

Agenda

New Business of an Urgent Nature

Ordinary Council Meeting

20 September 2022

- 13.1 CEO Performance Review Policy and Process**
- 13.2 Stormwater Drainage - Rose Avenue, Bayswater**

AGENDA

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13 NEW BUSINESS OF AN URGENT NATURE**13.1 CEO Performance Review Policy And Process**

Responsible Branch:	Governance, Organisational Planning and Development
Responsible Directorate:	Office of the CEO
Authority/Discretion:	Executive/Strategic Legislative
Voting Requirement:	Simple Majority Required
Attachments:	<ol style="list-style-type: none"> 1. DRAFT CEO Performance Review Policy [13.1.1 - 5 pages] 2. CONFIDENTIAL REDACTED - Evaluation Panel Assessment - Summary [13.1.2 - 1 page] 3. CONFIDENTIAL REDACTED - Selection Report [13.1.3 - 4 pages]
Refer:	Special Council Meeting 8 April 2022 – Appointment of CEO Ordinary Council Meeting 26 October 2021 – Appointment of Statutory Committees

Confidential Attachment(s) in accordance with Section 5.23(2) of the Local Government Act 1995 (WA):

(c) a contract entered into, or which may be entered into, by the local government

SUMMARY

Mr Jeremy Edwards, Chief Executive Officer, commenced employment at the City of Bayswater on Monday 15 August 2022. The CEO's contract requires that, within three months, the Council develops key performance indicators with the CEO, and within six months, completes a probation review.

The Council has already established a CEO Review Committee. This report seeks to establish a performance review process by agreement between the Council and the CEO, and appoint an independent consultant to facilitate this process.

OFFICER'S RECOMMENDATION

That Council:

1. **Adopt the CEO Performance Review Policy;**
2. **Authorise the appointment of Ms Helen Hardcastle, Learning Horizons (Danube River Pty Ltd) as the independent consultant to facilitate the CEO performance review process.**

BACKGROUND

Section 5.38 of the *Local Government Act 1995* (the Act) requires that any CEO who is employed for a term of more than one year must have an annual performance review.

The Model Standards for CEO Recruitment, Performance and Termination set out the standards that must be observed by a local government in relation to the review of the performance of the CEO.

These standards will be met if:

1. Performance criteria is specific, relevant, measurable, achievable and time-based.

2. The performance criteria and the performance process are recorded in a written document, negotiated and agreed upon by the CEO and Council.
3. The CEO is informed about how their performance will be assessed and managed, as well as 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 achievements against documented performance criteria and decisions and actions are impartial and transparent.
6. The Council has endorsed the performance review assessment by absolute majority.

The Council has appointed a CEO Review Committee for the purposes of carrying out the Chief Executive Officer's performance review and broad performance criteria have been included in the CEO's contract. However, the Council and the CEO have not yet agreed on the performance review process.

EXTERNAL CONSULTATION

The Chief Executive Officer has been consulted in the preparation of this report.

OFFICER'S COMMENTS

CEO Performance Review Policy

The newly appointed Chief Executive Officer commenced with the City on 15 August 2022. The CEO's employment contract requires the Council to establish key performance indicators, that align with the broad performance criteria set out in the CEO's contract, within three months of commencement. i.e. by 15 November 2022. A probation review is required within six months, and then an annual performance review thereafter.

In addition to the establishment of key performance indicators, the Department of Local Government, Sport and Cultural Industries (the Department) recommends Council develop a policy to guide the performance review process. This policy should set out the performance review process to be followed, the roles and responsibilities of each party involved in the process, and the appointment of an independent consultant.

A draft CEO performance review policy has been developed to assist the CEO Review Panel in undertaking its duties. The policy provides additional guidance to the Terms of Reference that have already been established for the CEO Review Committee. A copy of the draft policy is provided in **Attachment 1**.

Independent consultant

The Department also recommends that Council engages an external facilitator to assist with the process of performance appraisals and the development of key performance indicators and performance plans.

The consultant should have experience in performance reviews, and in local government or dealing with the performance of senior executives. The consultant should not have any interest in, or relationship with, the Council or the CEO.

With guidance from the CEO Review Committee, the consultant can facilitate the following tasks:

- Setting key performance indicators
- Preparing performance agreements/plans
- Collecting performance evidence

- Writing the performance appraisal report
- Facilitating meetings with the Committee
- Assisting with the provision of feedback to the CEO
- Formulating plans to support improvement (if necessary)
- Providing an objective view regarding performance management related matters between concerned parties.

