
Extraordinary Council Meeting AGENDA



Members Crs A Glachan (Chairperson), D Betteridge, D Cameron, G Docksey, P Gould, R Jackson, K Mack, D Thurley and H van de Ven.

Staff Acting General Manager.

Please be advised that the next **Extraordinary Council Meeting** will be held in the **Council Chambers**, AlburyCity Administration Building, Kiewa Street, Albury, on **Monday 12 November 2012**, at **6.00pm**.

ECM 1 – OPENING PRAYER & ACKNOWLEDGMENT OF ORIGINAL CUSTODIANS OF OUR LAND

ECM 2 – CONFLICT OF INTEREST DECLARATIONS RECEIVED BY THE CHAIR AND DISCLOSURE OF POLITICAL DONATIONS

2A Conflict of Interest Declarations

2B Disclosure of Political Donations

2C Chairperson to advise that the meeting is being recorded

ECM 3 – APOLOGIES

ECM 4 – OFFICERS REPORTS FOR CONSIDERATION3

4A General Manager Recruitment (FIL12/03050)3

Note: *A light meal will be served at 5.15pm, at 'Charlies on Kiewa', for Councillors and staff required to attend the meeting*

Michael Keys
Acting General Manager

16 August 2012

REPORTS FOR CONSIDERATION

1. Disclosure of Political Donations

Section 375A of the Local Government Planning Legislation Amendment (Political Donations) Act 2008, requires that the General Manager keep a register containing each planning decision made at a Council or Committee meeting, including the names of Councillors who supported the decision and those that opposed the decision.

To maintain the register, the amendments require that a division be called whenever a planning decision is put at a Council or Committee meeting, including meetings closed to the public.

From 1 October 2008, anyone lodging a Development Application or anyone making a submission or commenting on a Development Application will need to publicly disclose donations and/or gifts greater than \$1000 made to a local councillor, political party or employee of Council.

The disclosure requirements apply at the time the application is lodged with a Council or the NSW government, and also apply to individuals or entities lodging submissions in objection or support of the proposal. All disclosures will be publicly available.

2. Requirements of Environmental Planning & Assessment Act 1979

In dealing with Development Applications, Councillors need to take into account specific matters contained in the Environmental Planning & Assessment Act 1979 (*as amended*).

Accordingly, the provisions of Section 79C of that Act are set out hereunder, which can be used by Councillors as a reference guide of issues to be considered.

79c Evaluation

(1) *Matters for consideration - general*

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provision of:
 - (i) any environmental planning instrument, and
 - (ii) any *draft* environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any planning agreement that has been entered into under *Section 93F*, or any *draft* planning agreement that a developer has offered to enter into under *Section 93F*, and
 - (v) any matters prescribed by the regulations, that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

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ECM 4 – OFFICERS REPORTS FOR CONSIDERATION

4A General Manager Recruitment (FIL12/03050)

DATE 5 November 2012

CONFIDENTIAL YES NO If yes please tick one of the following reasons

Personnel Matters Commercial Legal Security Personal Hardship

ITEM FOR DECISION

Meeting Date Monday 12 November 2012

ITEM FOR NOTING

Meeting Date

FURTHER ENQUIRIES TO Murray Watson
Human Resources

PHONE 6023 8118

Background

On Tuesday 23 October 2012, Council and the current General Manager, Les Tomich reached a mutual agreement regarding the early conclusion of his employment contract. In this regard, Les will conclude his employment with Council on 31 December 2012.

As a result, Council must now commence the process to recruit a new General Manager. This report outlines all of the relevant issues associated with this process, including Council's legal obligations, contractual considerations as well as the actual recruitment process itself.

Issues

The appointment of a General Manager is one of the most critical tasks for any Council and in particular, the process to effect the appointment needs to be undertaken in a professional, open, transparent and timely manner. It is also important to ensure that the confidentiality of applicants is maintained throughout the process in accordance with the Privacy legislation.

