

## 17.2 CHIEF EXECUTIVE OFFICER REVIEW COMMITTEE REPORT

Contact Person: Elena Casciano

### Why is this matter confidential?

Subject to an order pursuant to Section 90(3)(a) of the *Local Government Act 1999*, this matter is confidential because it pertains to the personal affairs of the Chief Executive Officer.

### A. COUNCIL TO MOVE MOTION TO GO INTO CONFIDENCE

No action – this motion passed in the open section.

### B. THE BUSINESS MATTER

## 17.2 CHIEF EXECUTIVE OFFICER REVIEW COMMITTEE REPORT

**Responsible Executive Manager :** Elena Casciano

**Report Author :** Elena Casciano

**Delegated Authority :** Matters which cannot be delegated to a Committee or Staff

**Attachments :**

1. RTSA Determination 4 of 2023 - Local Government CEOs
2. RTSA Report 4 of 2023 - Local Government CEOs

### PURPOSE

The purpose of this report is for Council to release confidential orders relating to the council resolution 5429 from the Ordinary Council Meeting 23 May 2023 and adjust employment conditions for the CEO that are legislated.

### STAFF RECOMMENDATION

1. Council receives and notes this report regarding the implementation of the new CEO Contract
2. Council revokes the confidentiality order made on 23 May 2023 in relation to item 17.2, resolution 5430
3. Pursuant to Section 91(7) of the *Local Government Act 1999*, the Council orders that the following aspects of Item 17.2 (resolution 5430) be kept confidential in accordance with Committee's reasons to deal with this item in confidence pursuant to Section 90(3)(a) of the *Local Government Act 1999*:
  - Report for Item 17.2 (resolution 5430)
  - Attachment(s) 1 for Item 17.2 (resolution 5430)
4. The Mayor write to the staff to inform them of the reappointment of the CEO
5. Commencing July 1 2023, the CEO's Total Remuneration Package be adjusted to meet the minimum requirements of the Remuneration Tribunal Determination 4 (band 4)
6. A clause be inserted into the CEO's employment contract to reflect the new remuneration requirements in accordance with section 99A(10) of the *Local Government Act 1999*

## EXECUTIVE SUMMARY

At the Ordinary Council Meeting held on 23rd of May, Council considered a decision report relating to the employment of the Chief Executive Officer (CEO). This report addresses an update for the Council relating to the status of the employment contract of the CEO, the process undertaken to this point and the release of confidential minutes so that the employment status of the CEO can be discussed in a public manner.

This report also outlines requirements that have recently been implemented by the Remuneration Tribunal regarding the salary package for the Chief Executive Officer.

### 1. BACKGROUND

At the Ordinary Council Meeting on 23 May 2023, Council resolved that the CEO be offered a new contract of employment for 5 years. At that meeting, a confidential order was applied to the report, attachments and minutes of the item. This has meant that the item has not been able to be discussed publicly or announced to staff that the CEO has been employed for a further 5 years.

On behalf of Council, Norman Waterhouse Lawyers have drawn up the contract of employment for the CEO as per the resolution of council (resolution 5429).

On Friday 16 June 2023 Council received notice of determination 4 issued by the Remuneration Tribunal of South Australia (RTSA) (Attachment 1) which applies to all Chief Executive Officers of in the Local Government sector to whom section 99A of the *Local Government Act 1999* applies. This determination therefore applies to the Chief Executive Officer of the City of Playford.

From July 1 2023, in accordance with section 99A of the *Local Government Act 1999*, the Remuneration Tribunal has now set minimum and maximum remuneration amounts that are to be paid to CEO's of councils.

### 2. RELEVANCE TO STRATEGIC PLAN

The appointment of the Chief Executive Officer this period ensures that the Strategic Plan can continue to be delivered.

### 3. PUBLIC CONSULTATION

There is no requirement for public consultation on this matter.

### 4. DISCUSSION

#### Confidential Orders

- 4.1 Confidential orders made by Council are reviewed annually and reports are prepared by staff for Councils consideration. The most recent annual review was considered by Council at the April Ordinary Council meeting on the 18<sup>th</sup> April.
- 4.2 Given that there is a need to update the confidentially provisions of a recent order made by council, this must be done by resolution of Council.
- 4.3 If this staff recommendation is not resolved by Council, the decision will remain in confidence until the next scheduled review of confidential orders which will occur in April 2024.

## **Employment Contract**

- 4.4 Since the May Ordinary Council Meeting, Councils legal firm Norman Waterhouse Lawyers have taken steps to develop the new CEO contract as per Councils resolution 5429. At the time of writing this report, the contract has been prepared for signing by the Mayor and CEO.