The engagement of an independent consultant allows for other City officers to remain separate from this process.

Request for quotation

The City has sought and evaluated quotations in accordance with the City's procurement policy for the provision of consultancy services to, amongst other work, assist the CEO Review Committee with the CEO's performance review.

The request for quotation also includes the provision of consultancy services to undertake an organisational self-assessment against an appropriate business improvement framework, and to provide facilitation and development of business planning processes, to ensure that this work is integrated and aligned.

Quotations were requested from the following suppliers on Monday 22 August 2022, with submissions closing on Monday 12 September 2022:

- Garry Hunt Consulting Group
- Learning Horizons
- Localise
- Strategic Leadership Consulting

Three proposals were received. A panel of three City officers evaluated the quotations received against the following criteria:

Criteria	Weighting
Experience and expertise in completing projects of a comparable scale and nature	45%
Experience and expertise of key personnel	25%
Benefit to the local economy	5%
Price	25%

Summary evaluation and ranking:

Submission	Price Ranking	Qualitative Ranking	Overall Ranking
Strategic Leadership Consulting	1 st	2 nd	2 nd
Learning Horizons	2 nd	1 st	1 st
Garry Hunt Consulting Group	3 rd	3 rd	3 rd

The submission from Learning Horizons is the preferred submission based on the City's evaluation. City officers note that Learning Horizons has previously been engaged to undertake work at the City.

The Panel Evaluation Matrix and Selection Report are provided in **Confidential Attachments 2 and 3.**

Council authorisation and agreement is sought to appoint Ms Helen Hardcastle from Learning Horizons to assist the Council with the CEO Performance Review Process.

The CEO has confirmed his agreement to this appointment.

Next steps

A meeting date of 4 October 2022 has been tentatively scheduled for the CEO Review Committee to work with the CEO to establish draft KPIs. These KPIs will then be submitted to Council for consideration and approval.

LEGISLATIVE COMPLIANCE

Local Government Act 1995:

Section 5.38 - Annual Review of Employees' performance

Section 5.39A - Model Standards for CEO recruitment, performance and termination

Local Government (Administration) Regulations 1996:

Schedule 2 - Model standards for CEO recruitment, performance and termination

RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the officer's recommendation has been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	<p>The officer recommendation seeks to establish a transparent and agreed process by which the CEO's performance will be reviewed. This recommendation is aligned with the City's obligations under legislation, and its contractual obligations to the CEO.</p> <p>The engagement of an independent consultant will ensure that the CEO Review Committee and Council have access to independent advice, and will also help to ensure that the CEO's performance review is aligned with the Council's strategic direction, business planning processes, and business improvement initiatives.</p>	

FINANCIAL IMPLICATIONS

The consultancy work is to be funded from the Office of the CEO budget. No additional budget is required. The cost of the work is provided in **Confidential Attachment 2**.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Leadership and Governance: Plan and deliver projects and services in a sustainable way

Leadership and Governance: Communicate in a clear and transparent way

CONCLUSION

That the Council adopts the CEO Performance Review Policy to guide the CEO Performance Review process and authorises the appointment of Ms Helen Hardcastle, Learning Horizons as the independent consultant to assist the Committee and the Council with this process.

CEO Performance Review Policy

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit/s	Governance, Organisational Planning and Development
Responsible Officer	Chief Executive Officer
Affected Business Unit/s	Governance and Organisational Planning and Development, Office of the Chief Executive Officer
Document Ref	TBC

Purpose

To provide guidance on the process to be followed in relation to the Chief Executive Officer's (CEO) performance review, to ensure that it is based on the principles of fairness, integrity and impartiality.

Policy Statement

1. Objective

- 1.1 Section 5.38 of the *Local Government Act 1995* requires Council to review the performance of the CEO at least once each year. Conducting this review is an important function of Council as the CEO is its only employee.
- 1.2 As part of this review, the Council will conduct an annual review of the CEO's remuneration package and key performance indicators (KPIs).
- 1.3 The performance review process is to:
 - Be objective and based on facts and evidence
 - Be conducted in a fair and reasonable manner based on agreed performance indicators
 - Support and facilitate CEO development
 - Recognise achievement and support performance improvement.

