

# THE BAROSSA COUNCIL

## TERMS OF REFERENCE OF THE CEO PERFORMANCE REVIEW COMMITTEE



### 1. ESTABLISHMENT

- 1.1 Pursuant to Section 41 of the *Local Government Act 1999* (the "Act"), The Barossa Council (the "Council") has established a committee to be known as the Chief Executive Officer Performance Review Committee (the "Committee").
- 1.2 The Council is responsible for the selection, remuneration and review of the Chief Executive Officer (the "CEO"). The overall role of the Committee is to provide advice to Council on matters relating to the performance, remuneration and development of the CEO.

### 2. OBJECTIVE

2.1 The objectives of the Committee are to:

- 2.2.1 At the minimum on an annual basis, carry out the performance review of the CEO within the parameters of the Employment Agreement, and report the Committee's recommendations and findings to Council.
- 2.2.2 At the minimum on an annual basis, carry out the review of the CEO's remuneration package in accordance with the Employment Agreement and relevant legislation, and report the Committee's recommendations and findings to Council.
- 2.2.3 Set and review the CEO's agreed performance indicators and objectives.
- 2.2.4 Monitor progress of the CEO's agreed performance targets for the current 12 month performance period through the Annual Performance Review
- 2.2.5 Utilise all reasonable endeavours, including by engaging a consultant to gather stakeholder feedback to inform the performance management process. The stakeholders providing feedback must be agreed by the CEO and the Committee.
- 2.2.6 Obtain and consider the advice of the Qualified Independent Member appointed pursuant to clause 4.1, on the performance review of the CEO.
- 2.2.7 Identify and facilitate (where appropriate) development opportunities for the CEO.
- 2.2.8 Make recommendations to Council regarding the performance, remuneration and conditions of employment of the Chief Executive Officer (and any proposed changes thereof) consistent with the requirements of the Employment Agreement and any determination made by the CEO Remuneration Tribunal.
- 2.2.9 Do anything necessary, expedient, or incidental to performing or discharging the functions of the Committee as listed herein or to achieving its objectives.
- 2.2.10 In carrying out its objectives, the Committee may, and subject to a direction by Council, engage a consultant to carry out the reviews and provide recommendations and findings to the Committee subject to the allocation of budget.

### 3. ROLES AND RESPONSIBILITIES

- 3.1 The Committee may, subject to a direction by Council, carry out the CEO performance and/or remuneration review directly, or engage a consultant to carry out the reviews and



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provide findings and recommendations to the Committee, in accordance with this Terms of Reference and the conditions of the Employment Agreement.

**3.2** The review process will be undertaken by an external consultant and must at a minimum undertake the following general processes including engagement and consultation with the CEO as outlined in the Employment Agreement:

- 3.2.1 Facilitation of a survey or other data gathering method from Elected Members, direct reports to the CEO and any other officers (internal or external) that are agreed between the Committee and CEO undertake the survey and the CEO self-assessment;
- 3.2.2 The Committee and CEO shall review survey results including year to year comparisons where application and address any areas of material difference in performance outcomes;
- 3.2.3 The CEO will present to the Committee a summation of the year (to date) performance and activity outcomes;
- 3.2.4 The Committee with, with the CEO develop achievable but challenging goals for forthcoming year within the existing resourcing of Council afforded to the CEO;
- 3.2.5 A remuneration assessment will be undertaken in accordance with the Employment Agreement;
- 3.2.6 A final report of the findings shall be presented to full Council by the Mayor along with other relevant documentation. The final report must include the advice of the Qualified Independent Member, appointed by Council pursuant to clause 4.1.

**3.3** Council Officers will provide support to the Committee by way of:

- 3.3.1 Appointing an Executive Officer (who will be a member of the Executive Leadership Team, to provide governance support and who is responsible for providing support during meetings to the Chairperson. The Executive Officer also must ensure there is a quorum for meetings, assist with voting processes, procedural motions, confidential items, and liaise with the minute taker of the Committee regarding the recording of meeting proceedings.
- 3.3.2 Co-ordinating and facilitating stakeholder engagement as required for the performance review, limited to conducting surveys, collating survey results and reporting survey results to the Committee;
- 3.3.3 Liaising with the consultant as required;
- 3.3.4 Preparation, distribution and co-ordination of agendas, reports, minutes of the Committee; and
- 3.3.5 Acting as a point of contact for all Committee Members.

