



REPORT FOR

**CONFIDENTIAL CEO
PERFORMANCE AND
REMUNERATION REVIEW
COMMITTEE**

MEETING DATE

20 JULY 2020

Item .

RECORD NO:
REPORT OF:
TITLE:

**D20/60962
OFFICE OF THE CHIEF EXECUTIVE OFFICER
CEO PERFORMANCE AND REMUNERATION
REVIEW OUTCOMES 2019-20**

1. *That pursuant to Section 90(2) of the Local Government Act 1999 the CEO Performance and Remuneration Review Committee orders that the public with the exception of representatives from Hender Consulting and staff on duty, be excluded from the meeting to enable discussion on the CEO Performance and Remuneration Review Outcomes 2019-20.*
2. *That the CEO Performance and Remuneration Review Committee is satisfied that pursuant to section 90(3) a of the Act, the information be received, discussed or considered in relation to this item:*
 - *relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer, in that details of his performance and remuneration review will be discussed, which are sensitive and are personal details that should only be known to those who have participated in the review process.*
3. *In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances, on the basis that details of the CEO's performance and remuneration may be prematurely disclosed before the details of the review have been discussed with the Chief Executive Officer or Council, and could therefore result in the release of inaccurate or misleading information.*

PURPOSE

This report finalises the outcomes of the CEO Performance and Remuneration Review process for 2019-20, and presents a potential recommendation to Council on the Chief Executive Officer's (CEO's) remuneration and employment agreement, taking into account feedback from the Committee and discussions with the CEO.

RECOMMENDATION

That the CEO Performance and Remuneration Review Committee recommends to Council:

1. That having considered the report entitled "CEO Performance and Remuneration Review Outcomes 2019-20" and dated 20 July 2020, Council endorses:
 - a remuneration freeze for 12 months on the CEO's Total Employment Cost package to take effect from the anniversary date in accordance with the CEO's employment agreement
 - [any other employment agreement changes to be inserted by the Committee, if relevant]
2. That Council authorises the Presiding Member of the CEO Performance and Remuneration Review Committee to sign any correspondence related to the changes to the CEO employment agreement and Total Employment Cost package as resolved above.

RETENTION OF CONFIDENTIAL DOCUMENTS

1. That having considered the agenda item entitled **CEO PERFORMANCE AND REMUNERATION REVIEW OUTCOMES 2019-20** and dated 20 July 2020 in confidence under section 90(2) & (3)(a) and Section 91(7) of the Local Government Act 1999:
 - Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer, in that details of his performance review and remuneration may be prematurely disclosed before the details of the review have been discussed with the Chief Executive Officer and finalised by Council, and could therefore result in the untimely release of sensitive and or incomplete, inaccurate or misleading information.

The CEO Performance and Remuneration Review Committee pursuant to section 91(7) of the Act orders that the report and minutes relevant to this item be retained in confidence and not available for public inspection until:

- The Presiding Member of the CEO Performance and Remuneration Review Committee and CEO has signed any correspondence related to the CEO employment agreement and the Total Employment Cost package (and these signed documents have been provided to the CEO); or
- The CEO Performance and Remuneration Review Committee or Council resolves otherwise, whichever occurs first.

1. BACKGROUND

CEO Performance Review Requirements

The Chief Executive Officer (CEO) Mr John Moyle commenced his current Employment Agreement with Council on 21 October 2013. Clause 13 of the CEO Employment Agreement requires that the CEO will undergo a performance review during the month of September for the term of the Employment Agreement.

In addition to the agreed conditions contained in the CEO's employment contract, section 99 of the *Local Government Act 1999* (the Act) prescribes the responsibilities of a CEO. These are as follows:

- “(1) *The functions of the chief executive officer include –*
- (a) *to ensure that the policies and lawful decisions of the council are implemented in a timely and efficient manner;*
 - (b) *to undertake responsibility for the day-to-day operations and affairs of the council;*
 - (c) *to provide advice and reports to the council on the exercise and performance of its powers and functions under this or any other Act;*
 - (d) *to co-ordinate proposals for consideration by the council for developing objectives, policies and programs for the area;*
 - (e) *to provide information to the council to assist the council to assess performance against its strategic management plans;*
 - (f) *to ensure that timely and accurate information about council policies and programs is regularly provided to the council's community, and to ensure that appropriate and prompt responses are given to specific requests for information made to the council;*
 - (g) *to ensure that the assets and resources of the council are properly managed and maintained;*
 - (h) *to ensure that records required under this or another Act are properly kept and maintained;*
 - (i) *to give effect to the principles of human resource management prescribed by this Act and to apply proper management practices;*
 - (j) *to exercise, perform or discharge other powers, function or duties conferred on the chief executive officer by or under this or other Acts, and to perform other functions lawfully directed by the council.”*

While the Act is clear about the role and responsibilities required of the CEO it is silent on the process of performance reviews. This matter is therefore covered by individual contractual agreements between a CEO and their employer.

