

CEO RECRUITMENT, PERFORMANCE APPRAISAL AND REMUNERATION REVIEW COMMITTEE

TERMS OF REFERENCE

1. Name

- 1.1 The name of the Committee is the CEO Recruitment, Performance Appraisal and Remuneration Review Committee ["Committee"].

2. Establishment

- 2.1 The Committee was established on 18 January 2011 by resolution C8073 of the City of Burnside pursuant to section 41 of the *Local Government Act 1999*.

3. Strategic Community Plan Priority

- 3.1 Governing with integrity.

4. Legislative Requirements and Corporate Policy Context

- 4.1 The appointment, remuneration and performance appraisal of the Chief Executive Officer (CEO) is the only human resource responsibility of the elected body of Council, as set out in Part 1 of Chapter 7 (sections 96 – 102A) of the *Local Government Act 1999*.
- 4.2 These Terms of Reference set out Council's procedure for carrying out those functions.

5. Interpretation

- 5.1 In these Terms of Reference:
- "the Act" means the *Local Government Act 1999*;
- "CEO" means Chief Executive Officer;
- "Council" means the City of Burnside;
- "Council Member" means the Mayor or Councillor (as defined in the Act) of the Council;
- "Remuneration" includes salary.
- "Qualified Independent Person", as defined in section 98(7), means a person who is—
- (a) not a member or employee of the council; and

- (b) determined by the council to have appropriate qualifications or experience in human resource management.
- 5.2. Any reference to the Act or law includes any Act or law replacing it.

6. Functions of the Committee

- 6.1 The Council is responsible for the appointment of the CEO, determining the CEO's Performance Plan, assessing the CEO's performance against that plan and determining the remuneration of the CEO. The Committee's role is to advise the Council on these matters including:
- 6.1.1 performing the functions of a selection panel pursuant to section 98(4) of the Act;
 - 6.1.2 recommending to Council a qualified independent person to provide advice to the selection panel pursuant to section 98(4a);
 - 6.1.3 ensuring that an annual performance review is conducted for the CEO pursuant to section 102A(1).
 - 6.1.4 appointing a qualified independent person pursuant to section 102A(2) of the Act to assist the committee in:
 - 6.1.4.1 determining the Performance Plan of Council's CEO ;
 - 6.1.4.2 monitoring the performance of Council's CEO; and
 - 6.1.4.3 reviewing the remuneration and conditions of employment of the CEO at 12 monthly intervals, considering section 99A of the Act.

7. Membership

- 7.1. The Committee comprises the Mayor and three Council Members.
- 7.2. Unless Council resolves otherwise, the Mayor is the Presiding Member of the Committee.
- 7.3. The three Council Members are appointed for a period of 24 months, commencing on 1 January in each calendar year and expiring on 31 December at the end of the two-year period.
- 7.4. Executive Administration Support – the CEO will allocate appropriate human resources to ensure that reports, agendas, notice of meetings and minutes of the Committee are recorded and managed in accordance with legislative compliance requirements. Other professional human resources and procurement services will be allocated by the CEO as required.

8. Meetings

- 8.1 The Committee must meet as often as is necessary to ensure that it meets its obligations as set out in these Terms of Reference; meetings should occur at least quarterly with a subsequent report and minutes provided to Council.

