



NOTICE OF MEETING

Notice is hereby given that the next ordinary meeting of the
CEO Performance Review Committee will be held on
Wednesday 12 July 2023
in the Council Chambers, 43-51 Tanunda Road, Nuriootpa,
commencing at 4.00pm.

A G E N D A

1. CEO PERFORMANCE REVIEW COMMITTEE

1.1 Welcome

1.2 Members Present

1.3 Leave of Absence

Nil

1.4 Apologies for Absence

Nil

1.5 Minutes of previous meetings – for confirmation:

- 1.5.1 CEO Performance Review Committee meeting held on
Wednesday 7 June 2023 at 4.00pm

2. MATTERS FOR INFORMATION

- 2.1 Independent Remuneration Tribunal - Determination 4 of 2023 -
CEO Remuneration

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3. DEBATE REPORTS

Nil

4. CONFIDENTIAL AGENDA

- 5.1 Presentation of results from the data collection phase of the CEO Performance Review 22

5. URGENT OTHER BUSINESS

6. NEXT MEETING

To be determined.

7. CLOSURE

MATTERS FOR INFORMATION

2.1 INDEPENDENT REMUNERATION TRIBUNAL - DETERMINATION 4 OF 2023 - CEO REMUNERATION

**Author: Manager Organisational Culture and People
23/37878**

Legislative changes enacted by the prior Parliament continue to be implemented. One of the changes was that Councils no longer were at full liberty to negotiate and agree on the remuneration package for the Chief Executive Officer. The Council must now comply with a determination, in effect at the time, made by the Independent Remuneration Tribunal of South Australia.

The Tribunal is an independent Statutory Body and sets remuneration levels for a raft of public officer holders including Members of Parliament, Members of the Judiciary, Elected Members of Council and now Chief Executive Officers of Local Government. More information is provided at the first link below.

The new scheme has resulted in the Tribunal making its first determination under the new legislative provisions and it applies from 1 July 2023. The determination applies for newly contracted Chief Executive Officers from this date, or renewed contracts for existing Chief Executive Officers from this date. However, the determination has also determined that reviews should / may be within the bands set. Clause 78 of the determination indicates the Council may increase the package to be within the band but should not increase it to be more than the band. The determination is provided at the Attachments. A recent sector communication has been provided at the second link to assist understanding of the determination and new system. It is my view that Council should ensure it is competitive in the market and the upcoming remuneration negotiation must consider the bands. On the calculations of the remuneration package our Chief Executive Officer is below the relevant band.

The Barossa Council has been placed into Band 4 and should set a remuneration package, known as the Total Remuneration Package (TRP) in that Band. The Total Remuneration Package is a calculation of the included benefits which include salary, superannuation, private use vehicle, and other benefits like a greater (collective) leave provided above that of a normal administrative Employee. Band 4 is a minimum of \$319,280 and maximum of \$351,520. Members will note significant calculation of motor vehicle estimates in the analysis documents provided. Council has always included the private use estimate in the package of Chief Executive Officers and any other officers who receive the benefit. As it currently stands our current Chief Executive Officer TRP based on the determination, information sought from the Tribunal to make calculations and subsequent advice pertaining what is to be included in the package is \$291,861. For Martin this is salary, superannuation, private component of vehicle costs, membership of the Australian Society of Certified Practising Accountants and uniform allowance. Martin does receive 2 days less leave, in total, than other administrative employees and items such as phone and laptop are considered, rightfully, tools of the trade. You may read of a raft of other types of

benefits received in the determinations or in the media, none of these apply to our contract of employment, for instance paying school fees or health membership fees.

As the Committee is aware we are currently undertaking the annual performance review and salary review in accordance with the contract of employment. This process is well behind task as the anniversary date of the Chief Executive Officer was due on 4 June 2023 and whilst all efforts are in place, it is unlikely to be completed by the time Martin goes on leave on 21 July 2023. After speaking to Martin, he acknowledges the circumstances noting they are out of his control. With Martin heading on 8 weeks leave it is not likely to be resolved until September or October 2023. Additionally, Martin has not sought increases in accordance with his contract over the past 3 out of 4 years due to COVID pressures. Under this determination it is clear that the Committee and Council will need to address this situation both to align with the legislative intent, independent remuneration determination by the Tribunal and remain competitive in the market.

