

**16.2 CHIEF EXECUTIVE OFFICER REMUNERATION REVIEW**

132

**Responsible officer: Katrina Bell, Coordinator Organisational Development**

- Attachments:**
- 1. Remuneration Review - Jason Taylor - Perks People Solutions - Confidential**
  - 2. Contract of Employment - Jason Taylor - Confidential**

<b>Section under the Act</b>	The grounds on which part of the Council or Committee may be closed to the public are listed in Section 90(2) & (3) of the <i>Local Government Act 1999</i> .
<b>Sub-clause and Reason:</b>	(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

**Executive Summary**

The purpose of this report is to enable Council to consider the report on the CEO Performance Review Panel’s recommendations in relation to the CEO’s remuneration review. This recommendation is based on an offer put to the CEO by the performance review panel after the panel had considered the report from Perks People Solutions.

**RECOMMENDATION**

**That Council:**

- 1. receives and notes the CEO Remuneration report and attachment;**
- 2. approves the removal of the \$4,000 professional development allowance within the Chief Executive Officer’s employment contract and absorbs this into the cash component of the Chief Executive Officer’s Total Employment Package**
- 3. approves an increase to the cash component of the Chief Executive Officer’s Total Employment Package to a total of \$145,000 per annum**
- 4. provides the CEO advice in writing of this decision**

**MOVED COUNCILLOR PAUL IRELAND  
 SECONDED COUNCILLOR MICK SPARNON**

**That Council:**

1. receives and notes the CEO Remuneration report and attachment.
2. approves the removal of the \$4,000 professional development allowance within the Chief Executive Officer’s employment contract and absorbs this into the cash component of the Chief Executive Officer’s Total Employment Package.
3. approves an increase to the cash component of the Chief Executive Officer’s Total Employment Package to a total of \$145,000 per annum.
4. stipulates any professional development training in excess of \$1500 + GST per annum to be approved by the Mayor and Deputy Mayor.
5. provides the CEO advice in writing of this decision.

**CARRIED.**

## Background

The CEO, Jason Taylor, entered into a contract with Southern Mallee District Council and commenced employment on 19 July 2018. The contract has a term of three years with the potential for a one year extension.

At the Council meeting held on 18 September 2019 it was resolved that the CEO had met a satisfactory performance standard and that the remuneration review would commence.

Council engaged the assistance of Perks People Solutions to complete a remuneration review in line with the conditions of the CEO's employment contract.

## Context

The CEO's contract includes the following clause relating to the Remuneration Review:

### 11. Remuneration Review

- a) *The Remuneration specified in Schedule 2 will be reviewed annually and any such review shall not result in a decrease in the Remuneration.*
- b) *The annual review of the Remuneration shall be conducted within 1 month following the performance review described in clause 8 (if reasonably practicable), and any change to the Remuneration shall be back dated to take effect from the anniversary of the commencement date of this agreement.*
- c) *The review of the Remuneration will take into account the following:*
  - (i) *the agreed criteria upon which the Chief Executive Officer's performance is assessed in accordance with the performance review process, and*
  - (ii) *movements in the annual CPI (all groups Adelaide) and the increase and movement in executive salaries within Local Government in South Australia.*
- d) *any variation to the remuneration must be approved by the Council.*

At Council's meeting on 18 September 2019, it was resolved

*That Council:*

1. *Receives and notes the CEO Performance Review report and attachment;*
2. *Determines that the CEO's performance review is satisfactory, based on the information in the report*
3. *Engage Perks People Solutions to commence the remuneration review*
4. *Reviews the Key Performance Indicators to apply to the next review period being 1 July 2019 to 31 December 2019.*

## Policy and statutory implications

The Local Government Act 1999, Chapter 7, deals with requirements related to the CEO.

## Issues

The CEO Performance Review Panel and the CEO met on Wednesday 4 December 2019 and reached a consensus after the initial offer made to the CEO was accepted. If the panel's recommendation is not supported by Council this will require further negotiations, further

delaying the conclusion of the process. It could also have an indirect impact on the next review which is scheduled to commence after 31 December 2019.

**Alternate options**

Council and the CEO have contractual obligations they must meet.

**Financial implications**

There is a cost associated with engaging a firm to undertake a review of the CEO's remuneration at the end of June 2019.

There will be an impact on the salaries budget with the approval of an increase to the CEO's remuneration. The net increase to the cash component of the CEO's Total Employment Package is \$13,000 and superannuation will be adjusted accordingly.

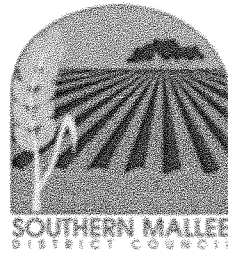
**Work Health and Safety and Risk implications**

There are no work health and safety and risk implications for this item.

**Consultation**

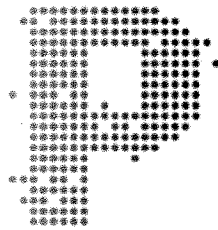
Council engaged the services of Perks People Solutions to facilitate the remuneration review process and provide a report back to Council.

