

19.2 CORPORATE SERVICES

19.2.1 CEO Performance Review – End of Year Review – **CONFIDENTIAL**

Council Meeting: 16 October 2023
Author's Title: Manager People and Culture **File No.:** 5-47
Directorate: Corporate Services

Annexures:

- A – CEO Performance Review Panel Agenda of 30 August 2023
- B – Minutes of the CEO Performance Review Panel meeting of 30 August 2023
- C – CEO Performance Review Panel Report – August/September 2023
- D – CEO Performance Plan 2022/23
- E – Draft CEO KPIs and Development Plan for 2023/24
- F – Economic Development Action Plan 2022-2030
- G – CEO Performance Review Panel Agenda 20 September 2023
- H – Minutes of the CEO Performance Review Panel meeting of 20 September 2023

Officer Direct or Indirect Conflict of Interest:

*In accordance with Local Government Act 1999,
Section 120*

Yes No

Status:

*Information classified confidential under
Section 90(2) of the Local Government Act*

Yes No

Reason – This report is regarding the performance of the Chief Executive Officer

RECOMMENDATION

Pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public be excluded from the meeting with the exception of Sue King; Manager People and Culture for Agenda Item 19.2.1 – CEO Performance Review – End of Year Review 2021/22.

The Council is satisfied that pursuant to Sections 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda Item:

- a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

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 on balance it would be contrary to the public interest as information regarding the Chief Executive Officer's employment is to be discussed and disclosed.

PURPOSE

For Council to:

- note the agenda and minutes of the CEO Review Panel meeting held on 30 August 2023;
- note the agenda and minutes of the CEO Review Panel meeting held on 20 September 2023;
- note the assessment of the CEO's Performance and achievements against the Performance Plan for 2022/23;
- adopt the 2023/24 Chief Executive Officer Key Performance Indicators and Development Plan;
- note the CEO Performance Review Report August/September 2023;
- note the CEO's progress against actions outlined in the Economic Development Strategy Action Plan 2022-2030; and
- Consider the CEO's Total Employment Contract, including potential adjustment of the total remuneration.

SUMMARY

Annexure "A" to this report provides the agenda of the CEO Performance Review Meeting held on 30 August 2023.

Annexure "B" to this report is the Draft Minutes of the CEO Performance Review Panel Meeting of 30 August 2023.

Annexure "C" to this report is the CEO Performance Review Panel Report – August/September 2023 which summarises the process for the review and feedback received via the 360-degree survey.

Annexure "D" to this report is the CEO Performance Plan 2022/23.

Annexure "E" to this report is the draft Chief Executive Officer 2023/24 Key Performance Indicators and CEO 2023/24 Development Plan.

Annexure "F" to this report of the CEO's progress against the Economic Development Strategy Action Plan 2022-2030.

Annexure "G" to this report provides the agenda of the CEO Performance Review Meeting held on 20 September 2023.

Annexure "H" to this report is the Draft Minutes of the CEO Performance Review Panel Meeting of 20 September 2023.

RECOMMENDATION

Council:

- 1. note the agenda and minutes of the CEO Review Panel Meeting held on 30 August 2023 (Annexure "A" and "B") and agenda minutes for the subsequent CEO Review Panel Meeting held on 20 September 2023 (Annexure "G" and "H")**
- 2. note the CEO Performance Review Panel Report – August/September 2022 (Annexure "C") that summarises the process for the review and feedback received via the 360-degree Survey;**
- 3. note the progress made by the Chief Executive Officer at the conclusion of the Performance Plan for 2022/23 (Annexure "D");**
- 4. adopt the Chief Executive Officer Key Performance Indicators and Development Plan for 1 July 2023 to 20 June 2024 (Annexure "E");**
- 5. note the progress made by the Chief Executive Officer against the 2022-2030 Economic Development Strategy Action Plan (Annexure F);**
- 6. resolve to increase the Chief Executive Officer's Total Employment Package (TEC) by a 2% increase in direct salary; and**
- 7. having considered Agenda Item 19.2.1 – CEO Performance Review End of Year Review in confidence under Sections 90(2) and (3)(a) of the Local Government Act 1999, the Review Panel pursuant to Section 91(7) of the Act, orders that this report and Annexures pertaining to this item, be kept confidential and not available for public inspection on the basis that the report contains information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) and would, on balance, be contrary to the public interest. This order is to remain in force for a period of two (2) years, notwithstanding that it will be reviewed annually in February of each year.**

19.2.1 CEO Performance Review – End of Year Review – **CONFIDENTIAL**

REPORT

BACKGROUND

The CEO Review Panel met on 30 August 2023 to undertake the end of year review of the CEO's performance for the 2022/23 financial year.

Clause 15 of the CEO's Employment Agreement sets out the requirement for an annual review of remuneration considering the following:

- agreed key performance indicators;
- the CEO's position description;
- movements in the Consumer Price Index (all groups) Adelaide as issued by the ABS for the year ending in the quarter immediately preceding the review; and
- remuneration paid to CEOs of similar sized councils in South Australia.

