Strategic Outcome Supported: 10.1 – Provide strategically focussed, open and accountable governance.

OBJECTIVE

1. This Policy is adopted in accordance with section 5.39B of the *Local Government Act 1995*.

SCOPE

2. These are the Shire of Donnybrook Balingup Standards for CEO Recruitment, Performance and Termination.

DEFINITIONS

3. **Act** means the *Local Government Act 1995*.
4. **Additional performance criteria** means performance criteria agreed by the local government and the CEO under clause 39(b).
5. **Applicant** means a person who submits an application to the local government for the position of CEO.
6. **CEO** means Chief Executive Officer.
7. **Contract of employment** means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO.
8. **Contractual performance criteria** means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of tthe Act;
9. **Job description form** means the job description form for the position of CEO approved by the local government.
10. **Local government** means the Shire of Donnybrook Balingup;
11. **Selection criteria** means the selection criteria for the position of CEO determined by the local government;
12. **Selection panel** means the selection panel established by the local government for the employment of a person in the position of CEO.

POLICY STATEMENTS

DIVISION 2 — STANDARDS FOR RECRUITMENT OF CEOS

Overview of Division

13. This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

Application of Division

14. Except as provided in clause 15, this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.

15. This Division does not apply —

    a. if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or

    b. in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 36.

Determination of Selection Criteria and Approval of Job Description Form

16. The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.

17. The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —

    a. the duties and responsibilities of the position; and

    b. the selection criteria for the position determined in accordance with clause 16.

Advertising Requirements

18. If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.

19. If clause 36 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

Job Description Form to be Made Available by Local Government

20. If a person requests the local government to provide to the person a copy of the job description form, the local government must —

    a. inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or

    b. if the person advises the local government that the person is unable to access that website address —

        i. email a copy of the job description form to an email address provided by the person; or

        ii. mail a copy of the job description form to a postal address provided by the person.

Establishment of Selection Panel for Employment of CEO

21. In clause 22—

    independent person means a person other than any of the following —

    a. a council member;

    b. an employee of the local government;

    c. a human resources consultant engaged by the local government.

22. The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.

23. The selection panel must comprise —

    a. council members (the number of which must be determined by the local government); and

    b. at least one (1) independent person.

Recommendation by Selection Panel

24. Each applicant's knowledge, experience, qualifications, and skills must be assessed against the selection criteria by or on behalf of the selection panel.

25. Following the assessment referred to in clause 24, the selection panel must provide to the local government —

    a. a summary of the selection panel's assessment of each applicant; and

    b. unless clause 26 applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.

26. If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —

    a. that a new recruitment and selection process for the position be carried out in accordance with these standards; and

    b. the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.

27. The selection panel must act under clauses 24, 25 and 26 —

    a. in an impartial and transparent manner; and

    b. in accordance with the principles set out in section 5.40 of the Act.

28. The selection panel must not recommend an applicant to the local government under clause 25(b) unless the selection panel has —

    a. assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications, and skills meet the selection criteria; and

    b. verified any academic, or other tertiary level, qualifications the applicant claims to hold; and

c. whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance, and any other claims made by the applicant.

29. The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

Application of Clauses 16 and 17 Where New Process Carried Out

30. This clause applies if the local government accepts a recommendation by the selection panel under clause 26 (a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.

31. Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —

a. Clauses 16 and 17 do not apply to the new recruitment and selection process; and

b. the job description form previously approved by the local government under clause 17 is the job description form for the purposes of the new recruitment and selection process.

Offer of Employment in Position of CEO

32. Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

a. the making of the offer of employment to the applicant; and

b. the proposed terms of the contract of employment to be entered into by the local government and the applicant.

Variations to Proposed Terms of Contract of Employment

33. This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 32 negotiates with the local government a contract of employment (the ***negotiated contract***) containing terms different to the proposed terms approved by the local government under clause 32(b).

34. Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

Recruitment to be Undertaken on Expiry of Certain CEO Contracts

35. In clause 36—

commencement day means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

36. This clause applies if —

a. upon the expiry of the contract of employment of the person (the ***incumbent CEO***) who holds the position of CEO —

i. the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and

ii. a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day; and

iii. the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.

b. Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.

c. This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause 36(b) to be employed in the position of CEO.

Confidentiality of Information

37. The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

DIVISION 3 — STANDARDS FOR REVIEW OF PERFORMANCE OF CEOS

Overview of Division

38. This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

Performance Review Process to be Agreed Between Local Government and CEO

39. The local government and the CEO must agree on —

a. the process by which the CEO's performance will be reviewed, including the adoption of an annual performance review process approved by resolution of an absolute majority of the Council; and

b. any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.

40. Without limiting clause 39, the process agreed under clause 39(a) must be consistent with clauses 42-45 (inclusive) .

41. The matters referred to in clause 39 must be set out in a written document.

Carrying out a Performance Review

42. A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.

43. The local government must —

    a. collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and

    b. review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

Endorsement of Performance Review by Local Government

44. Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

CEO to be Notified of Results of Performance Review

45. After the local government has endorsed a review of the performance of the CEO under clause 44, the local government must inform the CEO in writing of —

    a. the results of the review; and

    b. if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

DIVISION 4 — STANDARDS FOR TERMINATION OF EMPLOYMENT OF CEOS

Overview of Division

46. This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

General Principles Applying to any Termination

47. The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.

48. The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —

    a. informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and

    b. notifying the CEO of any allegations against the CEO; and

    c. giving the CEO a reasonable opportunity to respond to the allegations; and

    d. genuinely considering any response given by the CEO in response to the allegations.

Additional Principles Applying to Termination for Performance-Related Reasons

49. This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.

50. The local government must not terminate the CEO's employment unless the local government has —

    a. in the course of carrying out the review of the CEO's performance referred to in clause 51 or any other review of the CEO's performance, identified any issues (the ***performance issues***) related to the performance of the CEO; and

    b. informed the CEO of the performance issues; and

    c. given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and

    d. determined that the CEO has not remedied the performance issues to the satisfaction of the local government.

51. The local government must not terminate the CEO's employment unlessthe local government has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

Decision to Terminate

52. Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

Notice of Termination of Employment

53. If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.

54. The notice must set out the local government's reasons for terminatingthe employment of the CEO.

DELEGATION AND AUTHORISATION

55. Nil.

LEGISLATION

– *Local Government Act 1995*

APPENDIX

56. Nil.

GOVERNANCE

Related Policy(s):

Nil.

Related Procedure(s):

Nil.

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