2. Scope

- 2.1 Application of this policy is to be in conjunction with all relevant legislation, including the Model Standards for CEO Recruitment, Performance and Termination Performance, and the Departmental Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination, and all other relevant policies, procedures and processes of the City.
- 2.2 The Salaries and Allowances Tribunal (SAT) determines the parameters for local government CEO Total Remuneration Packages, and all components of the CEOs remuneration need to comply with the relevant SAT requirements.

- 2.3 The SAT has classified the City of Bayswater as a Band 1 local government.
- 2.4 Any changes to the CEO's performance agreement or performance plan, such as changes to the KPIs, must be discussed and agreed to by both the Council and the CEO.
- 2.5 This policy also applies to the CEO's probation review.

3. Performance Review Committee

- 3.1 The Council will appoint a Chief Executive Officer Review Committee to undertake the CEO's performance review.
- 3.2 Membership of the Chief Executive Officer Review Committee will be determined every 2 years, following the Ordinary Council Election.
- 3.3 The Presiding Member of the Committee will be the Mayor. The Committee will include a minimum of three elected members (inclusive of the Mayor).
- 3.4 The primary functions of the Chief Executive Officer Review Committee are to:
 - Endorse the engagement of an appropriately experienced independent consultant for the purposes of assisting to conduct the performance process, in consultation with the CEO
 - Oversee the performance review process in accordance with this policy
 - Endorse the independent consultant performance appraisal report for consideration by Council
 - Develop the performance agreement and KPIs with the CEO for approval by Council

4. Independent consultant

- 4.1 Council will engage an independent consultant (facilitator) to assist with the process of the CEO performance review and the development of a performance agreement (inclusive of KPIs).
- 4.2 The independent consultant will have extensive experience in performance reviews of senior executives and local government experience.
- 4.3 The independent consultant should not have any interest in, or relationship with, the Council or the CEO.
- 4.4 The role of the independent consultant will be to:
 - Develop KPIs with the Committee and the CEO
 - Prepare the performance agreement
 - Collect performance evidence
 - Write the performance appraisal
 - Facilitate meetings between the CEO, Committee and Council
 - Assist with the provision of feedback to the CEO
 - Formulate plans to support improvement (if required)
 - Provide objective view regarding any performance management related matters between the Council, Committee and CEO

- 4.5 Council employees will not be involved in the CEO's performance review, except as requested by the Council to prepare agendas and take minutes.

5. Process to Assess Performance

- 5.1 The Chief Executive Review Committee will establish KPIs for the year with the CEO for approval by the Council.
- 5.2 At least once per year, the Chief Executive Officer Review Committee will convene to assess the CEO's performance against the agreed KPIs, and set new key performance indicators for the next review period.
- 5.3 At the request of the Mayor, the CEO will prepare a formal report on the City's achievements against the agreed KPIs for the year and provide this report to the consultant to enable distribution to all Councillors.
- 5.4 The consultant will seek constructive feedback from all Councillors on the CEO's performance against the agreed KPIs in the form of a feedback questionnaire.
- 5.5 The consultant may also seek constructive feedback from others, if considered to be appropriate by the Committee.
- 5.6 The consultant will prepare a performance appraisal report on the feedback received for consideration by the Committee.
- 5.7 The CEO will be provided with a copy of the report in advance of the Committee, and will be given an opportunity to respond to any points raised.
- 5.8 The Committee will consider the performance appraisal report, together with any response from the CEO, and make a recommendation to Council on:
- Whether or not the CEO has met the required level of performance
 - Whether or not an improvement plan is required
 - Whether or not a remuneration review is warranted (having regard to the SAT determination)
 - Draft KPIs for the next 12 months (in consultation with the CEO)
- 5.9 The Council will consider the recommendations of the Committee and determine by absolute majority whether or not to accept and endorse the CEO's performance review.
- 5.10 The CEO will be advised of the Council's decision.

6. Key Performance Indicators (KPIs)

- 6.1 The CEO's KPIs are to be aligned to the themes and goals contained in the City's Strategic Community Plan and Corporate Business Plan and are to be made publicly available on the City's website.
- 6.2 Additional, specific, CEO performance actions may also be agreed to by both the Council and the CEO, and may be kept confidential if they relate to a human resources matter.
- 6.3 KPIs are to be reviewed annually.
- 6.4 Council is responsible for ensuring the CEO is provided with the appropriate resources and support to facilitate the achievement of performance indicators.