ATTACHMENTS

- Attachment 1 Report 4 of 2023 - Local Government CEO [↓](#) 
- Attachment 2 Determination 4 of 2023 - Local Government CEO [↓](#) 

SUPPORTING REFERENCES

[About Us | Remuneration Tribunal of South Australia \(remtribunal.sa.gov.au\)](https://remtribunal.sa.gov.au)

[Remuneration Tribunal Determination - what it means for the CEO – Kelledy Jones Lawyers](#)



No. 4 of 2023

REPORT OF THE REMUNERATION TRIBUNAL**2023 Inaugural Review of Minimum and Maximum Remuneration for Local Government
Chief Executive Officers****SUMMARY**

1. On 20 September 2021, section 60 of the *Statutes Amendment (Local Government Review) Act 2021* (SA) came into operation. This inserted section 99A into the *Local Government Act 1999* (SA) conferring jurisdiction on the Tribunal to determine the minimum and maximum remuneration that may be paid or provided to chief executive officers of councils constituted under the *Local Government Act 1999* (SA).
2. The Tribunal collected data in relation to the current total remuneration package of chief executive officers by way of two surveys. This occurred over an extended period of time due to the lack of response and inconsistencies of the first survey and the inaccuracies and incomplete information provided through the second survey, which required further consultation with councils.
3. For this inaugural review, the Tribunal has determined to group 67 councils into eight bands. While these bands have some generally common characteristics, the Tribunal recognises differences and potential anomalies in terms of council characteristics within and between some of these bands. Each band is based on the data provided by councils in relation to the total remuneration package of their chief executive officer. The Tribunal has then applied assumptions in relation to the value of the provision of a motor vehicle and any additional leave entitlements beyond that of usual administrative staff. This has resulted in a figure described as an “adjusted total remuneration package” for each chief executive officer who is covered by this review.
4. For the future, the Tribunal proposes to progress toward a review of the minimum and maximum remuneration of chief executive officers on a four yearly basis that is commensurate with the timeframe for local government member allowances. However, because this is the first review of this nature and it is based on data that is conflicting and inconsistent, it is acknowledged that councils may need to refer specific instances to the Tribunal for consideration. The Tribunal proposes to review the minimum and maximum remuneration amounts in July 2024 to take account of any feedback from councils and chief executive officers

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and annual wage and cost of living movements. The Tribunal expects any council who, as part of any future review, identifies significant differences in the remuneration package to provide sufficient detail and reasons as to why this is the case.

INTRODUCTION

5. Section 14 of the *Remuneration Act 1990* (SA) (**Act**) provides that the Remuneration Tribunal (**Tribunal**) has jurisdiction to determine the remuneration, or a specified part of the remuneration, payable in respect of certain offices, if such jurisdiction is conferred upon the Tribunal by any other Act or by the Governor by proclamation.
6. On 20 September 2021, section 60 of the *Statutes Amendment (Local Government Review) Act 2021* (SA) (**Amending Act**) came into operation. This inserted section 99A into the *Local Government Act 1999* (SA) (**LG Act**) to confer jurisdiction upon the Tribunal to determine the minimum and maximum remuneration that may be paid or provided to chief executive officers (**CEOs**) of councils constituted under the LG Act.
7. This review marks the first occasion on which the Tribunal has considered remuneration for local government CEOs.

LEGISLATIVE PROVISIONS

8. Section 99A of the LG Act states:

“99A—Remuneration of chief executive officer

- (1) *Subject to this section, the remuneration of the chief executive officer of a council will be determined by the council.*
- (2) *The Remuneration Tribunal will determine (from time to time) the minimum and maximum remuneration that may be paid or provided to chief executive officers of councils.*
- (3) *In making a determination under subsection (2), the Remuneration Tribunal must have regard to any matter prescribed by the regulations.*
- (4) *A determination under subsection (2)—*
 - (a) *may differ based on any factor including, for example, the geographical location of a council or group of councils (such that different minimum and maximum remuneration may be paid or provided to chief executive officers from different councils); and*
 - (b) *may provide for minimum and maximum remuneration that may be paid or provided to chief executive officers to be indexed in accordance with the determination.*
- (5) *The regulations—*
 - (a) *may make further provision in relation to a determination of the Remuneration Tribunal for the purposes of this section; and*
 - (b) *may modify the application of section 10 of the Remuneration Act 1990 in relation to a determination under this section.*
- (6) *Sections 17 and 19 of the Remuneration Act 1990 do not apply in relation to a determination under this section.*
- (7) *A reference in the Remuneration Act 1990 to determining remuneration payable in respect of an office will, for the purposes of this section, be taken to include a reference to determining the minimum and maximum remuneration payable in respect of the office.*

