



WHITEHORSE
CITY COUNCIL

Whitehorse City Council

AGENDA

Council Meeting

on

Tuesday 15 March 2022

at 7:00pm

Members: Cr Liu (Mayor), Cr Massoud (Deputy Mayor), Cr Barker, Cr Carr, Cr Cutts, Cr Davenport, Cr Lane, Cr McNeill, Cr Munroe, Cr Skilbeck, Cr Stennett

Mr Simon McMillan, Chief Executive Officer

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AGENDA

1 PRAYER

1a Prayer for Council

We give thanks, O God, for the Men and Women of the past whose generous devotion to the common good has been the making of our City.

Grant that our own generation may build worthily on the foundations they have laid.

Direct our minds that all we plan and determine, is for the wellbeing of our City.

Amen.

1b Aboriginal Reconciliation Statement

“Whitehorse City Council acknowledges the Wurundjeri Woi-wurrung people of the Kulin Nation as the traditional owners of the land we are meeting on and we pay our respects to their Elders past, present and emerging and Aboriginal and Torres Strait Islanders from communities who may be present today.”

2 WELCOME

3 APOLOGIES

4 DISCLOSURE OF CONFLICT OF INTERESTS

5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of the Council and Confidential Council Meeting 28 February 2022

RECOMMENDATION

That the minutes of the Council and Confidential Council Meeting 28 February 2022 having been circulated now be confirmed.

6 PUBLIC PRESENTATIONS

7 PETITIONS AND JOINT LETTERS

8 PUBLIC QUESTION TIME

9 NOTICES OF MOTION

9.1 Notice of Motion No 163 - Cr Davenport

That Council seeks a report on the feasibility and cost of introducing a 120 litre Food and Green Waste bin option as a means of encouraging new users to the service, based on a model of full cost recovery, noting that the Food and Green Waste service commences on 1 July 2022.

10 URGENT BUSINESS

11 COUNCIL REPORTS

11.1 Adoption of Terms of Reference for CEO Employment Matters Committee

Governance and Integrity
ATTACHMENT

SUMMARY

The Local Government Act 2020 (the Act) sets out a number of requirements relating to the employment of a Chief Executive Officer (CEO), which includes the requirement for a Council to obtain independent professional advice in relation to the matters dealt within the Chief Executive Officer Employment and Remuneration Policy.

Council as its meeting on 13 December 2021 adopted its CEO Employment and Remuneration Policy ("Policy") which became effective on 1 January 2022.

Council currently has an Advisory Committee for the Review of the Chief Executive's Development. To progress Council's obligations under Section 45 of the *Local Government Act 2020* a CEO Employment Matters Committee should be established to replace the former advisory committee. Terms of Reference has been drafted for adoption.

To give effect to the requirement that Council must obtain independent advice on CEO employment matters, Council will need to commence the recruitment of an independent advisor.

RECOMMENDATION

That Council:

1. Formally establishes the CEO Employment Matters Committee to replace the Advisory Committee for the Review of the Chief Executive's Development.
 3. Adopt the Terms of Reference for the CEO Employment Matters Committee, provided as Attachment 1.
 4. Commence the process to recruit an independent advisor to the CEO Employment Matters Committee.
-

KEY MATTERS

In line with the staged implementation timelines of the new *Local Government Act 2020*, Council adopted its first CEO Employment and Remuneration Policy before the deadline of 31 December 2021.

In meeting its obligations under Section 45 of the Act, the adopted policy has identified that Council will establish a Committee, which has been referred to as the CEO Employment Matters Committee.

11.1
(cont)

It is vital that Council now reviews and considers whether the prepared draft Terms of Reference for the Committee (provided as Attachment 1), satisfactorily meets Council's needs.

STRATEGIC ALIGNMENT

Strategic Direction 8 of the Council Plan is Governance and Leadership. Underpinning this direction is objective 8.3 which is entitled Good Governance and Integrity. Compliance with Council policies and legislative requirements forms an important strategy.

Policy

This report is being presented in response to the adoption of Council's first CEO Employment and Remuneration Policy.

BACKGROUND

Council at its meeting on 13 December 2021, adopted its CEO Employment and Remuneration Policy and directed that a Terms of Reference be developed for the CEO Employment Matters Committee and that it be presented to Council in March 2022.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

The *Local Government Act 2020* outlines the functions of the CEO. Section 45 of the Act requires a Council to obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy; and

Provide for the following:

- The recruitment and appointment process;
- Provisions to be included in the contract of employment;
- Performance monitoring;
- An annual review; and
- Include any other matters prescribed by the regulations.