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| <b>4</b> | <b>MEMBERSHIP</b> |
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**4.1** Members of the Committee shall be appointed by Council and shall comprise of six (6) Members, unless otherwise agreed with the CEO, as follows:

4.3.1 Mayor;

4.3.2 Deputy Mayor;

4.3.3 Three (3) Elected Members; and

4.3.4 One (1) Qualified Independent Member; (a person who is:

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

For avoidance of doubt, Council may appoint the external consultant as the Qualified Independent Member.

**4.2** Appointments to the Committee shall be for One (1) year from the date the Committee is established from June to May to align with the anniversary dates of the current Employment contract, with the following exceptions:

4.2.1 A member resigns or is otherwise incapable of continuing as a member;

4.2.2 A member is removed from office by Council, in accordance with this Terms of Reference;

4.2.3 The Deputy Mayor, whose term expires upon his or her appointment as Deputy Mayor expiring;

4.2.4 The Qualified Independent Member, who may be appointed for the duration of the performance review.

**4.3** Members of the Committee are eligible for reappointment at the expiration of their terms of office.

**4.4** The Committee may be re-established by the Council after the conclusion of the term of the Committee.

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| <b>5</b> | <b>CHAIRPERSON</b> |
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**5.1** The Chairperson will be the Mayor.

**5.2** The role of the Chairperson is to:

5.2.1 Ensure that the Committee acts and operates at all times in accordance with these Terms of Reference;

5.2.2 Oversee and facilitating the conduct of meetings in accordance with the Act, Regulations and any relevant Council policies;

5.2.3 Ensure that the Guiding Principles at Regulation 5 are observed and that all Committee Members have an opportunity to participate in discussions in an open, respectful and encouraging manner; and

5.2.4 Call the meeting to order and move the debate towards finalisation when a matter has been debated significantly and no new information is being discussed.

**5.3** The Council authorises the Committee to determine if there will be a Deputy Chairperson and, if so, authorises the Committee to make the appointment to that position for a term determined by the Committee. The term determined by the Committee should not exceed the term of the Council.

**5.4** If the Chairperson is absent from a meeting, the Deputy Chairperson (if such position exists) will preside at that meeting. If there is no such position, or both the Chairperson and Deputy Chairperson are absent, then a Member of the Committee chosen from those present will



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preside at the meeting under the Chairperson (or Deputy Chairperson as the case may be) is present.

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| <b>6</b> | <b>DELEGATED POWERS</b> |
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- 6.1** In order for the Committee to perform its functions consistent with these Terms of Reference, the Council delegates to the Committee in accordance with section 137 of the *Local Government Act 1999*, the power to expend Council's approved budgeted funds subject to the Committee's budget allocation and Council's policies.

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| <b>7</b> | <b>GOVERNANCE</b> |
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- 7.1** A recommendation by the Committee to the Council to amend these Terms of Reference must be made by the majority of all Committee members.
- 7.2** Notwithstanding this Terms of Reference, all Committee members are expected to have read and understood, and must at all times observe and comply with the relevant requirements under the:
- 7.2.1 Act;
- 7.2.2 Regulations
- 7.2.3 Code of Conduct for Elected Members; and
- 7.2.4 Council's policies and processes which are relevant to the operations of the Committee.

**7.3** **Authority**

- 7.2.1 The Council has not delegated any powers to the Committee. Accordingly, all decisions of the Committee will constitute recommendations to Council unless Council has resolved to delegate the decision on the agenda to the Committee.
- 7.2.2 The Committee is authorised by Council to undertake work to effectively and efficiently meet the objectives described of its role.

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| <b>8</b> | <b>MEETINGS</b> |
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**8.1** **Frequency and Timing of Meetings**

- 8.2.1 The Committee will meet on an as needs basis, with a minimum of two meetings per year.
- 8.2.2 When scheduling meetings, the Committee must ensure that it meets within the appropriate timeframes required in order to complete the CEO performance review prior to the anniversary date of the CEO Employment Agreement.

**8.2** **Agenda and Minutes of the Meeting**

- 8.2.1 An agenda will be prepared and distributed to all Committee Members at least three (3) clear days prior to the meeting.