- (8) *Despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement determined by the Minister from time to time after consultation with the LGA and the President of the Tribunal.*
- (9) *The LGA may recover the reasonable costs incurred by the Remuneration Tribunal in making a determination under this section as a debt from the councils to which the determination relates.*
- (10) *A council must ensure that the remuneration of its chief executive officer is within the relevant minimum and maximum remuneration determined by the Remuneration Tribunal for the purposes of this section."*
9. The Tribunal has noted that some limited guidance about the intention of the above legislative provision can be drawn from the second reading speech in the following terms:
- "The bill also proposes that the South Australian Remuneration Tribunal should set salaries for council chief executive officers to provide assurances to communities that CEOs are paid appropriately for the work that they do."*¹
10. The Tribunal has considered the function of CEOs as these are expressed in the LG Act:
- "99—Role of chief executive officer**
- (1) *The functions of the chief executive officer include—*
- (a) *to ensure that the policies and lawful decisions of the council are implemented in a timely and efficient manner;*
 - (b) *to undertake responsibility for the day-to-day operations and affairs of the council;*
 - (c) *to provide advice and reports to the council on the exercise and performance of its powers and functions under this or any other Act;*
 - (d) *to co-ordinate proposals for consideration by the council for developing objectives, policies and programs for the area;*
 - (e) *to provide information to the council to assist the council to assess performance against its strategic management plans;*
 - (f) *to ensure that timely and accurate information about council policies and programs is regularly provided to the council's community, and to ensure that appropriate and prompt responses are given to specific requests for information made to the council;*
 - (g) *to ensure that the assets and resources of the council are properly managed and maintained;*
 - (h) *to ensure that records required under this or another Act are properly kept and maintained;*
 - (i) *to give effect to the principles of human resource management prescribed by this Act and to apply proper management practices;*
 - (j) *to exercise, perform or discharge other powers, functions or duties conferred on the chief executive officer by or under this or other Acts, and to perform other functions lawfully directed by the council.*
- (2) *The chief executive officer must consult with the council (to a reasonable degree) when determining, or changing to a significant degree—*
- (a) *the organisational structure for the staff of the council; or*

¹ South Australia, Parliamentary Debates, House of Assembly, 17 June 2020 (Stephan Knoll).

- (b) *the processes, terms or conditions that are to apply to the appointment of senior executive officers; or*
- (c) *the appraisal scheme that is to apply to senior executive officers.”*

11. The Act provides a definition of remuneration, as follows:

“3—Interpretation

In this Act—

remuneration *includes—*

- (a) *salary; and*
- (b) *allowances; and*
- (c) *expenses; and*
- (d) *fees; and*
- (e) *any other benefit of a pecuniary nature;*

the Tribunal *means the Remuneration Tribunal established under Part 2.”*

12. The Tribunal has also noted the transitional provisions at section 147(5) of the Amending Act as follows:

“The remuneration of a chief executive officer holding office on the commencement of section 99A of the principal Act (as inserted by this Act) is not affected during the term of that office by a determination under section 99A.”

PROCEDURAL HISTORY

- 13. Section 10(2) of the Act provides that prior to making a determination affecting the remuneration of a particular person, or persons of a particular class, the Tribunal must allow that person, or the persons of that class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.
- 14. Section 10(4) of the Act provides that the Minister responsible for the Act may intervene, personally or by counsel or other representative, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.
- 15. On 13 December 2021, the Tribunal met with the Local Government Association of South Australia (**LGA**) to discuss the Tribunal's proposed process and guidelines for submissions.
- 16. On 20 December 2021, the Tribunal wrote to the Premier of South Australia, as the Minister responsible for the Act, the Minister for Local Government, as the Minister responsible for the LG Act, the LGA and local government CEOs, inviting submissions.
- 17. Additionally, on 20 December 2021, a public notification of the review and a guideline for the making of submissions was published on the Tribunal's website.
- 18. The guidelines advised the Tribunal would consider the following factors in making its determination:
 - 18.1. The role of local government CEOs generally, including the diversity and complexity of the functions and duties performed by CEOs.

- 18.2. Any factors that demonstrate effective service delivery and responsible expenditure of public resources, including, but not limited to, any observations on the significance of this consideration.
 - 18.3. The impact of council elected member code of conduct issues on the role of local government CEOs.
 - 18.4. The impact of any mergers or amalgamations of local government councils on the role of the CEO.
 - 18.5. Any regional issues, for example, housing entitlements or remote locality entitlements in regional local government areas.
 - 18.6. The geographical size (area) of the council.
 - 18.7. The revenue (\$) of the council.
 - 18.8. Number of electors (persons) of the council.
 - 18.9. The impact of council staff numbers (FTE) on the role of the CEO and the extent to which CEOs of smaller councils undertake a diversity of roles.
 - 18.10. The methodology by which any determination of minimum and maximum CEO remuneration bands should be indexed (CPI for example), and the frequency of further reviews of the remuneration bands by the Tribunal (4 yearly cycle as per elected members, for example).
 - 18.11. Any other relevant information for the Tribunal's consideration.
19. These guidelines took into account the provisions of section 99A of the LG Act which states:
- “(3) In making a determination under subsection (2), the Remuneration Tribunal must have regard to any matter prescribed by the regulations.*
- (4) A determination under subsection (2)—*
- (a) may differ based on any factor including, for example, the geographical location of a council or group of councils (such that different minimum and maximum remuneration may be paid or provided to chief executive officers from different councils); and*
- (b) may provide for minimum and maximum remuneration that may be paid or provided to chief executive officers to be indexed in accordance with the determination.”*
20. The closing date for written submissions was 11 March 2022.
21. On 10 January 2022, the LGA wrote to the Tribunal offering its support with this review and proposing to conduct a survey of CEOs remuneration. The Tribunal provided examples of the elements of remuneration that could be collected through a survey.
22. On 23 February 2022, the LGA provided an update to the Tribunal that it had received 30 responses from a total of 68 CEOs. The LGA advised it was uncertain as to whether the data from 30 councils constituted a fair and representative sample of CEOs remuneration. The Tribunal was of the view that a broader sample of information was required, noting there was real potential for a decision of the Tribunal to profoundly affect CEOs whose remuneration information had not been provided.
23. The Tribunal also noted that some CEOs may be reticent to provide information relating to their remuneration to the LGA and, on this basis, the Tribunal wrote to CEOs on 17 March 2022 requesting a spreadsheet be completed and returned directly to the Tribunal by 1 April 2022.

