

## CONFIDENTIAL REPORT

**Report Title:** CEO's Employment Agreement  
**Item No:** 7.1  
**Date of Meeting:** 15 September 2020  
**Author:** Jacqui Kelleher, Manager Administrative Services  
**File Reference:** DCMR0353  
**Attachments:** Nil.

### Confidentiality Clause:

That:

1. Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because it relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).
2. In weighing up the factors related to disclosure:
  - disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations; and
  - non-disclosure of this item at this time will enable Council to make an informed decision regarding CEO's Employment Contract without unreasonably disclosing information relation to the personal affairs of the CEO. On that basis, the public's interest is best served by not disclosing 7.1 CEO's Employment Contract and discussion at this point in time.
3. Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public be excluded, with the exception of Ms J. Kelleher, Manager Administrative Services.

### 1. EXECUTIVE SUMMARY

This report provides the additional information as requested by Council at the 18 August 2020 meeting in relation to the Chief Executive Officer's Employment Agreement.

### 2. RECOMMENDATION

That Council notes the clarification provided by Mr Robert Wallace (General Manager Balance HR & Municipal Training) concerning provisions contained within the Chief Executive Officer's Employment Agreement, including that the Agreement has been corrected insofar as the conflicting clauses being Clauses 16.5.1 & 22.1.2 and 22.1.1 & 22.1.3 are concerned.

### 3. RELEVANT CORE STRATEGIES/POLICIES

Not applicable.

#### 4. BACKGROUND

After receiving a *CEO Recruitment Report* prepared by Mr Robert Wallace (General Manager Balance HR & Municipal Training) highlighting Council's selection panel recommendation to appoint Mr Sam Johnson to the position of Chief Executive Officer, on 7 July 2020 Council resolved to:

*"authorise the Mayor to execute the employment agreement between the District Council of Mount Remarkable and Mr Sam Johnson for a period of five (5) years commencing 8 July 2020"*

On 18 August 2020, whilst reviewing a report prepared by the Chief Executive Officer concerning draft key performance indicators, Council requested that the Mayor seek advice and provide further clarification on provisions within the Chief Executive Officer's Employment Agreement as follows:

- *Applicability of \$5,000 relocation allowance*
- *Applicability of \$500 wardrobe allowance*
- *Why Section 24 – Professional Development states a minimum but no maximum amount*
- *Clauses that conflict (16.5.1 & 22.1.2 and 22.1.1 & 22.1.3)*

#### 5. DISCUSSION

The Mayor has now sought the advice, which has been provided by Mr Robert Wallace as follows:

- The \$5,000 relocation allowance is a recognised incentive often used in CEO (and other staff) recruitment processes to attract quality candidates to the role and to encourage a Chief Executive Officer to live in the council area of employment.
- A \$500 wardrobe allowance was included as this is a standard clause in the District Council of Mount Remarkable employment agreement. Mr Wallace noted that the *"CEO is not obliged to make use of it"*.
- Clause 24 of the Agreement in relation to professional development does not require a maximum as it is 'by agreement', and a minimum is set to ensure the Chief Executive Officer has a minimum entitlement. Should the Chief Executive Officer seek additional training, this will need to be approved by the Council.
- Clause 22.1.2. of the Agreement has been corrected to provide that the Chief Executive Officer is *not entitled to annual leave loading*. This correction deals with the inconsistencies between the clauses as identified.

With the above clarifications, Council can now reconsider the Chief Executive Officer's report relating to the setting of key performance indicators. In this regard, it is noted that the recommendation in the CEO's report to *"Approves the employment contract as executed and presented to council"* is not required as the Agreement has already been executed as authorised by Council's resolution at the Special Council meeting held on 7 July 2020 and outlined above.

#### 6. ANALYSIS OF OPTIONS

This report is for information only, and accordingly an analysis of options is not applicable.

## 7. RECOMMENDED OPTION

Not applicable.

## 8. POLICY IMPLICATIONS

### 8.1 Financial/Budget

n/a

### 8.2 Legislative/Risk Management

Clarification about the matters raised by Council has been provided by Mr Robert Wallace of Balance HR & Municipal Training. It is noted that the Mr Wallace operates in association with Norman Waterhouse Lawyers and has provided the clarification based on his skills and experience in CEO recruitment.

### 8.3 Staffing/Work Plans

Nil.

### 8.4 Environmental/Social/Economic

Nil

### 8.5 Stakeholder Engagement

Nil

## 9. REPORT CONSULTATION

Nil

## 10. REPORT AUTHORISERS

Mayor Phillip Heaslip	Mayor, District Council of Mount Remarkable
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