

BRIEFING SESSION

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| Date of Workshop | Wednesday 3 May 2023 |
| Time Start (approx) | 12.00pm |
| Subject | Melrose Post Office |
| Presenter(s) | Kelley Jones Lawyers |
| Session | Open to the public |

PURPOSE

To provide Members with an update on the proposed transition arrangements relating to the Melrose Post Office.

BRIEFING SESSION COVER SHEET

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| Attachments | 1. Australia Post PowerPoint Presentation |

PURPOSE

To provide Members with an update on the proposed transition arrangements relating to the Melrose Post Office.

DISCUSSION

Members were provided CEO Performance Training, as well as an update on the current Melrose Post Office arrangements by Kelley Jones Lawyers.

SPEAKERS

Tracy Riddle, Kelley Jones Lawyers

Sam Johnson, Chief Executive Officer

THE BRIEFING IS OPEN TO THE PUBLIC

The cover sheet and attached documents are public documents.

Raising the Bar

Post Election Training Essentials for Council Members

Kelley Jones



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CEO Recruitment and Performance Review Process



3 May 2023

Presented by Tracy Riddle

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CEO Recruitment and Performance Review

- CEO appointment
- CEO remuneration
- CEO performance review

Section 41 Committees

- section 41(2)(b)
 - can be established to inquire into and report to the Council on matters within the ambit of the Councils responsibilities

Role of a Committee

- to assist Council to perform its functions
- to enquire into and report to the Elected Body
- to advise the Council
- to make its decisions in the same open and accountable way as the Elected Body

General Duties of Committee Members

- to act / operate strictly within the Terms of Reference
- section 62 *Local Government Act 1999*
 - to act honestly and with reasonable care and diligence
 - not make improper use of position or, information acquired by virtue of position to advantage yourself, a third party or cause damage to the Council (offence provision)
- to comply with all other legal obligations

The *Qualified Independent Person* Advisory Role

- before appointing
- undertaking performance review
- terminating appointment

Council must have regard to such advice before terminating and must obtain and consider such advice before appointing and for performance review purposes

Who is the *Qualified Independent Person*?

- not a member or employee of the Council, and
- determined by the Council to have appropriate qualifications or experience in human resource management

Note: the same definition for all purposes

Appointment

- advertising the position on a website determined by Council
- either or both of the below apply to the process
 - appointment of a person who is not a Member or employee of Council
 - before appointment, Council obtains and considers Qualified Independent Person advice on the assessment of applications and recommendation(s) on the appointment

Remuneration

- Council determines CEO remuneration – within the minimum and maximum determined by the Remuneration Tribunal for the Council
- Remuneration Tribunal not obliged to provide a minimum and maximum
- Remuneration Tribunal may provide for the remuneration to be indexed
- Remuneration Tribunal may differ by council or group of councils
- salary not a TRP based approach
- no Determination yet

Remuneration Transition

- no impact of new remuneration provisions to any CEO holding office at commencement of section 99A
- transitional provisions – no application until the day on which first Determination is made
- beware any contract clause which seeks to apply the new provisions retrospectively and from their commencement

Performance Review

- must occur
 - once in each year of office, and
 - (if relevant) before reappointment
- must obtain and consider Qualified Independent Person advice in each review

The Panel

- the Council has resolved to constitute a CEO Performance Review Panel consisting of
 - the Mayor
 - two (2) Councillors
 - a suitably qualified recruitment / human resources consultant, and
 - a qualified independent person

The Panel

- the role of the qualified independent person is to ensure appropriate oversight of the performance review process, and to provide the Panel (and Council) with legal advice, as required, on issues including procedural fairness, KPIs and contractual arrangements
- all members of the Panel, save for the Mayor, appointed by resolution of the Council, and will remain members of the Panel for the duration of the term
- in the event that a member of the Panel is no longer an Elected Member of the Council, the Council will at the next immediate meeting appoint a new member(s)

The Panel

- all Member, members of the Panel, including the Mayor, will be required to undertake CEO performance review training within six (6) months of appointment, to be facilitated by a suitably qualified human resources consultant or legal provider
- failure to undertake such training will result in that Member being ineligible for continuation as a member of the Panel, including the Mayor (in which instance, the Deputy Mayor will be appointed to the Panel, or other Member as resolved by the Council in the absence of a Deputy Mayor

The Performance Review Process

- opportunity to facilitate two-way, open communication, between the Council and the CEO, and will include a review of total remuneration with reference to the market, CPI and any other relevant factors as recommend by the Panel
- shall be based on the CEO's KPIs, as adopted by the Council each year, and any other relevant factors, as determined by the Panel, including as incorporated in the requirements of the Job and Person Specification
- relevant factors will be agreed between the Panel and the CEO in advance of the review period, can be amended during the review period, by agreement

The Performance Review Process

- if agreement cannot be reached Council may by resolution agree the relevant factors to be considered on the review
- CEO will prepare a report or presentation for the Panel in respect of the progress against each of the KPIs and relevant factors, during the review period
- using an appropriate survey tool, as agreed prior by the Panel and the CEO, the performance of the CEO shall be appraised against the criteria

The Performance Review Process

- CEO will undertake a self-appraisal and canvass the views of Members in a format agreed by the Panel
- on the conclusion of the review the Panel will prepare draft report of the preliminary findings and proposed KPIs for discussion
- once preliminary findings and proposed KPIs are agreed by a majority of members, the report will be provided to the CEO for discussion at a meeting, not earlier than 10 days after provision of the preliminary report and KPIs
- after taking in to account CEO's submission, the review report and proposed KPIs will be finalised

The Performance Review Process

- as part of the review the CEO's JP will be reviewed and agreement reached in respect to any required variations
- the Panel shall cause a report to the Council to be prepared
 - the outcomes of the review
 - proposed KPIs
 - proposed amendments to the Job and Person Specification (if any)
 - recommendations in respect of the remuneration

The Performance Review Process

- CEO, Panel and qualified independent person shall have the opportunity to make written comment on the report prior to presentation to the Council - comments to be included in the report

The Performance Review Process

- if the CEO's overall performance is considered by the Council to be unsatisfactory, the Panel shall hold discussions with the CEO where particular areas of unsatisfactory performance will be specified, and future work objectives and performance outcomes will be agreed, and set out in writing with an agreed timeframe to address
- in the absence of agreement, the Council will consider and resolve, as assisted by advice from the qualified independent person, the future work objectives and performance outcomes to be met, specifying a reasonable timeframe

The Performance Review Process

- In the event the Panel recommends to the Council the CEO has not met the work objectives and performance outcomes within the agreed timeframe, the Council shall be entitled to take disciplinary action, as provided for under the Agreement
- the Council agrees to provide professional development opportunities for the CEO, necessary to meet the performance requirements, throughout the term of the Agreement as mutually agreed

Kelley Jones