24. The Tribunal is sensitive to the potential confidentiality issues in relation to the information provided and as a result will not be disclosing individual names or information within this report or the accompanying determination.
25. As part of this process, the Tribunal received a further 12 surveys.
26. The Tribunal conducted a hearing on 2 May 2022 for councils and individuals seeking to make oral submissions to the Tribunal.
27. The Tribunal received eight submissions from the following councils and individuals:

Council / Individual	Type of submission	Summary of Issues raised
Coorong District Council	Council	- Data and information provided in relation to review criteria - Regional / remote locality issues
Adelaide Hills Council	Council	- Data and information provided in relation to review criteria - Indexation should be 3 to 4 years to align with local government members
Tim Jackson, Administrator, Coober Pedy Council	Individual	- Remote locality issues - Attraction and retention issues
District Council of Kimba	Council	- Data and information provided in relation to review criteria - Issues specific to smaller councils - Remote locality issues, such as remote housing consideration - Indexation should be ABS Wage Price Index over 4 years
City of Norwood, Payneham & St Peters Council	Council	Data and information provided in relation to review criteria
Port Adelaide Enfield Council	CEO	- Data and information provided in relation to review criteria - Key result areas for CEO provided. 4 yearly cycle for reviews is reasonable
City of Tea Tree Gully Council	Council	- Data and information provided in relation to review criteria 4 yearly cycle should include a CPI increase similar to local government members
Whyalla Council	Council	- Data and information provided in relation to review criteria - Attraction and retention issues - Regional / remote locality issues - WA model should be considered

28. This represents a small proportion of the councils and CEOs that were given the opportunity to make submissions.
29. While the submissions generally provided information about the characteristics of these councils against the guidelines provided by the Tribunal, the information provided did not assist the Tribunal to determine a coherent and sustainable approach to establishing minimum and maximum levels of remuneration.
30. The Tribunal noted information provided by the City of Port Adelaide Enfield's CEO. This information provided a useful summary of the role of the CEO, covering oversight of the diverse assets and effective service delivery to a demographically diverse community together with engagement with the local and broader communities, and the development of that council area. This submission incorporated consideration of unique geographic, demographic, social, historical characteristics of that council.
31. The Tribunal also noted the City of Norwood, Payneham and St Peters advice that CEO experience, performance reviews and annual remuneration reviews are pertinent issues when councils are considering CEO remuneration.

32. Additionally, the Tribunal noted submissions made by primarily regional councils that they expected their CEOs to be more operationally focussed because of fewer middle management levels within the organisation.
33. The regional council submissions also noted greater distance and travel commitments and challenges associated with staffing. Some councils argued strongly in favour of attraction and retention payments. The Tribunal particularly noted difficulties experienced by the Coober Pedy Council in attracting and retaining CEOs.
34. The Tribunal noted that councils have unique requirements of their CEOs and require flexibility to negotiate remuneration arrangements to best meet these needs. For example, some councils may require a strategic leader to lead a complex organisation, while a small council may prefer a leader with exceptional technical expertise.
35. The Tribunal was unable to identify any objective or standard approach to setting remuneration levels between councils.
36. On 15 September 2022, the Tribunal provided an update to the LGA that it had obtained information from all councils and had spent some time assessing the data. The Tribunal's capacity to reach accurate conclusions about the remuneration arrangements was severely limited by quite disparate approaches to different components of remuneration recorded by councils and their CEOs. This was exemplified in differing approaches to recording superannuation arrangements, including defined benefit superannuation arrangements and to motor vehicle costings which varied substantially. The Tribunal suggested it might engage an external professional consultancy to assist in this process.
37. The LGA provided a response on 11 October 2022 in which it expressed concern about the costs of an external consultancy. The LGA suggested the Tribunal contact CEOs with questions of clarification designed to fill in any gaps in the data already available, rather than undertaking the survey process anew, advising this would reduce the costs associated with the review.
38. On 29 November 2022, the Tribunal advised the LGA that the remuneration data it had was problematic in that the information provided by councils reflected very different approaches to calculating current significant elements of total remuneration and hence would result in a flawed and inconsistent assessment of maximum and minimum remuneration levels. The Tribunal also advised of its intention to conduct a further survey of CEO salary levels, requiring councils to provide costing instructions consistent with normal salary and accounting practices. Consistent with the request of the LGA, and to reduce the cost imposts on councils, the Tribunal agreed to conduct the further survey 'in house' using its own resources.
39. Prior to distributing the updated survey to all CEOs, the Tribunal tested the revised survey approach on a small number of CEOs to identify any issues that councils may have with it. The LGA nominated four CEOs for this purpose.
40. Following the conclusion of this trial process, the revised survey was sent to all CEOs on 16 December 2022. CEOs were requested to complete the survey by 25 January 2023.
41. All survey responses were ultimately received by 7 March 2023 but inaccuracies and incomplete information required further consultation with councils to clarify the information provided. In a small number of instances, particularly relating to vehicle costing approaches, the Tribunal has had to make an estimate of total costs, including Fringe Benefits Tax implications.