- 8.2 The Presiding Member, with the consent of at least one other member of the Committee, may cancel a meeting due to lack of business or other reasonable reason.
- 8.3 Any two Committee members may call a meeting of the Committee.
- 8.4 These Terms of Reference may be amended by the Committee as necessary in consultation with Council, with Council being the final point of adoption.
- 8.5 Meeting procedures shall follow those set out in Part 3 of the *Local Government (Procedures at Meetings) Regulations 2013*, Council's Code of Practice – Procedures at Meetings and the Code of Practice – Access to Meetings and Documents.
- 8.6 Special requirements as to confidentiality
 - 8.6.1 All documents to which orders are made under section 90(3) and 90(7) of the Act apply must be held by the Group Manager People and Innovation until their release pursuant to the operation of section 91(9) of the Act, at which time they are to be included in the council's records management system.
 - 8.6.2 The minute taker and all support staff and persons who are not Council members who have access to documents and records to which section 91(7) of the Act applies, must keep all such documents and records in the strictest of confidence and release them to Council Members only, by resolution of the Committee.
- 8.7 Meetings will be held at Council's Civic Centre or another location nominated by the Presiding Member.
- 8.8 The agendas and minutes of the Committee will be available to the public in accordance with the City of Burnside's Code of Practice – Access to Meetings and Documents.

9 Notice of Meetings

- 9.1 In accordance with section 87 of the Act, a minimum of three (3) clear days notice of an ordinary meeting of the Committee will be provided to members of the Committee.
- 9.2 A copy of the Notice of Meeting and Committee Agenda will be displayed publicly when published to Committee Members.
- 9.3 All meeting papers will be provided to Committee Members electronically.

10 Voting

- 10.1 Each member of the Committee present at a meeting shall have one vote.
- 10.2 The Presiding Member shall have a deliberative vote but does not in the event of an equality of votes have a casting vote.
- 10.3 In the event of a tied vote the matter will be referred to Council for deliberation.

11 Quorum

- 11.1 A quorum for the Committee shall be as prescribed in the City of Burnside Code of Practice – Procedures at Meetings.

12 Delegations

- 12.1 Subject to paragraph 12.2 below, the Committee's role is limited to advising Council through recommendations. The Committee may, engage consultants to assist with its activities in accordance with Council's Procurement Policies and adopted budget.
- 12.2 The Committee has the following delegated authority, coupled with the following obligations:
- 12.2.1 the power to engage such solicitors or other qualified independent persons as the Committee may from time to time determine to liaise and provide advice on matters pertaining to the CEO Recruitment, the Performance Plan, Performance Appraisal and Remuneration Review functions;
 - 12.2.2 the obligation to provide details to Council at the first Council meeting following the end of each financial year advising of the costs incurred in the provision of this advice for the preceding financial year;
 - 12.2.3 the power to authorise accounts for payment relating the provision of legal advice to the Committee and consultancy work relating to these Terms of Reference; and
 - 12.2.4 all powers necessary for it, on behalf of Council, to carry out the functions set out in these Terms of Reference and to expend funds necessary for that purpose.

13 Duties of the Committee

- 13.1 Recruitment of CEO
- 13.1.1 Council's role is to appoint the CEO, on the advice of the Committee and, subject to clause 12.1.3 , to identify a suitable person and refer the appointment of that person to Council.
 - 13.1.2 The Committee's role is to:
 - 13.1.2.1 assist Council in the recruitment of a CEO;
 - 13.1.2.2 identify and recommend to Council a suitable candidate for the position of CEO;
 - 13.1.2.3 on behalf of Council, ensure compliance with Section 98(3) of the Act;
 - 13.1.2.4 carry out the functions of a selection panel in accordance with Section 98(4) of the Act;

13.1.2.5 in accordance with Council's Procurement Policy, to engage a qualified independent person to provide advice on the assessment of applications and recommendations on appointment as well as to manage and conduct the process of selection of a suitable candidate for the position of CEO; and

13.1.2.6 ensure that the recruitment process includes an advertising campaign inclusive of publishing the advertisement on the appointed qualified independent person's website.

13.1.3 The Committee is empowered to identify a single person as suitable pursuant to clause 13.4. If, however, the Committee fails to reach a unanimous view as to that person, it shall on the request of any member of the Committee (made at the meeting of the Committee resolving which candidate should be recommended to Council) refer the matter to Council for determination of who, from the final short-list, is to be appointed.

