The review procedure contained within the CEO contract can be varied by agreement between the Council and the CEO under an amendment clause between reviews.

**Commented [SC6]:** Stat requirement as per listed sections of the Act

## 6. Review Periods

It is a statutory requirement that the CEO's performance is reviewed annually (Part 5, Division 4, Section 5.38, *Local Government Act 1995*).

The review period is to be aligned with the City's strategic planning processes which run across each financial year (July to June). For planning purposes, the entire review process should be completed by the end of August each year.

In the event that Council has concerns about the performance of the CEO, the Mayor will, at the request of Council, undertake an interim performance review. The Mayor must write to the CEO if Council has requested an interim performance review, outlining the areas of concern to allow the CEO the opportunity to prepare. The Mayor must allow the CEO a minimum of one week's notice prior to the commencement of an interim performance review.

**Commented [SC7]:** Stat requirement and have linked to the City's planning processes as reasoning for the review periods. Inclusion of clause regarding interim reviews. In line with the Act, City's standards and department guidelines.





7. Composition of the Review Panel
8. Procedure for the Review

The Performance Review Committee will conduct the following:

- A CEO performance review conducted in an objective manner against the performance criteria and the CEO's achievement of duties under their employment contract and in accordance with section 5.41 of the Local Government Act 1995.
- A schedule of critical CEO performance review dates will be developed. Generally, the performance review process will commence as early as practicable in each financial year (this will be influenced by the commencement date of the CEO's employment commencement) and will give the CEO notice of commencement of the process.
- Within 21 days of giving notice of commencement of the process, the CEO will prepare and submit to the Committee a report assessing their own performance against the performance criteria and their duties under their contract.
- Evidence of the performance may include demonstration of key business outcomes, organisational KPI results, interactions with Council which support a functional local government and relationships with relevant organisations, stakeholder groups and professional networks.
- Consideration should be given to how the CEO has achieved the performance criteria and outcomes and whether their methods are acceptable and sustainable, the extent performance is contingent upon current circumstances, the manner in which the CEO has adapted to and managed changing external
- Contextual factors, external or otherwise, must be given appropriate weight. Failure to meet performance criteria does not necessarily mean the CEO has performed poorly; both performance effort and outcomes should be considered.
- The performance review process is a two-way communication between the Council and the CEO. As such, the CEO will be provided the opportunity during the process to provide feedback in relation to the Council's performance, and to raise any matters which may be impacting on the

An Independent Facilitator/Consultant may be engaged to do the following:

- Assist the Committee and Council with the development and application of relevant KPIs including timeframe measures
- Meet with the Performance Review Committee and confirm expectations for the performance appraisal
- Gather feedback from all Elected Members via written and/or face to face and electronic communications including a survey if required



- Assist with the CEO's performance self-assessment
- Assist the Committee to provide performance feedback to the CEO
- Compile a feedback report drawing on information that has been derived from discussions and a report from the CEO as well as information derived from discussions and feedback from the Elected Members, collated in that report

#### 9. Outcomes of the Review

Within one month of the conclusion of the performance review process, the performance review findings and recommendations will be presented as a confidential report to Council in accordance with section 5.23 of the *Local Government Act 1995*.

Any areas that require attention or improvement must be identified, discussed with the CEO, and a plan agreed to address the issues. The plan should outline the actions to be taken and the responsibility of the actions and timeframes. Regular discussions and ongoing feedback on the identified performance issues should be scheduled to ensure improvements are being made.

Commented [SC8]: Stat requirement

#### Related documentation

City of Nedlands Standards for CEO Recruitment, Performance and Termination

#### Related local law and legislation

*Local Government Act 1995*

*Local Government (Administration) Regulations 2021*

#### Related delegation

Nil.

#### Review History

Adopted by Council [Click here to enter a date.](#)

**9. CRSC05.06.22 CONFIDENTIAL - Chief Executive Officer Employment Contract**

Confidential Report circulated separately to Council Members.

Moved – Councillor Youngman  
Seconded – Councillor Hodsdon

**Council Resolution / CEO Recruitment & Selection Committee Recommendation**

**That Council approves the terms of the CEO Employment Contract with appendices as per attachment 2 subject to Clause 3 (f) being removed.**

**CARRIED UNANIMOUSLY 12/-**

**10. CRSC06.06.22 CONFIDENTIAL – Chief Executive Officer Appointment**

Confidential Report circulated separately to Council Members.

**Council Resolution**

**That the Confidential Recommendation be adopted and the name of the selected Candidate remain confidential until the contract is executed.**

Moved - Councillor Hodsdon  
Seconded - Councillor Senathirajah

**That the meeting be reopened to members of the public and the press.**

**CARRIED UNANIMOUSLY 13/-**

The meeting was reopened to members of the public at 7.37 pm.

**11. Declaration of Closure**

There being no further business, the Presiding Member declared the meeting closed at 7.37 pm.