CONSIDERATION

42. The Tribunal's jurisdiction in relation to local government CEOs is confined to making determinations, from time to time, in relation to the minimum and maximum levels of remuneration only.
43. The Tribunal notes that individual councils can determine, within those minimum and maximum remuneration levels, the specific amount of remuneration to be paid to their CEO, as well as the various components of the remuneration package, such as superannuation, motor vehicles, allowances or other non-monetary benefits, provided that these total remuneration arrangements fall within the minimum and maximum amounts set by the Tribunal.
44. In determining what constitutes remuneration, the Tribunal has taken into account the following components:
- Monetary remuneration
 - Superannuation, including the statutory minimum employer contributions, any salary sacrifice component and any additional payments made by a council
 - Annual leave loading
 - Additional leave entitlements
 - Bonuses and performance incentives - in cash or otherwise
 - The private benefit value of any motor vehicle and/or equipment (excluding mobile telephones and portable computing equipment provided to the CEO by the council)
 - School or childcare fees, including school uniforms
 - Newspaper/magazine/online subscriptions
 - Personal travel or any other benefit taken in lieu of salary by the CEO (and immediate family at the discretion of the council)
 - Health insurance
 - Any and all allowances
 - Any other form of payment - cash or otherwise
 - Any Fringe Benefits Tax paid by council in respect of any of the above
45. The Tribunal concluded that mobile telephones and portable computing equipment provided to CEOs, fundamentally for work purposes, but which may be used for reasonable personal use, should not be regarded as remuneration for these purposes. The Tribunal considers that these items are inherent requirements for a CEO function and, in any event, any additional reasonable use represents a minimal additional cost such that separating personal and business use involves unreasonable administrative costs.
46. The Tribunal has not included professional development costs that directly relate to the performance of CEO duties and membership of professional associations related to the performance of CEO functions in its assessment of remuneration.
47. The Tribunal has not included one-off payments that relate directly and solely to relocation expenses in its consideration of remuneration.

(a) Motor Vehicles

48. The December 2022 survey required councils to include the annual amount of the personal benefit value of the provision of a motor vehicle for private use or cash in lieu of a motor vehicle. The personal benefit value was to be determined by multiplying the percentage of personal use of the vehicle, by the annual cost to the council for that vehicle, including all annual costs of maintenance, fuel, taxes, registration, running costs, as well as an annual depreciation.

Depreciation was to be calculated using the rate of 12.5% (prime cost method) or 25% (diminishing value method).

49. There were significant variations in motor vehicle arrangements amongst councils, reflecting different costing approaches, obvious differences in motor vehicles, the extent to which motor vehicle use was for business purposes and Fringe Benefits Tax recognition.
50. The Tribunal has concluded that a sustainable basis for some of these estimates has not been established and urges councils to review their costing methodologies. The Tribunal suggests the application of a consistent approach to motor vehicle costing arrangements for the future based on actual annual cost of provision of any motor vehicle provided by the council, less an assessed component for business use. The methodology outlined above is proposed as an appropriate approach for the future.
51. To assist the Tribunal in setting minimum and maximum levels of remuneration, for the purpose of this review, it has built an assumption into the data obtained for motor vehicles. Where the value of the motor vehicle and Fringe Benefits Tax was below \$20,000, the Tribunal added the difference to the total package of remuneration (i.e. if the council provided a value of \$15,000 for the motor vehicle and Fringe Benefits Tax, then the Tribunal has added \$5,000 to the total package of remuneration). Where a Council has not provided Fringe Benefits Tax information, the Tribunal has estimated that value and incorporated that estimate into its assessment of total remuneration. For clarity, this does not propose an actual increase in the remuneration payable to those CEOs, but rather, ensures a more consistent and realistic approach to the valuation of vehicles.
52. To the extent that councils negotiate new contractual arrangements, it is appropriate that motor vehicle costs that relate to all private use are separately recognised as remuneration components.

