

## 18.2 CEO Remuneration Review

<b>Report Reference</b>	GC220208F18.2
<b>Originating Officer</b>	Manager People and Culture – Jessica Lynch
<b>Corporate Manager</b>	N/A
<b>General Manager</b>	Manager Office of the Chief Executive – Kate McKenzie

### CONFIDENTIAL MOTION

That pursuant to Section 90(2) and (3)(d)(i) and (ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, Manager People and Culture, be excluded from the meeting as the Council receives and considers information relating to the CEO Remuneration Review, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial figures of an independent third party.

### REPORT HISTORY

<b>Report Reference</b>	<b>Report Title</b>
SRSC211207F7.2	CEO Remuneration Review
SRSC210921R4.1	Chief Executive Officer Probationary Review
GC211012F16.3	Chief Executive Officer Probationary Review

### REPORT OBJECTIVE

To provide the Council with a suggested approach and timeline for managing the Chief Executive Officer (CEO) Performance and Remuneration Review for the 2021-22 financial year.

### EXECUTIVE SUMMARY

The employment of a CEO is a critical function of Council and ensuring a best practice CEO Performance and Remuneration Review will provide accountability and benefits to Council and its community. This report outlines the requirements of the CEO's employment contract and other relevant documents.

The Review and Selection Committee reviewed the proposed approach at its meeting of 7 December 2021 (SRSC211207F7.2) and recommends Council endorse the proposed approach and timeline as outlined in Attachment 1.

### RECOMMENDATION

**That Council:**

1. Endorse the proposed approach and timeline for the CEO's Performance and Remuneration Review, as outlined in Attachment 1.
2. In accordance with Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that this report, *CEO Remuneration Review*, any appendices and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d)(i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This

**confidentiality order will be reviewed at the General Council Meeting in December 2022.**

## **DISCUSSION**

Tony Harrison was appointed to the position of Chief Executive Officer (CEO) on 27 April 2021. A six-month probationary period applied to the contract of employment, expiring on 27 October 2021.

At the General Council meeting on 12 October 2021, Council met to consider the probation of the CEO and confirmed appointment to the position of CEO, City of Marion, until the end of contract date on 27 April 2024.

### Governance of CEO Performance and Remuneration

The council has the ultimate responsibility for setting strategy and the performance of the organisation and it exercises this responsibility through its only employee (the CEO). The CEO is entrusted with the organisation's day-to-day management with direction set from Council. As such, there is a unique relationship between the CEO and Council and the evaluation of the CEO's performance can impact this relationship in either a positive or negative manner. Therefore, when setting a CEO Performance and Remuneration Review, consideration should be given to a number of leading practice principles:

- Alignment of CEO performance with the objectives of the organisation.
- Be based on clear expectations developed and agreed in advance with the CEO.
- Have a clear, transparent and agreed link between performance and remuneration.
- Be conducted in a manner conducive to ongoing good governance.
- Be tailored to the specific needs of the organisation
- Comply with relevant standards for accountability and communication.

The Review and Selection Committee has the responsibility of making recommendations to Council regarding the CEO performance and remuneration. This includes:

- Arranging for the conduct of the CEO's six-month (informal) and annual performance review within the parameters of the CEO Employment Agreement.
- Reviewing the CEO's performance criteria within the parameters of the CEO's Employment Agreement.
- Reviewing the CEO's remuneration within the parameters of the CEO Employment Agreement
- Reviewing any aspect of the CEO's Employment Agreement.
- Recommending to Council the outcomes of the CEO annual performance review.
- Recommending to Council the CEO's remuneration package and performance criteria to be applied for the ensuing year.
- Providing feedback to the CEO on outcomes of the performance review, and in conjunction with the CEO, determining appropriate courses of action as required.
- Recommending any changes to the CEO's Employment Agreement, to be further negotiated with the CEO.

### Local Government Act 1999 – Reforms

Amendments to the *Local Government Act 1999* regarding the CEO appointment, performance review and termination of a CEO commenced on 20th September 2021. The following sections have been added to the Act:

Section 99A has been added to the Act that requires the remuneration of a CEO will be determined by the council, subject to the minimum and maximum remuneration determination made by the Remuneration Tribunal SA (RTSA). Whilst this section is anticipated to commence in September 2021, councils will not need to comply with this requirement for new CEOs or CEOs who have

completed a term of office and are being reappointed until the first determination has been made. In accordance with the transitional provision in Section 147 of the Review Act, existing CEO salaries are unaffected during their term of office.

Section 102A provides that a council must review the performance of its CEO at least once each year and, if relevant, before reappointment. The Council must obtain and consider the advice of a qualified independent person for the purposes of any review. Importantly, whilst the conduct of a performance review process for the CEO is not new, it is now a legal obligation that it occur at least once per year.

The definition of a qualified independent person is a person who is:

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

In appointing a qualified independent person, a member or employee of another council is not precluded from that role, subject to them having the appropriate qualifications or experience in human resource management.

#### Process for 2021-22

As per the requirements of the *Local Government Act 1999* and in accordance with Section 11 of the Employment Agreement, the CEO is to undergo a performance review in August of each year, or at other times determined by the Council.

The proposed approach and timelines outlined in Attachment 1 have been developed with reference to:

- The Review and Selection Committee Terms of Reference
- *Local Government Act 1999* Reforms
- The CEO's Employment Agreement requirements, including:
  - The CEO position description (Schedule 1)
  - The KPIs agreed by Council and the CEO (Schedule 2)
  - The performance rating agreed by the Council and the CEO (Schedule 4)
- Leading practice principles
- The discharge of the duties
- Caretaker policy for Local Government Elections, and
- Any other factors considered by Council as relevant.

In alignment with the above, it is proposed that the Committee engage the services of an external consultant to assist in the assessment of the performance of the CEO in August 2022. It is recommended that the engagement of a consultant would include the 360-degree component of the performance review, including:

- The development, implementation (including interviews) and evaluation of a 360 tool, incorporating feedback from persons who work directly with the CEO, including Elected Members, key leaders and staff, as well as the CEO's self-assessment.
- A written report with the results of the 360-degree feedback.
- It is proposed to once again engage [REDACTED] to conduct this work. [REDACTED] fees for conducting work in previous years have been in the vicinity of [REDACTED].

The outcome of the CEO's performance is to be determined by aggregating the assessment of the performance criteria and all persons providing feedback against the performance rating scale set out in Schedule 4 of the Employment Agreement.

The Review and Selection Committee would then provide a recommendation to the Council on the outcomes of the CEO's annual performance review.



The Council is required to consider and, if agreed, adopt the recommendation from the Committee. The Mayor and Review and Selection Committee can provide feedback to the CEO on outcomes of the performance review and jointly determine appropriate courses of action.

It is important to note that the review must be completed prior to the commencement of the caretaker period which commences on 6<sup>th</sup> September 2022 as any decision relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and willful misconduct, is prohibited during this time.

#### Remuneration Review

The ASX Corporate Governance Council recommends within principle 8 of their guideline that an organisation should design its executive remuneration to attract, retain and motivate high quality senior executives.

It is noted that if the CEO performance review achieves an outcome of *Acceptable Performance* or higher, the remuneration review, as defined in the contract, would be triggered. It is noted that any consideration for increase is determined by the Council at Council's absolute discretion.

The Review and Selection Committee will be required to recommend to Council the CEO's remuneration package and performance criteria to be applied for the following year.

#### **ATTACHMENTS**

1. Attachment 1 Proposed timeline for conducting the CEO Remuneration Review [18.2.1 - 2 pages]