The CEO Performance and Remuneration Review Committee (the Committee) is responsible for undertaking the performance and remuneration review (the Review) of the CEO and making recommendations to Council as set out in the [Terms of Reference for the Committee](#) and Clause 13 and Schedule 2 of the CEO's Employment Agreement with the Council.

Consultant Facilitating the Review

Hender Consulting (Hender) has previously been appointed to facilitate the CEO performance and remuneration review for the previous Council term, with an additional two year extension (to cover the current performance review process as well as next year's process).

CEO Key Performance Indicators

At the 22 June 2020 Committee meeting, Mr John Moyle provided an overview of performance against the CEO Key Performance Indicators that were established for the 2019-20 financial year. As part of this meeting, the Committee also held discussions regarding draft CEO KPIs for 2020-21 financial year. The proposed CEO KPIs for 2020-21 and the documents detailing performance against CEO KPIs for 2019-20 are provided as a separate report presented to the 20 July 2020 meeting, but are relevant for consideration as part of this report.

Council decision for 2018-19 CEO Performance and Remuneration Review

The previous year's CEO performance and remuneration review outcomes that were resolved by Council at its meeting on 24 September 2019 was as follows:

- "1. That Council notes the information provided by Hender Consulting regarding the final outcomes of the Chief Executive Officer's (CEO's) performance and remuneration review including information contained in:*

 - *Chief Executive Officer Remuneration Report – August 2019*
 - *Chief Executive Officer Performance Appraisal – August 2019*

provided as Attachments 1 and 2 respectively to the report entitled "CEO Performance and Remuneration Review Outcomes 2018-19" and dated 28 August 2019.
- 2. That Council endorses a base remuneration package (base salary and superannuation) of \$290,000 to take effect from the anniversary date in accordance with the CEO's employment agreement (with other existing employment agreement arrangements to remain the same), with the following inclusions:*

 - *An additional two weeks annual leave per annum effective from the anniversary date in 2018, with the employment agreement to be amended to allow for accumulation of this additional leave.*
- 3. That Council authorises the Mayor to sign any correspondence related to the changes to the CEO employment agreement and remuneration package as resolved above."*

CEO Performance Review Cycle for 2019-20

Ordinarily the process undertaken for the annual CEO Performance & Remuneration review (in addition to reviewing and establishing CEO KPIs) includes:

- A performance review survey sent to all Elected members and direct reports (which provides the opportunity to individually and independently assess the CEO's performance)
- Hender Consulting (responsible for facilitating the Review), analyses, de-identifies and consolidates survey feedback and prepared a draft CEO Performance Appraisal Report
- Hender Consulting undertake benchmarking reserve in relation to CEO remuneration in order to develop a draft CEO Remuneration Review Report.

This process informs the Committee's recommendation to Council regarding outcomes for the CEO Performance and Remuneration review.

However, due to COVID-19, with the aim of identifying the reduction of operating costs where possible, Council resolved as follows at its meeting on 12 May 2020:

“That, consistent with Council’s approach to reducing operating costs wherever possible and practicable, Council supports the reduction of costs in relation to the CEO Performance and Remuneration review cycle for 2019-20, where the review be limited to:

- *Review of the Chief Executive Officer’s (CEO) performance against CEO Key Performance Indicators (KPIs) established for 2019-20*
- *Consideration of proposed CEO KPIs for 2020-21*
- *Other contract considerations for the CEO, excluding remuneration review*
- *Making recommendations on the above points to Council”*

As a result of the above Council resolution, the scope of the CEO Performance and Remuneration Review cycle for 2019-20 was limited to the above points.

2. DISCUSSION

The CEO, Mr John Moyle, met with the Presiding Member of the CEO Performance & Remuneration Review Committee to discuss the performance and remuneration review for the year.