Legislative

There are a number of aspects of the recruitment process that are covered by the Local Government Act 1993 (the Act) and these include:

- Council is required to appoint a person to the position of General Manager. This position is a senior staff position and is the only position where Council is directly responsible for an appointment (sec 334);
- if a vacancy occurs in the position of General Manager then Council must immediately appoint a person to the position or to act in the position (sec 336);
- Council must ensure that the appointment of a person to the role of General Manager is undertaken in accordance with a merit based selection process (sec 349). This is a competitive process that results in the applicant with the best qualifications, abilities and experience relevant to the position being appointed;

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- Equal Employment Opportunity principles also apply to the recruitment of General Managers (sec 344 and 349); and
- as the position of General Manager is a senior staff position, the vacancy must be advertised at least twice in a daily newspaper circulating throughout the State (sec 348).

Recruitment Process

The Division of Local Government (DLG) has published a document titled, Guidelines for the Appointment & Oversight of General Managers. The purpose of this document is to assist Council in being aware of their obligations and the essential matters for consideration when engaging in the process for recruiting a General Manager. These guidelines are based on the Act and are designed to promote a consistent approach across NSW Councils regarding the recruitment of General Managers. Both the Act and these guidelines have been closely referenced when preparing this report.

In considering the recruitment process, Council can undertake this process itself, or engage the services of a recruitment consultant to facilitate the process. Irrespective of the decision in this regard, Council should delegate the task of overseeing the recruitment to a selection panel who will report back to Council at key points throughout the process.

The selection panel should consist of the Mayor, Deputy Mayor, at least one other Councillor and an appropriately qualified person independent of Council. This panel must have both male and female representation and must remain the same throughout the entire recruitment process.

The recruitment process itself contains a number of key elements, including:

- reviewing the position description and ensuring it is reflective of the responsibilities associated with the role;
- advertising the position in accordance with the Act;
- preparing information packages and answering enquiries from prospective applicants;
- shortlisting applications;
- arranging and conducting interviews with selected candidates;
- reference checking and other applicant background checks;
- determining a preferred candidate with reasons and form a recommendation to Council;
- obtaining Council endorsement for the position to be offered to the successful candidate;
- advising the successful applicant and any subsequent contract negotiations;
- advising unsuccessful candidates; and
- maintaining all necessary records associated with the process and manage these in accordance with the State Records Act 1998.

Given the extent of specialist activities involved in the process, as well as the profile of the position itself, Council may consider it appropriate that a recruitment consultant be engaged to facilitate the recruitment process. The consultant could also fill the role of the independent person on the selection panel. In utilising the services of an independent consultant, Council can remain actively involved at critical points of the process, including reviewing the shortlisted candidates and ultimately the selection of a preferred candidate with any decision on a preferred candidate to be endorsed by the full Council.

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It should be noted, that in appointing a consultant, Council must and would retain overall control of the process.

Contractual

As previously mentioned, the position of General Manager is a senior staff position under the Act and as such, the person must be employed under a standard contract of employment as approved by the Director General of the DLG (sec 338).

In accordance with the Act, the only variable provisions of the employment contract are the term of the contract and the schedules of the contract, which cover remuneration and the requirements of the position.

Prior to commencing the recruitment, Council will need to consider both the term and level of remuneration under the contract, as these are two aspects that prospective candidates are likely to consider and/or want clarification on.

The term of the contract can range from 12 months to 5 years, with the most recent two terms for the current General Manger being periods of four years. Given the fact that the employment contract is performance based, a term of either four or five years would be considered typical.

In regard to the level of remuneration, the 2012 Local Government & Shires Association Remuneration Survey indicates that AlburyCity's General Manager remuneration package (circa \$290K) sits around the 80th percentile in our DLG Council classification grouping. It is worth noting that AlburyCity is the third largest Council within our comparison group. In this regard, it should be recognised that Council has a large portfolio of assets to be managed and also delivers an extremely broad range of services and functions compared to other similar sized Councils. Some of these services include, water and waste water facilities as well as a number of significant commercial businesses, specifically, an expanding regional airport and waste management centre.

On this basis, the current level of remuneration for the role is considered appropriate and reflective of the General Manager position in a Council such as AlburyCity. Notwithstanding this, Council may wish to set a remuneration range for the position and subsequently appoint a successful candidate within this range, subject to their qualifications, skills and experience as it relates to the role.