Equity, Inclusion, and Human Rights Considerations

It is considered that the subject matter does not raise any human rights issues.

Community Engagement

No community engagement was required for this report.

11.1
(cont)

Financial and Resource Implications

The requirement to recruit an independent advisor to support the CEO Employment Matters Committee will have cost and budget implications. This will need to be accommodated within Council's operating budget.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

Collaboration

No collaboration was required for this report.

Discussion and Options

Council through its Policy, has determined to establish a CEO Employment Matters Committee to make recommendations to Council on the:

- i) Selection and appointment of the Independent Advisor;
- ii) Independent advice from the Independent Advisor;
- iii) Performance monitoring and annual review of the CEO and achievement of key performance indicators;
- iv) CEO's remuneration and conditions of employment;
- v) Recruitment and appointment of a CEO, if required; and
- vi) Appointment of an acting CEO for periods exceeding 28 days.

The Policy outlines that the Mayor would chair the Committee and if absent, the Deputy Mayor would assume the chair.

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

The Terms of Reference for the CEO Employment Matters Committee have been drafted to support the CEO Employment and Remuneration Policy and assist Council in managing the employment lifecycle to the CEO. The employment lifecycle will further supported by the appointment of an independent advisor.

ATTACHMENT

- 1 Attachment 1 - CEO Employment Matters Committee - Terms of Reference

11.2 Audit and Risk Committee Annual Performance Report

Governance and Integrity

SUMMARY

The purpose of this report is to comply with Section 54(4) of the Local Government Act 2020 which requires the Audit and Risk Committee to undertake an annual assessment of its performance against the Audit and Risk Committee Charter and provide a copy of the annual assessment to the Chief Executive Officer for tabling at the Council meeting.

RECOMMENDATION

That Council receive and note the Audit and Risk Committee's Annual Performance Report.

KEY MATTERS

In line with the Audit and Risk Committee Work Plan for 2021/22 and Local Government Act 2020, the Audit and Risk Committee undertook a self-assessment of its performance.

All members of the Committee completed a questionnaire and the overall average score was 4 out of 5 which equates to a more than adequate performance by the Committee.

Overall, the Committee assessed that it:

- Meets the Audit and Risk Committee Charter;
- Works quite well together with an appropriate level of input and discussions throughout the year;
- Is able to engage with management outside of meetings where required, and appropriate, in order to ensure a strong financial reporting and risk management environment;
- Has a very positive relationship and receives strong support from the Executive Leadership Team, internal and external audit by their presence and if need be their contributions at all meetings. In addition the admin support to the Committee is second to none.

The Committee also identified that the following areas could be further improved:

- Broadening their lens on overall legislative compliance;
- Identifying process for training or skills improvement;
- Development of a Committee member skills and experience matrix for succession planning purposes; and
- Length of meeting and identifying items to be "noted as read" can be considered.

Consolidated self-assessment of the Audit and Risk Committee effectiveness is included in discussion section below.

11.2
(cont)

STRATEGIC ALIGNMENT

This report aligns with Objective 8.3: Good Governance and Integrity of the Council Plan.

Policy

The self-assessment questions were guided by the Council's Audit and Risk Committee Charter.

BACKGROUND

The Audit and Risk Committee resolved, after a considered review of the Local Government Victoria template for self-assessment, to use the template but add 6 more questions to align it to the Audit and Risk Committee Charter.

Members were asked to rate on a scale of 1 to 5, 48 questions which were subdivided into 7 sections. Provision was also made for comments/suggestions for improvement after each section. Details of the self-assessment questions are included in Key Matters section above.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

This report is prepared in accordance with Section 54(4) of the Local Government Act 2020.

Equity, Inclusion, and Human Rights Considerations

It is considered that the subject matter does not raise any human rights issues.

Community Engagement

No community engagement was required for this report.

Financial and Resource Implications

There are no financial or resource implications arising from the recommendation contained in this report.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

11.2
(cont)

Collaboration

Members of the Audit and Risk Committee were consulted for this report.

