

The logo for the District Council of Grant features a green leaf-like shape in the top right corner, a yellow horizontal line, and the word "Grant" in a blue serif font. Below the name are three blue curved lines that resemble a stylized wave or a road.

District Council of

Grant

DISTRICT COUNCIL OF GRANT

Agenda for a Special Meeting of Council to be held

On	Tuesday 13 March 2018
At	Council Chambers, 324 Commercial Street West, Mount Gambier
Commencing	5.30pm

OUR MISSION

**“To provide a range of services which meet
the environmental, social and economic
needs of our community.”**

NOTICE OF A SPECIAL COUNCIL MEETING

Dear Council Member

A Special Meeting of the District Council of Grant will be held on Monday 13 March 2018, in the Council Chambers, 324 Commercial Street West, Mount Gambier, 5290 commencing 5.30 pm.



Trevor Smart
CHIEF EXECUTIVE OFFICER

DISTRIBUTION LIST -

COUNCIL MEMBERS

Mayor Richard Sage
Cr Bruce Bain
Cr Gill Clayfield
Cr Brian Collins
Cr Alan Hill
Cr Barry Kuhl
Cr Shirley Little
Cr Julie Reis
Cr Greg Saunders
Cr Graham Slarks

COUNCIL OFFICERS

Chief Executive Officer - Trevor Smart
Deputy Chief Executive Officer - Jane Fetherstonhaugh
Executive Support Officer - Governance – Donna Hutchesson
Executive Support Officer – Judy O’Hehir

Disclaimer

The recommendations contained in the agenda are subject to confirmation by council. The District Council of Grant warns that any person(s) who has an application lodged with council, should rely only on written confirmation of the decision made at the council meeting. No responsibility whatsoever is implied or accepted by the District Council of Grant for any act, omission, statement or intimation taking place during a council meeting.

ORDER OF BUSINESS

1. OPENING & WELCOME

1.1 Acknowledgment of Traditional Owners

2. ATTENDANCE

3. APOLOGIES FOR ABSENCE

4. DISCLOSURE OF INTERESTS

5. REPORTS FROM OFFICERS

5.1 Chief Executive Officer

5.1.1 Recruitment Process of Chief Executive Officer

6. CONFIDENTIAL ITEMS

6.1 Recruitment of Interim Chief Executive Officer – [12.70.1/2]

6.1.1 Recruitment of Interim Chief Executive Officer

7. CLOSURE

1. OPENING & WELCOME

1.1 Acknowledgment of Traditional Owners

“It is a privilege to be standing on Boandik country. We acknowledge the contributions of Aboriginal Australians and non-Aboriginal Australians to the development of all peoples in this country we live in and share together – Australia”.

2. ATTENDANCE

3. APOLOGIES FOR ABSENCE

4. DISCLOSURE OF INTERESTS

Any Councillor with one of the following Conflicts of Interest is asked to declare it at the start of each meeting and complete this form.

Material - where any of a defined list of persons (list as per LGA Conflict of Interest Guidelines February 2016) would gain a benefit, or suffer a loss (whether directly or indirectly, personal or pecuniary) depending on the outcome of the consideration of the matter at the meeting.

Actual – where a Member has a Conflict of Interest (not being a material conflict of interest) between their own interests and the public interest that might lead to a decision that is contrary to the public interest.

Perceived – where from the perspective of an impartial, fair-minded person it could reasonably be perceived that a Member has a Conflict of Interest in a matter.

5. REPORTS FROM OFFICERS

5.1 Chief Executive Officer

5.1.1 Recruitment Process of Chief Executive Officer	
MEETING DATE:	Tuesday 13 March 2018
AUTHOR:	Judy O’Hehir, Executive Support Officer
RESPONSIBLE OFFICER:	Trevor Smart, Chief Executive Officer
PREVIOUS MEETING:	Monday 26 February 2018
REFERENCES:	Nil
FILE NO:	12.70.1/2
ATTACHMENTS:	<ul style="list-style-type: none"> • Advice from Norman Waterhouse 26/2/18
IN CONFIDENCE:	No
POLICY REFERENCE:	There are no known policy requirements related to this item.
LEGISLATIVE REFERENCE:	Section 98, Local Government Act 1999
STRATEGIC MANAGEMENT PLAN REFERENCE:	Goal 4: Strong Leadership, Management, and Delivery of Transparent Council Services
	Outcome:
	Strategy:
FINANCIAL CONSIDERATIONS:	Budget: Nil
	Actual (YTD): Legal Advice
	Budget Variation Required: Yes
CONSULTATION UNDERTAKEN:	Nil

PURPOSE OF REPORT:

To advise/update Council of the process for engaging the services of a Human Resources Consultant to assist Council with the CEO recruitment process.

BACKGROUND:

On 22 February 2018 Mr Trevor Smart, CEO, advised Mayor Sage and the Elected Members of his resignation.