13.2 Performance Appraisal of the CEO

13.2.1 The Committee's role is to, on an annual basis, and in conjunction with the Chief Executive Officer, establish the Key Performance Indicators (KPIs) aligned to Council's Strategic Plan, against which the performance review is to be conducted.

13.2.2 The Committee will seek input from Council Members and the CEO regarding the KPI's to be set for the CEO, and will prepare a final Performance Plan with the assistance of a qualified independent person (see clause 13.4) to be presented to Council.

13.2.3 The Committee finalises the Performance Plan inclusive of any amendments resolved by Council and distributes the final document to Council Members and the CEO.

13.2.4 The Committee will monitor the CEO's on-going performance against the Performance Plan and amend the Plan as required.

13.2.5 Council's role is to assess the CEO's performance measured against that Plan. The Committee will engage with the Chief Executive Officer in the undertaking of the annual performance appraisal within the parameters of the Employment Agreement and attend to the collection and collation of Council Member feedback in relation to the CEO's performance as measured against the Performance Plan.

13.2.6 The Committee will ensure that all Council Members are invited to provide written comments of appraisal of the CEO's performance to the Committee, and that a minimum time period of at least two weeks is allowed for members to comment.

13.2.7 The Committee will meet to read/discuss Council Members' comments, make a joint Committee assessment, discuss outcomes with the CEO and prepare a Committee Report to Council.

- 13.2.8 The Committee Report to Council is to include comments by the CEO addressing any Council Members' feedback the CEO wishes to comment upon, together with a brief outline of his/her reasons for his/her self-assessment rating.
- 13.2.9 The report will also detail any aspects of the CEO's performance that are commendable and any aspects that require improvement, together with reasonable timeframes within which the CEO Committee expects those areas of performance to be improved to a specific standard.
- 13.2.10 The Mayor, as Presiding Member of Council, provides feedback to the CEO of the discussions in Council regarding the CEO's Performance Appraisal.
- 13.2.11 The Committee will seek feedback after six months of the performance review period from the CEO to determine the CEO's progress in achieving the KPI's set out in the Performance Plan, and will determine any changes needed in the Performance Plan based on that feedback. Should any amendments be required to the Performance Plan those amendments will also be presented to Council.
- 13.2.12 The Committee will also periodically review with the CEO the Key Result Areas derived from the position description and included in the Performance Plan against which 360 feedback will be sought during the annual performance appraisal which is reported to Council.
- 13.2.13 The Presiding Member of the Committee is to respond to the CEO should they be advised of any situation where it might reasonably be appropriate to vary any aspects of the performance review standards and/or parameters in the light of current circumstances (refer 14.1.5).

13.3 Remuneration and Conditions of Employment Review of the CEO

- 13.3.1 The purpose of the review is to ensure that Council is satisfied with the current salary, contract, and conditions of employment of its CEO, and to vary these where it deems appropriate.
- 13.3.2 In accordance with Section 99A(2) of the Act, the Remuneration Tribunal will determine (from time to time) the minimum and maximum remuneration that may be paid or provided to CEO's of councils.
- 13.3.3 The Committee's role is to support this process and in doing so, the Committee must:
 - 13.3.3.1 with the assistance of a qualified independent person (see clause 12.4), undertake the annual remuneration review;
 - 13.3.3.2 participate actively in the process of reviewing the remuneration and conditions of employment of the CEO, ensuring that he/she, is both consulted and informed of the process; and

13.3.3.3 recommend to Council any proposed changes in remuneration and/or conditions of employment of the CEO that the Committee thinks appropriate.

13.3.4 The Committee should endeavour to complete the annual remuneration review as soon as practicable at the start of a new financial year and, although a separate process from the Performance Appraisal, take into consideration:

13.3.4.1 the Remuneration Tribunal decision regarding the minimum and maximum amounts payable to the CEO;

13.3.4.2 the CEO's performance over the previous financial year including achievement of KPIs;

13.3.4.3 the CEO's Position Description;

13.3.4.4 movements in the Consumer Price Index (CPI);

13.3.4.5 wage changes in Council's employee enterprise agreements; and

13.3.4.6 remuneration paid to CEOs of similar sized organisations, including similar sized Councils in South Australia.