Discussion and Options

Below is a consolidated self-assessment of the Audit and Risk Committee's effectiveness for the year against the Audit and Risk Committee Charter performance criteria. The Committee's assessment of its performance is represented by 

	Audit & Risk Committee Performance has been:	Less than Adequate		Adequate	More than Adequate	
		1	2	3	4	5
A. Audit Committee Charter						
1	The Charter clearly articulates the Committee's roles and responsibilities and provides it with the necessary authority to discharge them					
2	The Charter facilitates and supports the effective operation of the Committee					
3	During the past year, the Committee has adequately addressed all of its responsibilities as detailed in the Charter					
4	The Charter ensures the Committee is sufficiently independent from the management of Council					

11.2
(cont)

B. Skills and Experience					
5	The Committee has the desired mix of skills to allow it to effectively discharge its responsibilities				★
6	The Committee has been able to analyse and critically evaluate information presented to it by management				★
7	There is a clear process that Committee members can follow to access advice and /or training to improve their skills and knowledge			★	
8	The Committee's collective skills are adequate in light of its responsibilities				★
9	The Committee has responded appropriately where significant risks and/or control breakdowns have been brought to its attention				★
10	The Committee has shown an openness to new ideas and different views in its deliberations				★
11	The Committee has been sufficiently probing and challenging in its deliberations.				★

11.2
(cont)

C. Understanding the Business					
12	The Committee has an adequate understanding of Council's:				
	- Risk management framework and risk profile			★	
	- Internal control framework to mitigate significant risks			★	
	- Financial and statutory reporting requirements				★
	- Legislative compliance requirements			★	
13	The Committee receives appropriate briefings on:				
	- Current and emerging business risks			★	
	- Changes in financial reporting requirements				★
	- Changes in performance reporting requirements			★	
	- Integrity Agency reports			★	
	- Changes in the business/regulatory environment			★	
	- Updates on a regular basis about compliance matters			★	
14	The committee has reviewed:				
	- The adequacy and effectiveness of Council's fraud and corruption framework and awareness programs			★	
	- Circumstances surrounding instances of fraud and corruption and any associated control weaknesses			★	
	- Councils fraud and corruption risks and the status of risk assessment and actions			★	
	- The contents of periodic financial and performance reporting			★	
15	The committee receives updates of any organisational structural changes implemented by CEO & consider the impacts of these in the risk and control framework			★	

11.2
(cont)

D. Meeting Administration and Conduct					
16	The Committee has had an appropriate number of meetings to properly discharge its responsibilities				★
17	Agendas are structured to allow sufficient time to discuss all critical issues			★	
18	The Committee receives agendas and supporting papers in sufficient time prior to meetings			★	
19	Agendas and supporting papers are of sufficient clarity and quality to enable the Committee to make informed decisions			★	
20	Committee meetings are well run and productive			★	
21	Committee minutes are appropriately maintained and provided to Council on a timely basis			★	
E. Communications with Council					
22	Committee communications to Council about its deliberations and decisions are appropriate.			★	
23	Committee reports to Council on its activities are appropriate			★	

11.2
(cont)

F. Management Commitment & Support						
24	Information and briefing papers presented by management meet the Committee's expectations in respect of:					
	- Council's risk profile and mitigating actions for key risks				★	
	- Maintenance of a strong internal control environment that is effective in mitigating key risks				★	
	- Management of Council's compliance and regulatory obligations				★	
	- Council's external reporting requirements				★	
25	The Committee has a positive attitude to continuous improvement in its dealings with management				★	
G. Internal Audit						
26	The Committee reviewed and approved the internal audit plan				★	
27	The Committee considered the adequacy of internal audit resources				★	
28	The Committee reviewed and approved any significant changes to the internal audit plan				★	
29	The Committee considered the performance of the internal audit function			★		
30	The Committee reviewed all internal audit reports and monitored management responses to recommendations				★	
31	The Committee reviewed the Internal Audit Charter to ensure that appropriate structures, authority, access and reporting arrangements are in place for the internal audit function			★		

11.2
(cont)

H. External Audit						
32	The Committee reviewed and approved the external audit plan				★	
33	The Committee reviewed external audit reports and management letters and monitored management responses to findings and recommendations made by external audit				★	
34	The Committee provided feedback on the performance of external audit			★		

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

Council to note the Audit and Risk Committee's Annual Performance Report as required by the Local Government Act 2020.

11.3 State Government Social Housing Reform Package Withdrawn

Community Engagement and Development

SUMMARY

The State Government's Big Housing Build initiative was launched in November 2020, a \$5.3 billion investment in social and affordable housing. Building on this initiative, the State Government announced on 17 February 2022 two new important changes:

- From July 2024, all newly built developments with three dwellings or more and three or more lot subdivisions will contribute 1.75 per cent of the as-if-complete project value to a Social Housing Growth Fund.
- Social housing properties will become exempt from paying rates, so they are treated similar to other public assets including public schools and hospitals.