At a Special Meeting of Council on Monday 26 February 2018 Council resolved:

Moved Cr Kuhl that Council seek proposals from suitable recruitment agencies for the recruitment of Chief Executive Officer for District Council of Grant, with Mayor Sage to be primary contact person.

Seconded Cr Clayfield

CARRIED

COMMENT:

The following organisations have been invited to submit a proposal to assist Council with its Chief Executive Officer Recruitment process with all enquiries to be directed to Mayor Sage:

1. Hender Consulting
2. McArthur Management
3. AME Recruitment
4. Morton Philips
5. Stillwell Management Consultants
6. Axia People
7. Latitude Recruitment

Submissions are required to include the following information:

- Organisation Background and Profile
- Recruitment Process & Methodology
- Relevant recent experience
 - Including a minimum of three client references for similar work
- Organisation personnel to be involved
- Details of any known conflicts of interest
- Detailed Fee Proposal
- Evidence of insurance cover as follows:
 - Public Liability (minimum \$10,000,000)
 - Professional Indemnity (minimum \$1,000,000)

Closing date for submissions is Friday 16 March 2018. At time of writing this report, no proposals had been received.

STAFF RECOMMENDATION:

That Council note the report.

By Email: Richard.Sage@dcgrant.sa.gov.au

CONFIDENTIAL

Ref: GXKIM00291525F05149639.DOCX

26 February 2018

Mayor R Sage
Mayor
District Council of Grant
PO Box 724
MOUNT GAMBIER SA 5290

Dear Mayor Sage

CEO Appointment Process

We refer to previous communications in relation to the above matter.

You have instructed that the Chief Executive Officer has tendered his resignation notice to Council on 22 February 2018. The CEO pursuant to his employment contract has provided three months notice.

You have sought advice on the approach that the Council should take to appoint a person to the office of Chief Executive Officer.

You have also sought advice regarding the transition period of the current Chief Executive Officer to the acting Chief Executive Officer.

Our advice is set out below.

Advice

The minimum standards required to be adopted by the Council in filling a vacancy in the office of the Chief Executive Officer are prescribed in the *Local Government Act 1999 (the Act)*. These minimum standards in no way derogate from a best administrative practice approach that we consider that the Council, as a public authority, should adopt to select its next Chief Executive Officer.

Prescribed Requirements

As you are aware, where a vacancy occurs in the office of the Chief Executive Officer, the Council is required, in accordance with Section 98(1) of the *Local Government Act 1999 (the Act)*, to take steps to fill the vacancy.

Section 98(3) of the Act requires advertisements for the position to be placed in a newspaper circulating generally throughout South Australia and/or Australia.

In accordance with Section 98(4) of the Act, the Council must appoint a selection panel to assess applications for the position of Chief Executive Officer, to recommend readvertisement (or other additional steps if necessary), and to make recommendations to the Council on an appointment. Council as a whole can act as the selection panel, but this may be unwieldy.

In accordance with Section 98(5) of the Act, it is the responsibility of the Council to make the appointment of the Chief Executive Officer.

In our view, the most appropriate approach for the Council to take in this regard is to establish a committee under Section 41 of the Act to carry out the various duties and functions required of the Council before the Council can formally make an appointment of a Chief Executive Officer. In that way, the various functions and tasks required to be undertaken can be performed in a centralised fashion. In our view, such a committee can perform the role of a Section 98 Selection Panel. We are of the view that this is best practice.

The establishment of a Section 41 committee to carry out these functions ensures that the highest standards of administrative practice and governance apply to the appointment process, and that the steps undertaken by the Council to appoint a person to the office are thoroughly documented and agreed upon. It will enable the Council to have absolute confidence in the process, and the candidate(s) that the Committee ultimately resolves to recommend to the Council to fill the position of Chief Executive Officer. The Section 41 committee can appoint a consultant to help them with the selection process.

In our view, a committee established by the Council under Section 41 of the Act for this purpose should have the following functions:

- Appoint a recruitment company to help the Council with the process of finding a new Chief Executive Officer;
- ensure that invitations (advertisements) for applications for the position of Chief Executive Officer have been placed in a newspaper circulating through the State in accordance with Section 98(3) of the Act and via any other mechanism the Committee considers is appropriate;
- assess applications for the position of Chief Executive Officer;
- interview such candidates for the position of Chief Executive Officer as the Committee considers appropriate;
- make recommendations to the Council on:
 - the appointment of a Chief Executive Officer or a shortlist of candidates for the consideration of the Council;
 - the readvertisement of the position of Chief Executive Officer (if the Committee considers it necessary);
 - any other additional steps or matters that the Committee considers appropriate;
- call upon the administrative resources of the Council to fulfil the Committee's duties;
- as necessary to comply with these functions, take and seek advice from the Council's legal advisors.

For your use, we have **enclosed** a draft motion and Terms of Reference establishing a Section 41 Committee that will have the relevant functions pursuant to Section 98 of the Act. By doing so, the Terms of Reference include relevant meeting procedures, quorum and other practical requirements that apply to committees which have not been considered solely by Section 98. It is our view by not having Terms of Reference there is the potential the Council will face issues from a probity and good governance perspective, and should be addressed before the determination process substantially progresses.