7. KPI setting and performance review period

- 7.1 Where possible, the CEO KPIs setting and the performance review process should be transitioned over time to align with business planning processes, including the adoption of the Corporate Business Plan and Annual Budget.

8. Confidentiality

- 8.1 The consultant is responsible for ensuring accurate and comprehensive records are kept of the CEO's performance review process. Following Council's endorsement of the CEO's performance review assessment, all paperwork is to be provided to the Manager, Governance and Organisational Planning and Development for capturing in the City's document management system.
- 8.2 Information relating to the CEO's performance assessment is to be kept confidential, with the exception of the KPIs which will be provided on the City's website, once endorsed by the Council.

Definitions

Nil

Related Legislation

Local Government Act 1995 – section 5.38(1) and section 5.39

Local Government (Administration) Regulations 1996 – Regulation 18FA, Schedule 2, Division 3 – Standards for Review of Performance of CEO's

Salaries and Allowances Tribunal Annual Determination – Sections 7A and 8

Related Documentation

Department of Local Government, Sport and Cultural Industries Guideline for Local Government – CEO Recruitment, Performance Review and Termination

Strategic Community Plan	Leadership and Governance
Relevant Delegations	Nil
Relevant Committee	Chief Executive Officer Review Committee
Risk Evaluation	Low
Council Adoption	TBC
Document Control	Drafted September 2022

DRAFT

13.2 Stormwater Drainage - Rose Avenue, Bayswater

Applicant/Proponent:	Evolve Bayswater Alliance / Public Transport Authority
Responsible Branch:	Major Projects
Responsible Directorate:	Major Projects and Commercial Activities
Authority/Discretion:	Executive/Strategic
Voting Requirement:	Simple Majority Required
Refer:	Item 10.5.2: OCM 28.06.2022

SUMMARY

To allow Council consideration of a revised proposal to install underground stormwater storage within the Rose Avenue road reserve at a reduced capacity for drainage purposes, in order to mitigate potential flooding at Rose Avenue, Bayswater.

OFFICER'S RECOMMENDATION

That Council agrees to the applicant's revised proposal to install additional drainage infrastructure associated with the redevelopment of the Bayswater Train Station in Rose Avenue at a reduced storage capacity, subject to the following:

- 1. Evolve Bayswater Alliance/Public Transport Authority accepting liability and indemnifying the City from any damage claims associated with flooding of the existing properties on Rose Avenue associated with a lack of capacity in the drainage system.**
- 2. Evolve Bayswater Alliance/Public Transport Authority provides a commitment to undertake further upgrades to the stormwater system should flooding results from future storm events.**

BACKGROUND

At its Ordinary Meeting on 28 June 2022, Council considered a report in relation to locating proposed drainage storage on Lot 1 and 2, No. 92 Railway Parade, Bayswater and resolved as follows:

"That Council advises the applicant, Evolve Bayswater Alliance/Public Transport Authority, that:

- 1. Any additional drainage infrastructure associated with the redevelopment of the Bayswater Train Station to be constructed on rail, road or drainage reserved land.*
- 2. It does not support the placement of the stormwater drainage infrastructure on land that is held in freehold by the City."*

Following consideration of the above, Evolve Bayswater Alliance (Evolve) have been reviewing alternative options for storage locations, in order to mitigate any potential flooding at Rose Avenue.

EXTERNAL CONSULTATION

No consultation has yet occurred with the public or other agencies on this matter. It is envisaged that residents on Rose Avenue will be consulted of the proposed works, as they will be impacted during construction of these works.

OFFICER'S COMMENTS

As Council has not supported State infrastructure, in particular, underground drainage storage being installed within land that is held in freehold by the City, as it will limit development potential of key strategic sites in the Bayswater town centre, Evolve have developed options that involve

the installation of storage tanks in Rose Avenue in conjunction with tanks at other locations within the station precinct area. These other locations include underneath the new bus link road and Coode Street.

As part of the design development of the new station, the drainage modelling undertaken by Evolve had indicated potential flooding on Rose Avenue, in particular during significant storm events. It should be noted that this flooding will potentially occur as a result of the road surface level in the subway being raised, as this is the location where the flooding in the existing system usually occurs. The drainage modelling results indicate that a total storage volume of approximately 290m³ is required to mitigate inundation of Rose Avenue during '1 in 100-year' storm events, in addition to the proposed storages located at Coode Street and the new bus link road.