(b) Additional leave per year

53. Councils were requested to provide any additional leave entitlements that CEOs receive beyond the standard four week entitlement and to confirm if that additional leave was “purchased” through a salary deduction or whether it was simply an added employment benefit.
54. The total remuneration package of CEOs for the purpose of assessing minimum and maximum remuneration was then adjusted to take into account the monetary value of any additional leave entitlements.

(c) Superannuation

55. The Tribunal noted that some CEOs are members of defined benefit funds but access to these superannuation arrangements is not available to more recent appointees. The Tribunal has also recognised that some CEOs contribute extra payments to these defined benefit funds. The difficulties associated with comparing defined benefit funds with accumulation funds are significant. For the purposes of this assessment, the Tribunal has universally recognised the minimum Superannuation Guarantee legislative provisions, and any explicit amounts paid by councils in excess of these national minimum standards irrespective of whether a defined benefit scheme is in operation.

(d) Allowances

56. As discussed above, the Tribunal has considered any and all allowances to form part of remuneration. This includes any housing allowance, remote allowance, attraction or retention allowance, utilities allowance or reimbursement or direct payment, grooming or clothing allowance and any entertainment related allowances or entitlements.
57. The Tribunal recognises that the characteristics of some councils means they may place more significance on some allowances. For example, an additional remuneration element in the form of an allowance may need to be agreed between a council and its CEO to recognise either distance or remoteness issues.
58. The Tribunal has adopted the position that the Coober Pedy Council should be recognised as facing particular recruitment challenges given the combination of its remoteness and unique characteristics.
59. Whilst the current minimum and maximum amounts set for each remuneration level take into account all allowances, the Tribunal urges councils to notify it of any substantial issues or adjustments that may need to be made or taken into account in the next review.

(e) Fringe Benefits Taxes

60. The minimum and maximum remuneration amounts have been set on the basis that councils will recognise any applicable Fringe Benefits Tax in the total remuneration costing for CEOs.

(f) The Municipal Council of Roxby Downs

61. The Tribunal has noted the unique position of the Municipal Council of Roxby Downs. This reflects the indenture agreement applicable to that area and the unique funding arrangements that apply. Accordingly, the Tribunal has not included this council in this review.

REMUNERATION LEVELS**(a) Other Jurisdictions**

62. In the conduct of this review, the Tribunal considered available information relating to local government CEO remuneration in other Australian jurisdictions.
63. The April 2023 determination of the Western Australian Salaries and Allowances Tribunal reviewed remuneration bands for local government CEOs and allowances for certain elected members. In that determination, a four-band structure was adopted with total reward package bands ranging from \$136,023 to \$404,488 per annum. In addition, maximum separate isolation allowance amounts for nominated councils were identified, taking into account the remoteness, cost of living, social disadvantage, the impact of a dominant industry, attraction and retention issues and community expectations. The quantum of these maximum payments depended on the assessed circumstances of the local council concerned. The determination provided for a discretionary housing allowance where there was a lack of suitable housing, or recruitment issues. The determination considered the private benefit value of motor vehicles provided to CEOs for reporting purposes.
64. Information relative to other States and Territories is not uniformly published, thereby limiting the usefulness of any comparative analysis, and there is no regulatory arrangement equivalent to the Western Australia Salaries and Allowances Tribunal.

65. The Tribunal has historically applied a six-level grouping system for the consideration of allowances applicable to members of councils. In its 2022 Report, the Tribunal expressed reservations about the usefulness of this arrangement and has indicated that it proposes to invite submissions about a review of that arrangement in 2026.² Notwithstanding these observations, the Tribunal has considered the extent to which the current groupings could provide a basis for the determination of minimum and maximum remuneration levels. There are significant impediments to such an approach. Firstly, the characteristics of councils within the established groups that may be particularly relevant to CEOs vary substantially within and between the groups such that use of the groups for this purpose appears illogical. Secondly, the Tribunal considers that exclusive reliance on factors such as overall staff numbers does not equate to a measure of CEO skill requirements.
66. The Tribunal has taken into account national salary surveys of the local government sector. Because of the substantial range between low and high remuneration levels, and uncertainties about just how employment benefits are assessed, this information is of limited value in setting minimum and maximum levels in South Australia, consistent with the legislative requirements. It has, however, confirmed that the CEO remuneration levels are generally consistent with the indicative survey data.