13.4 Performance Appraisal & Remuneration Review Consultant

13.4.1 The Committee must appoint a qualified independent person to assist with the Performance Plan, Performance Appraisal and Remuneration Review of the CEO in accordance with section 102A of the Act.

13.4.2 The process of appointing a qualified independent person must be in line with Council's Procurement Policy, with the process being facilitated by a member of Council Administration with the Committee Members appointed as the evaluation panel (subject to conflict of interest provisions).

13.4.3 The qualified independent person's role is to:

13.4.3.1 liaise with, and report directly to the Committee;

13.4.3.2 provide professional advice to the Committee; and

13.4.3.3 act consistently within the framework of appointment by the Council, assist the Committee, mindful of the interests of the Committee / Council on the one hand and the CEO on the other. The Consultant's duty is to the Committee / Council. The Consultant must not take instructions from the CEO.

14 **Council's Role**

14.1 Taking into account the recommendations of the Committee, to:

14.1.1 determine the contract of employment for the CEO;

14.1.2 appoint the CEO;

14.1.3 as an elected body, and individually as Council members, participate in the CEO's performance appraisal process;

- 14.1.4 determine whether any variations to the remuneration and conditions of the CEO are appropriate;
and
- 14.1.5 endorse the Committee’s decisions regarding the appointment of the qualified independent person to assist the Committee.