Current Acting Arrangements

As previously outlined to Council in an earlier report, during Les' absence there have been a number of "acting" arrangements in place at Council to ensure the ongoing functionality of AlburyCity. Specifically these arrangements are; Acting General Manager (Michael Keys), Acting Director Planning & Environment (David Christy) and Acting Planning Team Leader (Ray Gear). The staff in the acting roles have remained the same for the duration of Les' absence to ensure consistency regarding ongoing operations and personnel.

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Up until 31 December 2012, the responsibility for staffing decisions rests with Les and in this regard, the current arrangements for the role of Acting General Manager will continue for the duration of his absence. Should a new General Manager not commence prior to 1 January 2013, Council would need to confirm the arrangements for the position of Acting General Manager from that point until the commencement of a new General Manager. This is in accordance with Section 336 of the Act.

Options

In order to effectively undertake the recruitment of a new General Manger, Council needs to determine a selection panel to oversee the process. As mentioned earlier and having regard to the DLG Guidelines, this panel should comprise the Mayor, Deputy Mayor, at least one other Councillor and an independent representative.

As outlined earlier, the selection panel would be required to oversee a number of specific activities in relation to the recruitment process for the position of General Manager. Many of these have legal considerations, specifically in relation to the Act and this must be followed as part of the recruitment process.

Having regard to this, Council should give consideration to appointing a recruitment consultant to facilitate the recruitment process. Council could decide to undertake the recruitment process without the involvement of a consultant. However, given the nature of the role and the industry expertise provided by a recruitment consultant, it is considered prudent that Council engage the services of a suitable provider to facilitate the recruitment process for the role of General Manager.

The consultant would facilitate all aspects of the recruitment process and, in conjunction with the selection panel, report to Council at the critical points of the process, including shortlisting and interview and seek endorsement for moving the process to the next stage/s.

In preparation for this report, a request for quotation (RFQ) process was undertaken with four suitable recruitment providers who are considered to have the necessary capacity and expertise to undertake the process. Following the closure of the RFQ process, submissions were received from Local Government Management Solutions (LGMS), McArthur, and Blackadder Associates. All of the quotations were deemed to meet the minimum requirements of the service specification. The remaining provider did not put forward a submission.

The submissions were assessed on a range of factors, both qualitative and quantitative.

The qualitative assessment focussed on;

- Experience in executive level recruitment in local government
- An understanding of the legislative and other requirements governing the recruitment process
- The ability to work with and provide comprehensive reports to Council
- The ability to work positively with prospective candidates/applicants
- The capability to undertake all aspects of the recruitment process

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The following table details the final weighted ratings of the qualitative assessment.

NAME OF VENDOR	CONTRACT CAPABILITY ASSESSMENT (Weighting 80%)	MANAGEMENT, SERVICE & SAFETY ASSESSMENT (Weighting 20%)	TOTAL
Local Government Management Solutions	76.8	20	96.8
McArthur	73.6	20	93.6
Blackadder Associates	80	18	98

In evaluating the quotations received, all of the providers demonstrated an excellent understanding of the legislation and other parameters associated with executive recruitment and also a high level of capability in dealing with potential and subsequent applicants. In addition, each of the providers outlined their significant experience in undertaking General Manager recruitment within a local government setting.

In particular, LGMS and Blackadder Associates were able to demonstrate a slightly stronger ability to work closely with Council across all aspects of the process.

The following table details the final rating of the quantitative assessment following analysis of the pricing structures provided.

NAME OF VENDOR	SCHEDULED FEE	TOTAL SCORE
Local Government Management Solutions	\$18,000	83.4
McArthur	\$15,000	100
Blackadder Associates	\$23,100	65

It should be noted that all three providers identified very similar administrative charges such as travel and advertising and that these would be charged to Council at cost. In this regard, any difference for these charges was considered to be negligible.

An overall summary of the assessments undertaken on the quotations is shown in the table below.