(b) Minimum and maximum remuneration levels in South Australia

67. The Tribunal's preference is to progress toward establishing minimum and maximum remuneration levels founded on an assessment of skill and competence levels. Such an approach would allow the flexibility to set remuneration consistent with the challenges confronting a given council. However, the limited information available to the Tribunal, combined with the very small number of submissions, simply does not support such an approach at this time. Councils are encouraged to make submissions about such an approach in the future.
68. The Tribunal is not in a position to determine the minimum and maximum remuneration levels based on factors such as the geographical size of the council, revenue of the council and other factors as listed in paragraph 18 above. It considers these factors to be sensible criterion to guide any future determinations of the Tribunal, however, under the current legislation such an approach requires the cooperation of councils.
69. For this inaugural review, the Tribunal has determined to group councils into eight bands. While these bands have some generally common characteristics, the Tribunal recognises differences and potential anomalies in terms of council characteristics within and between some of these bands. Each band is based on the data provided by councils in relation to the total remuneration package of their CEO. The Tribunal has then applied assumptions in relation to the value of the provision of a motor vehicle and any additional leave entitlements beyond that of usual administrative staff. This has resulted in a figure described as an "adjusted total remuneration package" for each CEO who is covered by this review.
70. With the exception of the band consisting of the City of West Torrens, City of Charles Sturt and City of Port Adelaide Enfield, the bandwidths range from \$17,680 to \$32,240. This group of three councils has a much smaller bandwidth because its total remuneration amounts are significantly higher than most other metropolitan councils. The Tribunal was cognisant of the fact that remuneration discrepancies between councils meant that clearly definable criterion

² South Australian Remuneration Tribunal, *Report of the Remuneration Tribunal: 2022 Allowances for Members of Local Government Councils*, Report 2 of 2022, p.9 [<https://www.remtribunal.sa.gov.au/documents/2022/20220705-Report-2-of-2022-Members-of-Local-Government.pdf>]

such as that listed in paragraph 18 could not be used to define bands without resulting in very large band remuneration diversity inconsistent with the function of the legislation.

71. The Tribunal has determined that the Adelaide City Council should be separated from councils generally for the purpose of considering CEO remuneration. This recognises that separate legislation covers that council. As no submission was received from the Adelaide City Council in relation to this review, the Tribunal's consideration is entirely based on the current total remuneration for the Adelaide City Council CEO.
72. The Tribunal has differentiated between the City of West Torrens, City of Charles Sturt and City of Port Adelaide Enfield and other significant metropolitan councils. This distinction is entirely based on current remuneration arrangements which differ substantially from other significant metropolitan councils and large provincial centres.
73. A further group of metropolitan, near metropolitan councils and larger regional councils have been grouped together. The Tribunal has placed the Corporation of the Town of Walkerville in this group but notes that the characteristics of that Corporation are fundamentally different from all other metropolitan councils. Finally, the Tribunal has established two groupings of regional councils, largely distinguished by population characteristics.
74. While the approach the Tribunal has taken in this review restricts the extent to which exceptional circumstances of a particular council can be properly recognised and provides limited explanation of the basis for existing remuneration levels to the community, this reflects the disparate current remuneration levels and lack of information about how these were arrived at. A more accurate assessment of remuneration bands based on council characteristics and performance measures is not possible on the information made available to the Tribunal. The Tribunal suggests that it may be appropriate for discussions with the LGA in advance of the next review to identify minimum and maximum remuneration levels based on agreed council criteria, with the potential for separate recognition of attraction incentives and defined performance measures.
75. The Tribunal considers that wage price movements should be recognised within the framework of minimum and maximum remuneration levels, particularly given the time period that has lapsed between the commencement of the inaugural review and the operative date of the Determination.
76. The Tribunal has considered the wage movements and current rate of inflation and has factored these into the minimum and maximum amounts of remuneration but notes that the increase applied is substantially less than CPI.
77. Any decision in relation to an annual increase for CEO remuneration within the bands set by the Tribunal remains a matter for each council in accordance with section 99A(1) of the LG Act.
78. Furthermore, in accordance with section 147(5) of the *Statutes Amendment (Local Government Review) Act 2021* (SA), if the current remuneration level for a CEO is below the minimum band level set by the Tribunal, this may be increased to within the band limits at the discretion of the council. Conversely, if the remuneration level for a CEO is above the band level maximum, the Tribunal would expect no further increase in remuneration during the term of that appointment unless the remuneration level was to fall below the maximum remuneration level following any annual adjustments established by the Tribunal.

FREQUENCY OF REVIEWS

79. The Tribunal proposes to progress toward a review of the minimum and maximum remuneration of CEOs on a four yearly basis that is commensurate with the timeframe for local government member allowances. However, because this is the first review of this nature and it is based on data that is conflicting and inconsistent, it is acknowledged that councils may need to refer specific instances to the Tribunal for consideration. The Tribunal will review the minimum and maximum remuneration levels in July 2024 to take account of any feedback from councils or CEOs and wage and cost of living adjustments. The Tribunal expects any council who, as part of any future review, identifies significant differences in the remuneration package to provide sufficient detail and reasons as to why this is the case.