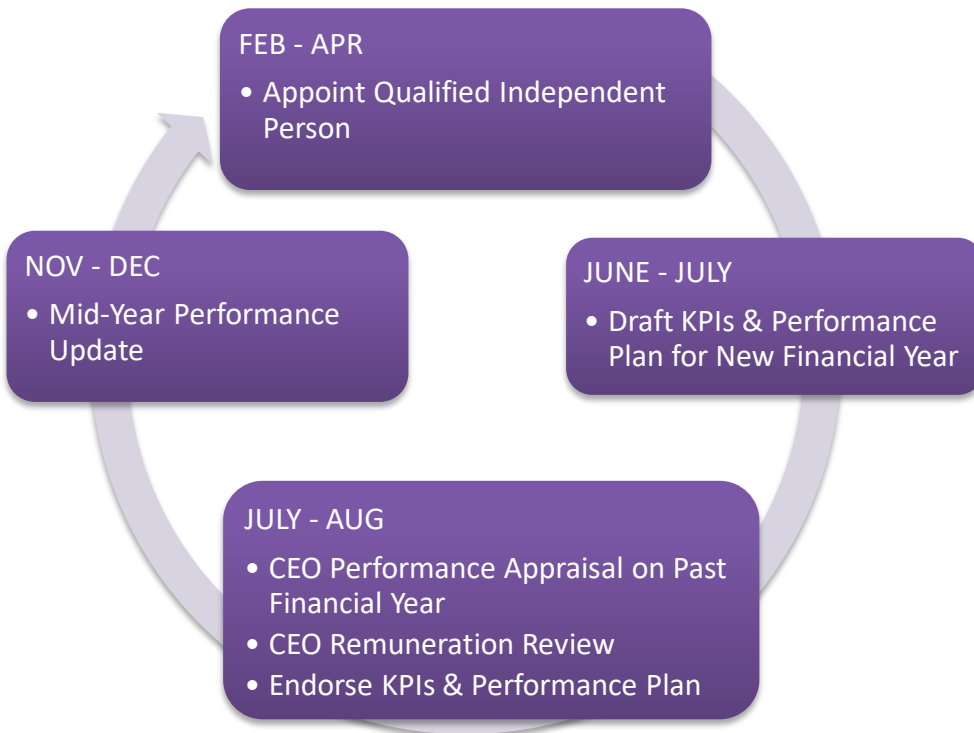
15 The CEO’s Role

- 15.1 The CEO’s role is to:
 - 15.1.1 work collaboratively with the Committee in determining the Annual Performance Plan;
 - 15.1.2 participate actively in the annual performance appraisal process pursuant to section 102A(1) of the Act;
 - 15.1.3 use constructive feedback from Council Members and the Committee in relation to the annual performance appraisal;
 - 15.1.4 undertake professional development when outlined in the annual performance review; and
 - 15.1.5 promptly bring to the attention of the Presiding Member of the Committee any situation where it might reasonably be appropriate to vary any aspects of the performance review standards and/or parameters in the light of current circumstances.
- 15.2 Appeals by the CEO:
 - 15.2.1 If the CEO is dissatisfied with the performance appraisal or remuneration review process, he or she should write to the Mayor stating the grounds of the appeal.
 - 15.2.2 The Mayor should seek to resolve the matter, in consultation with a representative of the CEO (chosen by the CEO), by evaluating the individual performance assessment process and outcomes. Council may also wish to consider establishing an appeal panel which could comprise:
 - 15.2.2.1 independent Chair (to be agreed between CEO and Council/Committee);
 - 15.2.2.2 a representative of the CEO (who will be chosen by the CEO); and/or
 - 15.2.2.3 the Committee members, the Mayor and an Council Member, or some other arrangement suitable to Council.

16 Timelines

- 16.1 A snapshot of timelines has been included below and begins with appointing a qualified independent person around February to support the Committee in establishing CEO KPIs and developing a Performance Plan for the following financial year. The term for the Consultant continues until the Remuneration Review has been completed for that following financial year (approximately 16-18 months).

16.2 In the year of a general election the Committee will conduct all review and decision making prior to the commencement of the Caretaker period.



TERMS OF REFERENCE HISTORY

Date	Resolution No.	Comment / Amendment
16/06/2022	C160622	TOR amended to align with changes to the Local Government Act, simplifying timelines, removing additional approval processes and restricting CEO remuneration comparison to South Australia as the cost of living varies across the country making a national comparison inaccurate.
22/02/2021	C090321	Simplifying timelines, updating the document to reference current legislation, inclusion of components from CEO employment contract, and ensuring compliance with Council's Procurement Policy.
26/03/2018	CP0355	TOR amended as per CP0355(5/3/2018) for presentation to Committee and Council.
12/05/2015	C10162	TOR amended as per CPO276 (20/04/2015)
08/04/2014	C9662	TOR amended as per CPO226 & CPO 227
25/02/2014	C9600	Amend paragraph 8 and paragraph 11 to include Mayor as 'ex-officio' and quorum calculations.
11/12/2012	C8956	Amended paragraph 8.
13/11/2012	C8932	Amended

24/4/2012	C8642	TOR amended as per CP0151 (27/2/2012) and CP0157 (26/3/2012)
26/03/2012	CP0157	Addition of paragraph 12 to Attachment 1 (Appeals by CEO)
27/02/2012	CP0151	Quorum to remain at all three (3) for matters relating to CEO Recruitment, Selection & Appointment and on all other matters the quorum be two (2).
24/01/2012	C8551	Deletion of paragraph 8 from attachment 1 – CEO Appraisal and Timeline.
08/03/2011	C8134	Terms Of Reference for CEO Performance Review and Recruitment Committee (CPRRC) be adopted.
	C8135	Committee name changed to CEO Recruitment, Performance Appraisal and Remuneration Review Committee (CPRRC)
01/02/2011	CP0001	Mayor appointed as Presiding Officer
18/01/2011	C8073	CEO Performance Appraisal Panel be dissolved. CEO Performance Review and Recruitment Committee (CPRRC) be established pursuant to Section 41 of the Local Government Act 1999.