



REPORT FOR

**CONFIDENTIAL CEO PERFORMANCE
AND REMUNERATION REVIEW
COMMITTEE**

MEETING DATE

14 AUGUST 2023

RECORD NO:
REPORT OF:
TITLE:

**D23/55489
OFFICE OF THE CHIEF EXECUTIVE OFFICER
CEO PERFORMANCE AND REMUNERATION REVIEW
OUTCOMES 2022-23**

1. *That pursuant to Section 90(2) of the Local Government Act 1999 the CEO Performance 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 2022-23.*
2. *That the CEO Performance 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:*
 - o *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

To consider the outcomes of the Chief Executive Officer's (CEO) Performance and Remuneration Review for 2022-23, which includes consideration of the CEO performance appraisal and recommendations for CEO remuneration.

RECOMMENDATION

That the CEO Performance Review Committee recommends to Council:

That having considered the report from the CEO Performance Review Committee titled "CEO Performance and Remuneration Review Outcomes 2022-23" and dated 14 August 2023, Council:

- 1. Notes the Chief Executive Officer's (CEO's) detailed performance appraisal report prepared by Hender Consulting, which is provided to members under separate cover, with findings summarised within the report.**
- 2. Endorses a remuneration increase (*Committee to insert amount and details*) and for this to take effect from the anniversary date in accordance with the CEO's employment agreement.**
- 3. Authorises the Mayor in conjunction with the CEO to review and update the position description or employment agreement as required.**

RETENTION OF CONFIDENTIAL DOCUMENTS

- 1. That having considered the agenda item titled CEO Performance and Remuneration Review Outcomes 2022-23 and dated 14 August 2023 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**

the CEO Performance Review Committee pursuant to section 91(7) of the Act orders that the report and minutes relevant to this item be retained in confidence until:

- The Mayor and CEO have 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 Review Committee or Council resolves otherwise, whichever occurs first.**

1. BACKGROUND

The Chief Executive Officer (CEO), Mr Ryan McMahon, commenced his current Employment Agreement with Council on 3 September 2022.

Section 102A of the *Local Government Act 1999* (the Act) requires the Council to review the performance of its CEO at least once in each year. Clause 15 of the CEO Employment Agreement also requires that the CEO to undergo an annual performance review for the term of the Employment Agreement.

The CEO Performance 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 15 of the CEO's Employment Agreement with the Council.

Section 102A of the Act also requires councils to obtain and consider the advice of a qualified independent person in reviewing the CEO's performance. Hender Consulting (Hender) has been appointed for this purpose.

2. DISCUSSION

2.1 CEO performance appraisal

- Mr Ryan McMahon, provided an overview of performance against the CEO KPIs established for 2022-23 at the Elected Member Workshop held on 11 July 2023.
- Confidential performance review survey was distributed by Hender on 12 July 2023 to all Elected Members and direct reports of the CEO, to provide them with the opportunity to individually and independently assess and provide feedback on the CEO's performance.
- The survey period closed at 9am Thursday 27 July 2023.
- Overall response rate of 88.88% - with 11 out of 14 Elected Members (84.61%) and 5 out of 5 staff members (100%) completing the survey
- Rating scale for the survey was as follows:

1	2	3	4	5	6	U
Serious concerns	Minor concerns	Satisfactory	Good	Very good	Excellent	Unable to assess

- Hender analysed, de-identified and consolidated the survey feedback and results to develop a report on the CEO's performance appraisal.

Results from the survey are summarised as follows (with a rating scale of 1 to 6, not including the incumbents self-rating):

Area	Avg. rating (out of 6)	EM rating (out of 6)	Staff rating (out of 6)
Overall	5.51	5.35	5.83
CEO responsibilities	5.51		
Strategic Leadership	5.54	5.36	5.92
External relationship and stakeholder engagement	5.54	5.42	5.80
People and Culture Leadership	5.41	5.21	5.74
Governance	5.62	5.45	6.00
Key Performance Indicators Ratings	5.52		
Financial Sustainability	5.67	5.60	5.80
Project Delivery	5.50	5.36	5.80
Community Wellbeing / Living in the City	5.44	5.27	5.80
Customer Experience	5.27	5.00	5.80
Continuous Improvement	5.60	5.40	6.00
Safety and Wellbeing	5.40	5.30	5.60
Leadership	5.67	5.50	6.00
Staff Engagement	5.38	5.38	5.40
City of Tea Tree Gully Values Ratings	5.75	5.64	6.00

- At the 14 August 2023 Committee meeting Hender will be present to discuss appraisal findings based on the survey results and feedback (noting the detailed working document will be provided to Committee members separately prior to the meeting, and other Elected Members prior to the Council meeting)

2.2 Remuneration Tribunal determination – new legislative requirements

The inclusion of a new section 99A of the Act now requires councils to remunerate their CEO within the salary bands determined by the [Remuneration Tribunal of SA](#), with a minimum and maximum range set for total remuneration packages. The first determination was made on 16 June 2023, and came into effect from 1 July 2023. The City of Tea Tree Gully sits within band 4. The Total Remuneration Package for this band is \$319,280 - \$351,520.