NAME OF VENDOR TENDERER NAME OF TENDERER	QUALITATIVE ASSESSMENT	QUANTITATIVE ASSESSMENT
Local Government Management Solutions	96.8	83.4
McArthur	93.6	100
Blackadder Associates	98	65

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On the basis of the assessment of each of the quotations, it is considered that the proposal from LGMS is the most competitive, particularly having regard to their skills and experience to deliver the full range of recruitment requirements, but also their industry knowledge and value for money. Whilst their quoted price was not the cheapest, the actual difference of \$3K to the cheapest quote is not considered significant when taking into account the qualitative assessment and overall capacity to deliver the required recruitment services.

If a decision is made to engage the services of a preferred recruitment consultant, work would need to commence immediately to determine suitable arrangements for the commencement of the process. Similarly, if Council made a decision to undertake the recruitment themselves, the selection panel would need to work with the Group Leader HR regarding the specific steps in the process and relevant timeframes associated with these.

It should be noted that based on the information contained in the proposals, an indicative timeframe of a minimum of eight weeks is likely to be required to fully undertake the recruitment process. This timeframe is considered to be appropriate, especially given the nature of the role and also the need for a robust and effective process.

Council also need to determine some parameters regarding the employment contract prior to commencing the recruitment process. The two key considerations here are the term of the employment contract and also the remuneration level as potential candidates will likely seek clarification on both matters when considering the role.

In regard to the contract term, a period of four or five years is considered appropriate, however Council may decide for a lesser period as a minimum term and subsequently negotiate with the preferred candidate.

As previously mentioned the current level of remuneration for the General Manager position at AlburyCity is considered to be appropriate given the scope of the role and the nature and breadth of functions undertaken by the organisation. As with the contract term, Council can set a specific remuneration level or alternatively determine a range in which the role would sit and then undertake negotiations with the preferred candidate depending on their qualities, capabilities and experience. In providing a range, Council could consider a remuneration package between \$280K and \$300K to be appropriate.

In considering the timeframes associated with the recruitment process, Council may also need to confirm the arrangements for the acting General Manager role beyond 1 January 2013. Should Council be required to appoint a person in the role of acting General Manager from 1 January 2013 until a new General Manager commenced, in the interests of continuity it would appear prudent to maintain the current arrangements. A decision in this regard however would be at the discretion of Council.

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Conclusions

In considering all of the administrative and legislative aspects associated with the recruitment of a General Manager, Council can now determine how they would like to proceed with the process.

In particular, a decision needs to be made on the make up of a selection panel to oversee the recruitment process, with the panel needing to function in accordance with the DLG Guidelines.

A decision will also need to be made regarding the engagement of a recruitment consultant. The recruitment process for the position of General Manager is not only a critical one, but one that needs to be undertaken in a transparent, open and professional manner. Following an assessment of quotations from suitable consultants, it is recommended that Council engage Local Government Management Solutions to work closely with the selection panel to ensure the recruitment process is undertaken effectively and results in the best outcome for AlburyCity.

The Group Leader Human Resources would also be available to act as a resource during all relevant aspects of the recruitment process.

In addition, Council need to determine the contractual parameters for the position prior to commencing any recruitment process. Having regard to the nature of the role and the organisation, as well as the benchmarked information from other similar Councils, a contract term of four years and remuneration in the range \$280K to \$300K would appear to be appropriate.

Finally, Council should confirm the current acting arrangements for the role of General Manager beyond 31 December 2012 should the need arise.

Recommendation

That Council:

- a. appoint a selection panel of the Mayor, Deputy Mayor and nominated Councillor(s) to oversee the recruitment of a new General Manager;
- b. engage the services of Local Government Management Solutions to facilitate the recruitment process for the position of General Manager in conjunction with the selection panel;
- c. be presented with a report outlining the candidates that have been selected for interview;
- d. be provided with a full presentation by the preferred candidate/s following the interview process;
- e. be presented with a full report on the preferred candidate/s;
- f. approve the position being offered to the successful candidate;
- g. determine the term of the contract for the position of General Manger to be four years;
- h. determine the remuneration for the position of General Manager to be in the range \$280K to 300K; and
- i. endorse the continuation of the current acting General Manager arrangement beyond 31 December 2012 until the commencement of a new General Manager.