It should be noted that assessment of the required drainage capacity was based on results from the stormwater drainage modelling that had been undertaken by Water Corporation and Evolve, and various assumptions and rainfall data have been applied in the determination of the proposed storage volumes. The calculated storage volumes may not all be relevant, as a number of safety factors have been incorporated into the modelling.

This total volume is made up of 100m³ of storage on the bus link road, 70m³ in Coode Street, and potentially 120m³ in Rose Avenue. The proposed underground storage for Rose Avenue consists of a series of concrete units to be placed directly underneath the road pavement along the length of the road. A diagram detailing this can be seen below:



Providing the required capacity for the '1 in 100 year' storm event within the Rose Avenue road reserve is problematic. It would also have extended impacts on Rose Avenue residents, in particular during construction and installation of these storage tank units. The major impact includes the loss of vehicle access. As the storage units would be occupying a significant portion of the road carriageway to facilitate the required volume, Rose Avenue would need to be fully closed to traffic during the construction period. This would create considerable inconvenience, as residents would not be able to park their vehicles in their properties and would need to park on adjacent side roads or carparks, and walk to their properties during the closure period.

Construction noise could also be a nuisance, as construction would be in very close proximity to properties, given the narrow verge on Rose Avenue.

There are also construction challenges associated with this option, due to the narrow road reserve and the number of public utility underground services that exist on Rose Avenue. These include water reticulation, and sewer and communications services, in addition to overhead power lines.

Due to the construction complexity and inconvenience this option will have on Rose Avenue residents, Evolve have proposed a preferred alternative option to reduce the extent of impact. The option is to provide approximately half of the storage required in Rose Avenue, resulting in a total capacity across all of sites of 240m³. A total volume of approximately 70m³ would therefore be provided on Rose Avenue, instead of the 120m³ required for a 1 in 100-year storm event. This would reduce the required storage footprint by approximately half, and therefore reduce the impact on residents.

It should be noted that the Rose Avenue drainage pipe network connects to the King William Street branch drain. This drain is owned by Water Corporation and is an asset under their care and control. Evolve advised that this proposed option is an “interim” solution, as the problem is proposed to be resolved once the Water Corporation upgrade their King William Street drain system. Water Corporation, however, have advised that this work is not currently on their forward works programme.

Whilst this preferred option will reduce construction impacts, it will increase the chances of property inundation during a ‘1 in 100-year’ storm event. Although the likelihood of a storm event of this magnitude is considered low, it is recommended that this option (with reduced capacity in Rose Avenue), be considered subject to Evolve providing some level of surety for future expansion if necessary, and liability for any property flood damage associated with ‘1 in 100-year’ storm events.

LEGISLATIVE COMPLIANCE

Nil.

RISK ASSESSMENT

In accordance with the City’s Risk Management Framework, the officer’s recommendation has been assessed against the City’s adopted risk tolerance. Comments are provided against each of the risk categories.

Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	This option presents an acceptable level of risk, as it provides some level of surety for the applicant to undertake further flooding mitigation measures in the future if necessary. Although it will cause disruptions to the residents on Rose Avenue during construction, this option will mitigate any potential flooding under regular storm events.	

FINANCIAL IMPLICATIONS

Construction of the required drainage infrastructure and underground storage units will be funded by Evolve/Water Corporation as part of the delivery of the Bayswater Station project and associated Main Drain upgrades. Further flooding mitigation measures where necessary are also expected to be funded by Evolve/Public Transport Authority/Water Corporation.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Theme: Vibrancy

Goal V1: Plan for increased business opportunities around transport nodes.

Theme: Leadership and Governance

Goal L2: Plan and deliver projects and services in a sustainable way.

Work together to deliver the best outcomes for the community by managing our resources in a financially sustainable way.

CONCLUSION

To reduce the potential for flooding on Rose Avenue, Evolve have proposed the provision of alternative drainage storage within the Rose Avenue road reserve, at reduced capacity to what is indicated as required by the modelling that has been undertaken. Given that the site is extremely constrained as a brown field site and that numerous options have been investigated, it is recommended that the City agrees to this alternative option, subject to Evolve providing commitments for further flooding mitigation measures if necessary.