

6.1: APPOINTMENT OF CHIEF EXECUTIVE OFFICER

File Number (Name of Ward)	: PER040
Summary of Key Points	: Appointment of Chief Executive Officer
Proponent	: City of Albany
Previous Reference	: OCM 20/11/12 Item 16.1 OCM 19/03/13 Item 1.1 Recommendation 3
Disclosure of Interest	: Nil
Consulted References	: • <i>Local Government Act 1995</i> • <i>Local Government Operational Guidelines – Number 10 – Appointing a CEO</i>
Responsible Officer	: Executive Director Corporate Services

IN BRIEF

- Council to offer the position of Chief Executive Officer to the current Acting Chief Executive Officer, Mr Graham Foster for a fixed term of 12 months.

RECOMMENDATION

ITEM 6.1: RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: ABSOLUTE MAJORITY

1. THAT Mr Graham Foster be OFFERED the position of Acting Chief Executive Officer (the title to be referred to as Chief Executive Officer) for a term of one year, commencing on 1 July 2013.
2. THAT Council develop Key Performance Areas and Key Performance Indicators to be provided to Mr Foster by 3 July 2013.

BACKGROUND

1. The position of Chief Executive Officer is a designated Senior Employee position in accordance with section 5.37 of the *Local Government Act 1995*.
2. At the Ordinary Council meeting held on 20 November 2012, Council resolved:
 1. Council *APPOINT* Mr Graham Foster as the Acting Chief Executive Officer with the City of Albany commencing on 3 December 2012 for an initial period to 30 June 2013 with subsequent extensions to be negotiated to a maximum period of twelve months.
 2. Council *ENDORSES* the Contract of Employment and incorporates a package of \$250,000 per annum, pro rata.
 3. For the purposes of effective handover, Council *ENDORSES* a contract extension for Linda Hill to 21 December 2012 under the current contractual terms and conditions.
 4. Council *NOTE* the following:
 - a. *Local Government Act 1995*:

Section 5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

* Absolute majority required.
- b. *Section 5.39. Contracts for CEO and senior employees*
 - (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
 - (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
 - (4) A contract under this section is to be renewable and subject to subsection (5) , may be varied.

3. At the Ordinary Council Meeting held on 19 March 2013, Council resolved:

THAT the Key Performance Indicators for the Acting Chief Executive Officer (as listed below) are *ACCEPTED* and *NOTED* as the Key Performance Areas as outlined in the Contract of Employment between the City of Albany and Graham Foster, and in accordance with the *Local Government Act 1995*.

- *Completion of requirements under the Integrated Strategic Planning framework;*
- *Production of a responsible draft budget for consideration by Council;*
- *Production of a paper on Economic Development in Albany for consideration by Council;*
- *Produce a Parking Policy and Strategy for consideration by Council;*
- *Provide training for Councillors in:*
 - *Meeting procedures*
 - *Roles and Responsibilities*
 - *Town Planning*
- *Provide for better communication and consultation with the Community by producing an Engagement Policy and processes to be followed by officers; and*
- *Contribute to the ANZAC Interpretive Centre Implementation Committee.*

In addition, the following Key Performance Indicator is to be included in the Acting Chief Executive Officer Contract of Employment:

- *Council Training for the CEO Appraisal Committee*

STATUTORY IMPLICATIONS

4. In accordance with *Local Government Act 1995*, the following sections and regulations pertain to the appointment process for a CEO.
- s5.36 (Local Government Employees)
 - s5.39 (Contracts for CEO and senior employees)

Local Government (Administration) Regulations 1996

- reg18A (Advertisement for position of CEO or senior employee — s. 5.36(4) and 5.37(3))
- reg18C (Selection and appointment process for CEO's)
- reg18E (Offence to give false information in application for employment with local government)

FINANCIAL IMPLICATIONS

5. All cost associated with appointing the Chief Executive Officer and the proposed remuneration package is within budget.

COMMENT

6. It is recommended that Council meet behind closed doors if councillors require to discuss details in regards to the appointment in accordance with section 5.23(2) of the *Local Government Act 1995*, being:
- (a) A matter affecting an employee or employees
 - (b) The personal affairs of any person
 - (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.