We note from the enclosed documents, all meetings of the Committee will as a starting point, be open to the public (Section 90(1) of the Act). However, the Committee has the capacity to resolve to hold any/all of its discussions in confidence, provided that the requirements of Section 90(3) of the Act are met. Where the (Acting) Chief Executive Officer considers an item listed on the agenda for a meeting of the Committee should be discussed in confidence, a recommendation of that nature can be made to the Committee in accordance with Section 87(10) of the Act. As a general principle, we consider that it would be appropriate for the Committee to undertake its deliberations on this matter in confidence.

Once a Committee is appointed, it will be for the Committee to report its progress to the Council in the normal fashion. In our view, it is unnecessary to report to the Council on the process being adopted or progress with the appointment, outside of this formal reporting mechanism.

Notwithstanding, if the Council would rather establish a Selection Panel solely through Section 98 of the Act than establish Committee under Section 41 of the Act, we recommend that the Council set some rules for the Panel in relation to how it is to undertake its functions and conduct its proceedings. This is, in our view, essential from a good governance perspective and ensuring accountability and transparency. As you will appreciate, it is important that such a Selection Panel understand that in the current environment, its processes are subject to scrutiny. In the event the Ombudsman or other authority questions the integrity of the Selection Panel the Council must be able to demonstrate it exercised appropriate and effective oversight of the Selection Panel.

Appointment of Acting Chief Executive Officer

From the information provided the current Chief Executive Officer has provided three months notice until the resignation takes effect, unless otherwise agreed by parties.

In undertaking a thorough process to find a new Chief Executive Officer, it is unlikely that Council will find a candidate to fill the vacancy within the three month notice period. Accordingly, and pursuant to sub-section 98(2) of the Act, the Council must appoint an acting Chief Executive Officer until the vacancy is filled.

If it is such the case that the Council is of the view that the Chief Executive Officer is not required to work through his notice, then they should pay the remaining notice in lieu of service. The Council should only do so after discussion with the current Chief Executive Officer and consider whether the current Chief Executive Officer is prepared to leave earlier. Accordingly, the Council would also be required to appoint an Acting Chief Executive Officer for the duration of the selection process.

We trust this information is of assistance. Please do not hesitate to contact the undersigned if you wish to discuss any aspect of this matter.

Yours faithfully
Norman Waterhouse



Sathish Dasan
Principal
Direct Line: +61 8 8210 1253 or +614 1282 3850
e-mail: sdasan@normans.com.au

6. CONFIDENTIAL ITEMS

6.1 Recruitment of Interim Chief Executive Officer – [12.70.1/2]

PURPOSE OF REPORT:

To exclude the public from attendance at so much of a meeting as it is necessary to receive, discuss or consider in confidence any information or matter listed, as per Section 90 of the Local Government Act 1999.

1. *Moved Cr _____ that:*

1. *Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except, TJ Smart (Chief Executive Officer), JF Fetherstonhaugh (Deputy Chief Executive Officer), LJ McEvoy (Director of Environmental Services), AA Schutz (Works Manager), DM Hutchesson (Executive Support Governance) and JA O’Hehir (Executive Support Officer), be excluded from attendance at the meeting for Agenda Item 6.1.1 – Recruitment of Interim Chief Executive Officer.*
2. *The Council is satisfied that, pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the provision of services.*
3. *The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because such disclosure to the public may compromise the negotiation processes and outcomes.*

Seconded Cr _____

6.1.1 Recruitment of Interim Chief Executive Officer		
MEETING DATE:		
AUTHOR:		
RESPONSIBLE PERSON:		
PREVIOUS MEETING:		
REFERENCES:		
FILE NO:		
ATTACHMENTS:	<ul style="list-style-type: none"> • • 	
IN CONFIDENCE:		
POLICY REFERENCE:		
LEGISLATIVE REFERENCE:		
STRATEGIC MANAGEMENT PLAN REFERENCE:	Goal:	
	Outcome:	
	Strategy:	
FINANCIAL CONSIDERATIONS:	Budget:	
	Actual (YTD):	\$
	Budget Variation Required:	May be required
CONSULTATION UNDERTAKEN:	Nil	

2. Moved Cr _____ that:

1. *That having considered Agenda Item 6.1.1 - Recruitment of Interim Chief Executive Officer in confidence under section 90(2) and (3)(k) of the Local Government Act 1999, the Council, pursuant to section 91(7) of that Act orders that the documents and minutes relevant to Agenda Item 6.1.1 be retained in confidence until the contract has been signed; and that this order be reviewed every 12 months.*
2. *Council delegates to the Chief Executive Officer, pursuant to Section 91(9)(c) of the Local Government Act 1999, the power, at his discretion, to revoke the order made by Council under Section 91(7) and (9) of the Act at part (1) of this resolution at any time prior to the expiration of the period of the order specified therein.*

Seconded Cr _____

7. CLOSURE