Section 99A of the *Local Government Act 1999* provides that 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**). However, existing CEO salaries are unaffected during their term of office.

The RTSA has determined that the CEO remuneration package for the City of Whyalla sits in band 4, (\$319,280 – \$351,520). The CEO remuneration package is inclusive of superannuation, motor vehicle, allowances, or other non-monetary benefits.

Ms Felicity-Ann Lewis is engaged by Council as the independent advisor to the Review Panel. Having undertaken the review of the CEO's performance, the Review Panel have prepared a final report for Council's consideration (refer Annexure "C").

DISCUSSION

A review of the CEO's performance against approved Key Performance Indicators (**KPIs**) occurs twice yearly, mid-year review and end of year review. The CEO mid year review took place on 6 February 2023 where Council was provided with a progress report.

At the end of year review 2022, a Total Employment Contract (**TEC**) change was approved for the CEO to lease the Airport House (owned by Council) that was vacant and unlikely, to be occupied in the immediate future, and Council would also pay the fringe benefit tax of approximately \$13,600 per annum.

The 2023 CEO end of year review process commenced in June 2023. Following a robust process including 360-degree feedback and CEO self-assessment the CEO Review Panel has agreed that overall, the CEO's performance is rated as Satisfactory (Performance often meets and sometimes exceeds required performance standards and Council expectations) and the CEO should be congratulated on his results this year.

As part of the CEO end of year review, the Review Panel assessed the performance of the CEO any changes to the CEOs TEC. In considering a change to the CEOs TEC the review panel considered the 360-degree feedback, the CEO Performance Review Report August/September (Annexure “C”), the CEO Performance Plan 2022/23 (Annexure “D”), the CPI June quarter (6.9%), and the report provided by the RTSA that sets the bands for CEO minimum and maximum total remuneration. The CEO Review Panel proposed an increase in the CEO’s TEC by 2% in direct salary effective 1 July 2023.

A subsequent meeting of the CEO Review Panel was convened on 20 September 2023 and minutes are provided at Annexure “H”. This meeting was convened to further discuss the CEO’s TEC and the proposed 2% increase. The CEO Review Panel maintained the position of a proposed 2% TEC increase effective 1 July 2023 with the option for a further remuneration review at the CEO mid year review. Further, the CEO has been provided with three (3) key focus areas derived from the CEO Performance Plan 2022/23 (Annexure “D”) to be reviewed at the CEO mid year review.

In line with Section 6.1 of the Chief Executive Officer’s contract of employment draft 2023/24 CEO Key Performance Indicators and draft 2023/24 Development Plan at Annexure “E” for Council consideration, discussion, and adoption.

Financial Implications – \$8,026

Strategic Plan

The performance of the Chief Executive Officer and the organisation at large underpin the delivery of the Council’s Strategic Plan.

Legislation

Local Government Act 1999

Officer Direct or Indirect Interest – Nil

Risk Assessment – Not applicable

Social Considerations – Not applicable

Community Engagement – Not applicable

Environmental Implications – Not applicable

Communication – Not applicable

Conclusion

The CEO’s current TEC is within band 4 as determined by the RTSA. The CEO’s self-assessment and 360-degree survey results in relation to the 2022/23 Leadership Competencies, Key Performance Indicators and Development plan demonstrate that the Chief Executive Officer’s performance is Satisfactory (Performance often meets and sometimes exceeds required performance standards and Council expectations). The CEO Review Panel will review the CEO performance and remuneration at the 2023/24 mid year review.

19.2 Corporate Services

19.2.1 *CEO Performance Review – End of Year Review – **CONFIDENTIAL** – refer to page 7 of the Minutes*

19.2.2 *Legal Matters – **CONFIDENTIAL***

Moved Cr Borda, seconded Cr Simpson

C4913-2023

Pursuant to subsections 90(2) and 90(3)(h) and (l) of the Local Government Act 1999, the Council orders that the public be excluded from the meeting with the exception of Justin Commons; Chief Executive Officer and Kathy Jarrett; Director Corporate Services for Agenda Item 19.2.2 Legal Matter Update, on the grounds that the report contains legal advice and refers to potential litigation.

Carried

Moved Cr Simpson, seconded Cr Borda

C4914-2023

Council endorses:

1. acceptance of the increased costs limit for Whyalla Council, at approximately \$47,193.40;
2. notes the recommendation to make a joint settlement offer for cost protection purposes; and
3. pursuant to Section 91(7) of the Local Government Act, the Council orders that this Report, the Annexures and the Minutes pertaining to this item, be kept confidential indefinitely and not available for public inspection, except insofar as is necessary to implement the Council decision on the basis that it contains legal advice, notwithstanding that it will be reviewed annually in February of each year.

Carried