The CEO’s feedback and views will be discussed with the Committee at 20 July 2020 meeting where it is anticipated that the Committee will finalise the review process and resolve its recommendations to Council on 28 July 2020. Topics that might be covered in the discussion include:

- Remuneration freeze for 12 months
- Term of the CEO’s employment agreement
- Other topics raised by Committee members relevant to the subject matter

Remuneration / Total Employment Cost Package

In consideration of performing the duties of the Chief Executive Officer, the CEO is entitled to a Total Employment Cost (TEC) Package. The employment agreement requires the CEO’s annual base salary will be reviewed annually, therefore it is a requirement for the Committee to consider this matter as part of the review cycle for 2019-20. A review of the TEC package must take into account an assessment of the CEO’s performance against the KPIs, the position description, movements in CPI (all groups) Adelaide for the year ending in the quarter immediately preceding the review, and remuneration paid to CEO’s of similar sized councils within south Australia. The CEO is not entitled as a right to any increase of the TEC package other than in accordance with an increase in the CPI.

Term of the CEO’s employment agreement

The CEO’s current employment agreement concludes on 21 October 2021. This Agreement may be extended for a length of time to be determined by the Council.

Changes to the CEO's employment agreement

Any changes to the CEO's employment agreement can only be varied by further agreement of the parties in writing (which is then annexed to the employment agreement).

In regards to making changes to the CEO's employment agreement, the Mayor (who held the position of Presiding Member of the CEO Performance and Remuneration Review Committee until February 2020) has previously been responsible for the signing of any correspondence relates to the CEO's employment agreement. Consideration could be given by the Committee to making a recommendation to Council that the Presiding Member of the CEO Performance & Remuneration Review Committee may be a more appropriate position to be responsible for authorising this type of correspondence on behalf of Council.

3. STRATEGIC OBJECTIVES

Strategic Plan

The review of the CEO's performance and remuneration is closely aligned to the delivery of Council's strategic management plans, including the Strategic Plan, Long Term Financial Plan and the Annual Business Plan.

Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on four key themes. All four themes are relevant to this report.

4. LEGAL

The CEO's Employment Agreement contains specific clauses regarding a review of performance and remuneration which must be undertaken each year. A number of these factors have been covered in the discussion component of the report. This year the scope of the review was reduced as a result of the impacts of COVID-19

Hender has previously been appointed to facilitate the CEO performance and remuneration review for the previous Council term, with an additional two year extension (to cover the current performance review process as well as next year's process).

5. RISK – IDENTIFICATION AND MITIGATION

As noted above, Hender have been contracted to undertake the annual performance and remuneration review. The use of external consultants to undertake the review is considered a prudent risk management measure to ensure independent individuals with the appropriate skills and qualifications are facilitating the review. This ensures an objective and independent analysis prior to providing recommendations to the Committee in relation to the CEO's performance and remuneration.

6. PEOPLE AND WORK PLANS

There is minimal impact on staffing or work plans as a result of this report and recommendation.

7. FINANCIAL

The estimated cost to Council to undertake the CEO performance and remuneration review process with the reduced scope is \$2,000 (ex-GST) for this year's review. Funds have been allocated in the budget for this financial year to reflect this amount.

Any other budget and financial implications will be dependent on the recommendation of the Committee and any subsequent resolution of Council. The 2020-21 budget, which was adopted on 7 July 2020, does include a provision for an increase in the CEO's remuneration if required.

8. ASSETS

N/A

9. ENVIRONMENTAL

N/A

10. COMMUNITY AND STAKEHOLDER IMPACT

The community are impacted by the majority of decisions made by Council or Committees, as well as the overall performance of Council and the CEO in meeting specific objectives, however, there is no direct impact to the community or stakeholders (other than the CEO) as a result of this particular report.

11. COMMUNITY AND STAKEHOLDER ENGAGEMENT

Elected Members and the CEO are the primary stakeholders in relation to this report. A discussion will occur with the Committee in relation to this report, with advice available from Hender Consulting.

12. PROMOTION AND COMMUNICATIONS OF COUNCIL DECISION AND OPERATIONAL IMPACTS

The CEO will be kept informed of any decision regarding this matter.

13. INTERNAL REPORT CONSULTATION

Given the nature of this report, no internal consultation has been undertaken in relation to the content of this report.

Attachments

N/A

Report Authorisers

Ilona Cooper Manager Business Continuity & Governance (Team B)	8397 7310
John Moyle Chief Executive Officer	8397 7201