The State Government subsequently withdrew from its proposed planning reform and social housing package on 1 March 2022.

Exempting tens of thousands of Victorian Government-owned dwellings from the need to pay rates for local services provided to their tenants by councils would have been a major and concerning development. Based on recent data, Whitehorse City Council would have likely experienced 1.2% rate revenue foregone after full implementation and the direct impact on Council was estimated to be \$1.4 million per annum (increasing over time due to the annual rate cap).

Similarly, the Social and Affordable Housing Contribution would have created a range of complex planning and logistics issues including raising questions about how the money would be directed back to Whitehorse.

RECOMMENDATION

That Council note the decision by State Government to withdraw its proposed Social and Affordable Housing contribution and exemption of social housing properties from paying rates.

KEY MATTERS

The Municipal Association of Victoria (MAV) has explored the financial impacts of a rate exemption for social housing dwellings in a 2021 issues paper. The report found that the rates exemption would have significant implications for local government, with an estimated \$136.8 million per year in revenue lost to subsidise the funding of what has historically been a state government responsibility.

In only 10 years the amount of rates foregone for councils would compound to a total estimated amount of \$1.6 billion. This means local communities would miss out on \$1.6 billion of investment in local services and infrastructure over the decade.

11.3
(cont)

STRATEGIC ALIGNMENT

This report aligns with Strategic Direction 3 of the Council Plan, 'Our Diverse and Inclusive Community', specifically Objective 3.4 'Advocate for greater housing diversity including affordable and social housing'.

Policy

Whitehorse City Council recognises that housing is a human right for every person and that social housing is core infrastructure that can strengthen communities. Council's commitment to affordable housing is demonstrated through its Whitehorse Affordable Housing Policy, its membership in the Eastern Affordable Housing Alliance and membership in the Regional Local Government Homelessness and Social Housing Charter Group, which regularly advocates for increased investment by government and non-government stakeholders in social and affordable dwellings in the region.

BACKGROUND

The State Government's Big Housing Build initiative was launched in November 2020, a \$5.3 billion investment in social and affordable housing, with a commitment to deliver over 12,000 new dwellings including 9,300 new social housing dwellings and replacing 1,100 existing dwellings, to boost total social housing supply by 10%. Building on this initiative, the State Government announced on 17 February 2022 two new important changes:

- From July 2024, all newly built developments with three dwellings or more and three or more lot subdivisions will contribute 1.75 per cent of the as-if-complete project value to a Social Housing Growth Fund.
- Social housing properties will become exempt from paying rates, so they are treated similar to other public assets including public schools and hospitals. The rates reform will be phased in over four years from July 2023 and will only apply to social housing properties.

The State Government subsequently decided on 1 March 2022 to withdraw from its proposed planning reform and social housing package, specifically the exemption of social housing properties from paying rates and introduction of a new social and affordable housing contribution (SAHC).

11.3
(cont)

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are no legal or risk implications arising from the recommendation contained in this report.

Equity, Inclusion, and Human Rights Considerations

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*. It is considered that the subject matter does not raise any human rights issues.

Community Engagement

There was very little engagement with the Local Government sector about the SAHC and rates exemption, its impact on Councils, ratepayers, residents and businesses. Such a decision should not be taken unilaterally without consultation with councils and their communities.

The Eastern Region Group of Councils (ERG) raised concerns on behalf of eastern metropolitan region Councils, and the Municipal Association of Victoria also expressed their opposition to blanket imposition of rates exemptions for social and affordable housing and sought clarification about the proposal and engagement with the Victorian government repeatedly during 2021.

Importantly there was no discussion between State Government and Whitehorse City Council about providing compensation to Council for providing the necessary community services for our municipality under the new rate exceptions.

Financial and Resource Implications

In Whitehorse, there were 1,617 social housing dwellings in 2020. Of these, 1,403 were public housing owned and operated by the Department of Families, Fairness and Housing (DFFH), and 16,827 dwellings owned and operated by community housing providers.

If all social housing properties in Whitehorse became exempt from council rates, based on recent data Whitehorse City Council would have likely experienced 1.2% rate revenue foregone after full implementation. The direct impact on Whitehorse City Council was estimated to be \$1.4 million per annum. This figure would have increased over time, with the Minister for Local Government increasing the annual rate cap thereby escalating the annualised rate revenue loss.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

11.3
(cont)

Collaboration

This report was developed in collaboration between the Community Engagement & Development Department, Finance & Corporate Reporting and Planning & Development.