The Act provides for minimum and maximum to differ based on any factor including, for example, the geographical location of a council or group of councils (such that different minimum and maximum remuneration may be paid or provided to chief executive officers from different councils).

However, the eight (8) bands established for CEO remuneration are not based on the same criteria as elected member allowances (which are heavily driven by population numbers), and instead appear to be based on existing remuneration packages of council chief executive officers. Therefore, for CEO remuneration purposes it is noted that City of Tea Tree Gully are not grouped with the larger metropolitan councils that they ordinarily would be grouped with (eg. such as for elected member allowance determinations), and are instead grouped with a mix of regional councils, small metropolitan councils and two metropolitan councils of similar size (as detailed below).

Band	Total Remuneration Package	Relevant councils
1	\$414,000 - \$431,600	City of Adelaide
2	\$396,240 - \$402,480	City of Charles Sturt City of Port Adelaide Enfield City of West Torrens
3	\$357,760 - \$380,640	Campbelltown City Council City of Mitcham City of Onkaparinga City of Salisbury City of Unley Mount Barker District Council
4	\$319,280 - \$351,520	City of Burnside City of Holdfast Bay City of Marion City of Norwood, Payneham, St Peters City of Playford City of Tea Tree Gully City of Whyalla The Barossa Council Town of Gawler Yorke Peninsula Council
5	\$299,520 - \$317,200	Adelaide Hills Council Alexandrina Council City of Mount Gambier City of Prospect Corporation of the Town of Walkerville Rural City of Murray Bridge
6	\$272,480 - \$292,240	Regional councils only
7	\$235,040 - \$265,200	Regional councils only
8	\$197,600 - \$229,840	Regional councils only

2.3 CEO remuneration (Total Employment Cost Package (TEC))

As part of the performance appraisal, the CEO's employment agreement requires the CEO's annual base salary will be reviewed annually. Therefore, the Committee will need to consider the CEO remuneration (total employment cost package) for the 2023 review which should take into account:

- the independent Remuneration Tribunal Determination for Local Government Chief Executive Officers (as provided earlier within the report)
- the performance appraisal of the CEO against KPIs and position description (as provided earlier within the report)
- advice from Hender based on executive packages of a similar nature (to be discussed at the meeting prior to tabling a report)

The following table provides a comparison of the previous CEO and current CEO annual base salary for the Committee's consideration:

	Previous CEO (left 2 September 2022)	Current CEO (commenced 3 September 2022)
	September 2022	September 2022 - (current)
Base Salary + Super contributions	\$324,857	\$309,400
Additional annual leave	\$21,657 (three weeks)	\$6,582 (one week)
Total	\$346,514	\$315,982
Fuel Allowance	\$2,500	\$2,500

During this review process, it was also identified that the CEO Employment Agreement, specifically clause 18 was incorrect. This refers to six weeks annual leave, where the CEO is currently provided five weeks annual leave. This should be addressed as part of the review process.

2.4 Position description review

Clause 15.4 of the CEO Employment Agreement states that the Position Description may be reviewed during the performance review process. It has been identified during this process that a review should be undertaken by the Mayor and the CEO in order to remove any duplication and to simplify the Position Description.

2.5 Employment agreement term

The CEO's current employment agreement concludes on 3 September 2027. This Agreement may be extended for a length of time should the Council recommend to do so.

3. FINANCIAL

The estimated cost to Council to undertake the CEO performance and remuneration review process is \$9,000 (ex-GST) per 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 2023-24 budget, which was adopted on 27 June 2023, contains a provision for an increase in the CEO's remuneration.

4. STRATEGIC OBJECTIVES

Strategic Plan and Organisation 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.

The performance review considers the CEO's KPIs which were developed with direct reference to Council's strategic management plans.

5. LEGAL

The CEO's Employment Agreement contains specific clauses regarding a review of performance and remuneration which must be undertaken each year.

Given the nature of this report directly relates to the performance of the CEO, the CEO has not had any involvement in the preparation or distribution of reports or other material in relation to this matter, to ensure conflicts of interest are appropriately managed.

6. RISK – IDENTIFICATION AND MITIGATION

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.

7. ACCESS AND INCLUSION

N/A

8. SOCIAL AND COMMUNITY 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.

9. ENVIRONMENTAL

N/A

10. ASSETS

N/A

11. PEOPLE AND WORK PLANS

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

12. COMMUNITY AND STAKEHOLDER ENGAGEMENT

Elected Members and direct reports of the CEO were invited to provide confidential feedback regarding the CEO's performance as part of the review process. Given the nature of this particular report, the CEO is the primary stakeholder in relation to this matter and has been involved in submitting a self-assessment of his performance as part of this process.

13. COMMUNICATIONS OF COUNCIL DECISION

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

14. 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

Deana Taglierini	
Coordinator, Governance	8397 7263
Ilona Cooper	
Manager Corporate Governance	8397 7310