OPERATIVE DATE

80. The accompanying Determination will come into operation on and from 1 July 2023.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated this 16th day of June 2023



No. 4 of 2023

DETERMINATION OF THE REMUNERATION TRIBUNAL
Minimum and Maximum Chief Executive Officer Remuneration

SCOPE OF DETERMINATION

1. This Determination applies to Chief Executive Officers of Local Government Councils to whom section 99A of the *Local Government Act 1999* (SA) applies.
2. For the reasons provided in the accompanying report, The Municipal Council of Roxby Downs is not covered by this Determination.

MINIMUM AND MAXIMUM REMUNERATION

3. In accordance with section 99A of the *Local Government Act 1999* (SA) (**LG Act**) the Remuneration Tribunal hereby determines the following rates of minimum and maximum remuneration for Chief Executive Officers of Local Government Councils in South Australia:

Band	Total Remuneration Package
1	\$414,000 - \$431,600
2	\$396,240 - \$402,480
3	\$357,760 - \$380,640
4	\$319,280 - \$351,520
5	\$299,520 - \$317,200
6	\$272,480 - \$292,240
7	\$235,040 - \$265,200
8	\$197,600 - \$229,840

4. Remuneration figures are expressed on a total remuneration package basis.
5. A list of council groupings is included at attachment 1.
6. Any decision in relation to an annual increase for CEO remuneration within the bands set by the Tribunal remains a matter for each council in accordance with section 99A(1) of the LG Act.

DATE OF OPERATION

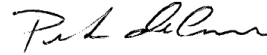
7. This Determination shall have operative effect on and from 1 July 2023.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated this 16th day of June 2023

ATTACHMENT 1

Council	Band
Adelaide Hills Council	5
Adelaide Plains Council	6
Alexandrina Council	5
Barunga West Council	7
Berri Barmera Council	7
Campbelltown City Council	3
City of Adelaide	1
City of Burnside	4
City of Charles Sturt	2
City of Holdfast Bay	4
City of Marion	4
City of Mitcham	3
City of Mount Gambier	5
City of Norwood Payneham & St Peters	4
City of Onkaparinga	3
City of Playford	4
City of Port Adelaide Enfield	2
City of Port Lincoln	7
City of Prospect	5
City of Salisbury	3
City of Tea Tree Gully	4
City of Unley	3
City of Victor Harbor	6
City of West Torrens	2
City of Whyalla	4
Clare & Gilbert Valleys Council	7
Coorong District Council	7
Copper Coast Council	6
Corporation of the Town of Walkerville	5
District Council of Ceduna	6
District Council of Cleve	7
District Council of Coober Pedy	8
District Council of Elliston	8
District Council of Franklin Harbour	7
District Council of Grant	7
District Council of Karoonda East Murray	8

District Council of Kimba	8
District Council of Lower Eyre Peninsula	7
District Council of Loxton Waikerie	7
District Council of Mount Remarkable	7
District Council of Orroroo Carrieton	8
District Council of Peterborough	8
District Council of Robe	8
District Council of Streaky Bay	8
District Council of Tumby Bay	7
District Council of Yankalilla	7
Kangaroo Island Council	7
Kingston District Council	8
Light Regional Council	5
Mid Murray Council	6
Mount Barker District Council	3
Naracoorte Lucindale Council	7
Northern Areas Council	7
Port Augusta City Council	6
Port Pirie Regional Council	6
Regional Council of Goyder	6
Renmark Paringa Council	6
Southern Mallee District Council	7
Tatiara District Council	7
The Barossa Council	4
The Flinders Ranges Council	8
The Rural City of Murray Bridge	5
Town of Gawler	4
Wakefield Regional Council	7
Wattle Range Council	7
Wudinna District Council	8
Yorke Peninsula Council	4

COVER SHEET

CONFIDENTIAL REPORT

12 July 2023

CEO Performance Review Committee Meeting

5 Debate Reports Confidential Report

5.1 PRESENTATION OF RESULTS FROM THE DATA COLLECTION PHASE OF THE CEO PERFORMANCE REVIEW

The matter of the agenda item being:

Section 90(3)(a) of the Local Government Act 1999:

information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); pursuant to Section 90(3)(a) of the Local Government Act 1999 ("the Act") being information that must be considered in confidence.

There is strong public interest in enabling members of the public to observe CEO Performance Review Committee's transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a CEO Performance Review Committee meeting is one means of satisfying this interest. The public will only be excluded from a CEO Performance Review Committee meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that CEO Performance Review

On balance, the above reason which supports the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.

RECOMMENDATION

That CEO Performance Review Committee:

- (1) Under the provisions of Section 90(2) of the *Local Government Act 1999*, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate Services and Business Innovation, Director Community Services, Director Development and Environmental Services, Director Works and Engineering, Project Director The Big Project and the Minute Secretary, in order to consider in confidence a report relating to 5.1 Presentation of results from the data collection phase of the CEO Performance Review being information that must be considered in confidence pursuant to:

Section 90(3)(a) of the *Local Government Act 1999*:

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

- (2) Accordingly, on this basis, CEO Performance Review Committee is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential in order that CEO Performance Review