Discussion and Options

Social housing properties being exempt from paying rates

Exempting all social housing from paying rates would mean ratepayers (including people who are also experiencing poverty), need to provide additional millions of dollars each year to subsidise a state government service which delivers benefits to all residents and taxpayers across Victoria's 79 council areas or experience decreased levels of local services.

From an equity standpoint, exempting social housing means that ratepayers in municipalities where there is social housing will pay more to subsidise social housing, compared to other taxpayers and residents in areas where there is less social housing.

Questions remain then about how Council would provide additional services that tenants in social housing require from their councils, particularly with the scale of new social housing that is being created through the Big Housing Build over the next four years. For example, how would all social housing dwellings be serviced, such as paying for waste management services?

Social and Affordable Housing Contribution (SAHC)

A requirement for all newly built developments with three dwellings or more and three or more lot subdivisions to contribute 1.75 per cent of the as-if-complete project value to the Social Housing Growth Fund would deliver a more certain framework than the voluntary, negotiated framework the industry works with now. However, it raises a few questions for consideration, such as how would the State Government ensure the Social Housing Growth Fund is redirected into the communities that contributed to its growth?

The state government already collects the Metropolitan Planning Levy for all developments over \$1,107,000, however it is unclear how this money is directed back to Whitehorse (or any council) due to the lack of transparency and accountability. Would there be flexibility in the form of contributions to ensure the right housing in the right places (for example, equivalent housing either gifted to a register housing organisation or offered at a discounted rent)? Such a fund must be collected by the State Revenue Office with transparent and accountable outcomes for its allocation at a municipal level.

11.3
(cont)

Conflict of Interest

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

The decision to exempt tens of thousands of Victorian Government-owned dwellings from the need to pay rates for local services provided to their tenants by councils would have been a major and concerning development, with a direct impact on Council of \$1.4 million per annum (increasing over time due to the annual rate cap).

Similarly, the Social and Affordable Housing Contribution would have created a range of complex planning and logistics issues including raising questions about how the money would be directed back to Whitehorse.

With the State Government now withdrawing from its planning reform package, Council officers will continue to seek further opportunities to engage with State Government on these matters and explore other possibilities to increase the supply of social and affordable housing in the municipality.

11.4 Records of Informal Meetings of Councillors

RECOMMENDATION

That Council:

That the record of Informal Meetings of Councillors be received and noted.

Councillor Informal Briefing 28.02.22 6:30-7.00pm		
Matter/s Discussed	Councillors Present	Officers Present
<ul style="list-style-type: none"> • 6.Public Presentation • 8.Public Question Time • Response to Community Concern about Protection of Trees • Healesville Freeway Reserve 2022 Project Update 	Cr Liu (Mayor) Cr Massoud (Deputy Mayor) Cr Carr Cr Barker Cr Cutts Cr Davenport Cr Lane Cr McNeill Cr Munroe Cr Skilbeck Cr Stennett	S McMillan J Green S Cann S Sullivan V Ferlaino C Atlan P Moore
Disclosures of Conflict of Interest	None disclosed	
Councillor /Officer attendance following disclosure	None disclosed	
Councillor Briefing 07.03.22 6:32-8.00pm		
Matter/s Discussed	Councillors Present	Officers Present
<ul style="list-style-type: none"> • North East Link Project • Retail Sustainability Assessment, Mont Albert • Aquatics Strategic Service & Assets Review • Gardiners Creek Works • School Crossing Supervisors Funding • Agenda Items for 15 March Council meeting: <ul style="list-style-type: none"> ○ CEO Employment Matters Committee Terms of Reference ○ State Government social housing reform package withdrawn 	Cr Liu (Mayor) Cr Massoud (Deputy Mayor) Cr Carr Cr Barker Cr Cutts Cr Davenport Cr Lane Cr McNeill Cr Munroe Cr Skilbeck Cr Stennett	S McMillan J Green S Cann S Sullivan S Price (ADCS) S White T Peak L McGuinness V Ferlaino
Disclosures of Conflict of Interest	None disclosed	
Councillor /Officer attendance following disclosure	None disclosed	

12 COUNCILLOR DELEGATE AND CONFERENCE/SEMINAR REPORTS

12.1 Reports by Delegates

(NB: Reports only from Councillors appointed by Council as delegates to community organisations/committees/groups)

RECOMMENDATION

That the reports from delegates be received and noted.

12.2 Reports on Conferences/Seminars Attendance

RECOMMENDATION

That the record of reports on conferences/seminars attendance be received and noted.

13 CONFIDENTIAL REPORTS

14 CLOSE MEETING