## **Remuneration Tribunal**

- 4.5 Statutes Amendment (Local Government Review) Act 2021 was introduced in 2021 and on 20 September 2021 section 99A was inserted into the Local Government Act to confer jurisdiction upon the Tribunal to determine the minimum and maximum remuneration package that may be paid or provided to CEO's of councils constituted under the Local Government Act 1999 (Attachment 2).
- 4.6 Section 3 of Determination 4 (Attachment 1) sets out bands (1 through 8) and the maximum and minimum amounts that relate to the bands.
- 4.7 Attachment 1 of Determination 4 (Attachment 1) determines which band each Council belongs to. City of Playford has been allocated to band 4. Section 18 of the Report (Attachment 2) details the factors upon which the RTSA considered in making its determination.
- 4.8 Future reviews of the CEO's salary must be maintained within the minimum and maximum limits set by RTSA. The RTSA have committed to a review of the minimum and maximum remuneration amounts in July 2024 as this is the first time this instrument has been enacted. Beyond the review in 2024, the RTSA will be reviewing the maximum and minimum amounts for each band every 4 years.

## **5. OPTIONS**

### **Recommendation**

1. Council receives and notes this report regarding the implementation of the new CEO Contract
2. Council revokes the confidentiality order made on 23 May 2023 in relation to item 17.2, resolution 5430
3. Pursuant to Section 91(7) of the *Local Government Act 1999*, the Council orders that the following aspects of Item 17.2 (resolution 5430) be kept confidential in accordance with Committee's reasons to deal with this item in confidence pursuant to Section 90(3)(a) of the *Local Government Act 1999*:
  - Report for Item 17.2 (resolution 5430)
  - Attachment(s) 1 for Item 17.2 (resolution 5430)
4. The Mayor write to the staff to inform them of the reappointment of the CEO
5. Commencing July 1 2023, the CEO's Total Remuneration Package be adjusted to meet the minimum requirements of the Remuneration Tribunal Determination 4 (band 4)
6. A clause be inserted into the CEO's employment contract to reflect the new remuneration requirements in accordance with section 99A(10) of the *Local Government Act 1999*

### **Option 2**

1. Council receives and notes this report regarding the implementation of the new CEO Contract
2. Commencing July 1 2023, the CEO's Annual Base Salary be adjusted to meet the minimum requirements of the Remuneration Tribunal Determination 4 (band 4) and

superannuation adjusted accordingly

3. A clause be inserted into the CEO's employment contract to reflect the new remuneration requirements in accordance with section 99A(10) of the Local Government Act 1999

## 6. ANALYSIS OF OPTIONS

### 6.1 Recommendation Analysis

#### 6.1.1 Analysis & Implications of the Recommendation

Removing confidential orders on the minutes of item 17.2 from the Ordinary Council Meeting held on the 23rd of May will allow the Chief Executive Officer to disclose the decision of Council regarding the employment contract. Ensuring that staff and the community will have certainty and clarity for the future of the council.

Addressing the requirements of the Local Government Act 1999 and the Remuneration Tribunal Determination 4 will ensure that council remains compliant to its legislative obligations.

#### **Risk Appetite**

##### Regulatory Compliance

*Council has a zero tolerance for non-compliance with applicable legislation including but not limited to: Local Government Act (LGA) 1999; Independent Commissioner Against Corruption (ICAC) Act 2012; Work Health & Safety (WHS) Act 2012; Environment Protection Act (EPA) 1993; Development Act 1993; Equal Employment Opportunity legislation; and Public Consultation legislation.*

This decision will ensure council are meeting requirements under section 98 the *Local Government Act 1999 (SA)*.

#### 6.1.2 Financial Implications

The current base Total Employment Cost Package (TEC Package) for the CEO is \$313,035. The legislated minimum amount in band 4 set by the RTSA Determination 4 is \$319,280. The difference in amounts is \$6,245. An increase of this amount will be funded in the 23/24 budget. This amount is not material in council's overall budget.

### 6.2 Option 2 Analysis

#### 6.2.1 Analysis & Implications of Option 2

This option to retain the confidentiality provision of the resolution passed by Council and be considered at the next scheduled review of confidential orders, in April 2024. Keeping this matter confidential for this amount of time is not practical. In addition, if this matter was kept in confidence for this duration, it would have a negative impact causing uncertainty and instability for the administration and community which is at odds with the council's decision to make this reappointment early on in its council term.

#### 6.2.2 Financial Implications

The current base Total Employment Cost Package (TEC Package) for the CEO is \$313,035. The legislated minimum amount in band 4 set by the RTSA Determination 4 is \$319,280. The difference in amounts is \$6,245. An increase of this amount will be funded in the 23/24 budget. This amount is not material in council's overall budget.

**C. COUNCIL TO DECIDE HOW LONG ITEM 17.2 IS TO BE KEPT IN CONFIDENCE****PURPOSE**

To resolve how long agenda item 17.2 is to be kept confidential.

**STAFF RECOMMENDATION**

Pursuant to Section 91(7) of *the Local Government Act 1999*, the Council orders that the following aspects of Item 17.2 be kept confidential in accordance with Council's reasons to deal with this item in confidence pursuant to Section 90(3)(a) of the *Local Government Act 1999*:

- Report for Item 17.2
- Minutes for Item 17.2

This order shall operate until the next scheduled annual review of confidential items by Council at which time this order will be reviewed and determined in accordance with Section 91(9)(a) of *the Local Government Act 1999*.

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