8.2.2 Minutes of the meeting (in accordance with legislative requirements) will be kept and provided to all Committee Members within five (5) days of the meeting.

8.2.3 The minutes of each Committee meeting will be presented to Council.

### **8.3 Quorum**

8.2.1 A quorum for a meeting of the Committee shall be half of the current membership, ignoring any fraction resulting from the division and adding 1.

8.2.2 A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.

8.2.3 In accordance with Section 90(7a) of the Act, one or more Committee Members may participate in the meeting by telephone or other electronic means provided that members of the public can hear the discussion between all Committee Members.

### **8.4 Decisions and Voting**

8.2.1 All decisions of the Committee shall be made on the basis of a majority decision of the Members present.

8.2.2 All Committee Members must (subject to a provision of the Act or Regulations to the contrary) vote on any matter arising for decision at a meeting of the Committee.

8.2.3 Each Member of the Committee has a deliberative vote only. In the event of a tied vote, the Chairperson does not have a casting vote. Should the vote on a matter be tied, the item shall be referred to Council for decision.

### **8.5 Meeting Procedures**

8.2.1 The meetings of the Committee shall be held in accordance with Parts 1, 3 and 4 of the *Local Government (Procedures at Meetings) Regulations 2013* (the "Regulations"). Part 2 of the Regulations does not apply to this Committee.

8.2.2 Insofar as the Act and/or Regulations or these Terms of Reference do not prescribe the process to be observed in relation to the conduct of a meeting of the Committee, the Committee may determine its own process. In that case, the Committee will document that process within its Minutes.

8.2.3 Members must comply with the conflict of interest provisions of the Act.

8.2.4 Members of the public are able to attend all meetings of the Committee and have access to all documents relating to the Committee, unless prohibited by resolution of the Committee under confidentiality provisions of section 90 and/or 91 of the Act.

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| <b>9</b> | <b>RESOURCES</b> |
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**9.1** Local Government Act 1999

**9.2** Local Government (Procedures at Meetings) Regulations 2013

**9.3** Code of Conduct for Elected Members

- 9.4 Caretaker Policy
- 9.5 Customer Service policy
- 9.6 Complaints Handling Process under the Code of Conduct for Council Members
- 9.7 Elected Members Training and Development Policy
- 9.8 Declaration of Conflict of Interest Form – Committee Members

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| <b>10</b> | <b>TRAINING</b> |
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- 10.1 Committee Members are encouraged to attend training related to the management of Local Government committees, as provided by the Local Government Association or other appropriate training providers.
- 10.2 Committee Members are entitled to reimbursement of approved expenditure in relation to attendance at training, in accordance with Council policies and processes.

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| <b>11.</b> | <b>DOCUMENT CONTROL</b> |
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|-----------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| <b>Corporate Plan Link:</b> |  | 6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.<br>6.3 Align operational strategy to strategic objectives and measure organisational performance to demonstrate progress towards achieving our goals. |          |                                                                                                                                                         |                                                         |
| <b>Document Owner:</b>      | Mayor                                                                             |                                                                                                                                                                                                                                                                                              |          | <b>Document Control Officer:</b>                                                                                                                        | Executive Business Partner, Office of the Mayor and CEO |
| <b>Consultation Rating:</b> | N/A                                                                               | <b>Audience:</b>                                                                                                                                                                                                                                                                             | Internal | <b>Next Review Date:</b>                                                                                                                                | 30/06/2023                                              |
| <b>Version history</b>      |                                                                                   |                                                                                                                                                                                                                                                                                              |          |                                                                                                                                                         |                                                         |
| <b>Version No.</b>          | <b>Date</b>                                                                       |                                                                                                                                                                                                                                                                                              |          | <b>Description of Change</b>                                                                                                                            |                                                         |
| 1.0                         | 20/04/2021                                                                        |                                                                                                                                                                                                                                                                                              |          | Terms of Reference adopted upon Committee being established                                                                                             |                                                         |
| 2.0                         | 17 May 2022                                                                       |                                                                                                                                                                                                                                                                                              |          | Included items required as part of the Local Government Reform under the Local Government Act 1999; annual reviews with a Qualified Independent Member. |                                                         |