The CEO's remuneration review has been carried out in consultation with the CEO and CEO performance review panel as appointed by Council.



# Remuneration Review – Jason Taylor

## 2019



Perks  
People  
Solutions

**Introduction**

Perks People Solutions have conducted the 2018/2019 Performance Review for Jason Taylor, CEO, Southern Mallee District Council. Following on from the Performance Review, a Remuneration Review has now been conducted as per Jason’s employment contract –

**11. Remuneration Review**

- (a) The Remuneration specified in Schedule 2 will be reviewed annually and any such review shall not result in a decrease in the Remuneration.
- (b) The annual review of the Remuneration shall be conducted within 1 month following the performance review described in clause 8 (if reasonably practicable), and any change to the Remuneration shall be back dated to take effect from the anniversary of the commencement date of this agreement.
- (c) The review of the Remuneration will take into account the following:
  - (i) the agreed criteria upon which the Chief Executive Officer’s performance is assessed in accordance with the performance review process, and
  - (ii) movements in the annual CPI (all groups Adelaide) and the increase and movement in executive salaries within Local Government in South Australia.
- (d) any variation to the remuneration must be approved by the Council.

**Current Remuneration Package**

The current salary package for Jason Taylor, effective from 19 July 2018 is as follows -

Annualised Salary	\$132,000 p.a
Notional Value of Motor Vehicle	\$15,000 p.a
Super – 9.5%	\$12,540 p.a
Housing Provision (Notional \$150 per week)	\$7,800 p.a
Additional 2 weeks leave per annum	\$5,080 p.a
Addition 2% Super	\$2,640 p.a
<b>Total Employment Package</b>	<b>\$175,060 p.a</b>

Additional items provided to the Chief Executive Officer in order to conduct business:

- Mobile Phone (Smartphone with all expenses by employer)
- Laptop Computer (Microsoft Surface Pro or equivalent)
- Internet provision at place of residence (Up to \$100 per month)
- Corporate Uniform Allowance in-line with Council policy.
- \$4,000 per annum from CEO Professional Development with prior approval from Council

**Comparative Data**

After consulting with Southern Malee District Council, we have gathered the following data from these comparative Regional SA Council’s as a basis for our remuneration recommendations -

Council	Est Resident Population as at 30 June 2019	Region Size (km2)	Rate Revenue	Cash Component (p.a)	Super (p.a)	Total (Cash Component and Super) – p.a	Vehicle p.a	Phone/Laptop	Rent Assistance	Total Rem Package (p.a)	Other
Southern Mallee District Council	2,094	6,000	\$3.1M	\$132,000	\$12,540	\$144,540	\$15,000	Supplied	\$150/week	\$175,060	\$4,000 per annum from CEO Professional Development, Internet provision at place of residence (Up to \$100 per month) Corporate Uniform Allowance in-line with Council policy.
Flinders Ranges Council	1,784	4,198	\$2.2M	\$153,631	\$16,501	\$170,132	\$15,000	N/A	N/A	\$190,200	Other Allowances \$3,000 Leave Loading \$2,068
Tatara District Council	6,580	6,476	\$8.1M	\$179,786	\$17,080	\$196,866	\$12,500	N/A	N/A	\$209,365	N/A
District Council of Karoonda East Murray	1,100	4,415	\$1.4M	\$150,000	\$14,250	\$164,250	\$12,000	Yes	Yes – subsidised house rent	\$164,250	N/A
Wakefield Regional Council	6,801	3,469	\$10.1M	\$180,820	\$17,177.90	\$197,997.90	\$10,000	Yes	N/A	\$197,997.90	Professional Membership Subscriptions
Adelaide Plains Council	9,059	932	\$9.1M	\$197,600	\$18,376.80	\$215,976.80	\$15,000	\$1,500.00	N/A	\$232,476.80	N/A

**Perks People Solutions - Recommendations**

Based on the data presented above, we would recommend a 7% increase (\$9,240) to Jason’s Cash Component -

	<b>Current</b>	<b>Proposed</b>
Cash Component	\$132,000 p.a	\$141,240 p.a
Notional Value of Motor Vehicle	\$15,000 p.a	\$15,000 p.a
Super – 9.5%	\$12,540 p.a	\$13,417.80 p.a
Housing Provision (Notional \$150 per week)	\$7,800 p.a	\$7,800 p.a
Additional 2 weeks leave per annum	\$5,080 p.a	\$5,080 p.a
Addition 2% Super	\$2,640 p.a	\$2,824.80p.a
<b>Total Employment Package</b>	<b>\$175,060 p.a</b>	<b>\$185,362.60</b>

Contract of Employment

Southern Mallee District Council  
PO Box 49,  
Pinnaroo, SA, 5304

and

Jason TAYLOR  
7 Stanley Street,  
Daylesford, Vic, 3460

PO Box 49  
Pinnaroo,  
South Australia 5304  
Telephone \*61 8 8577 8002  
Facsimile \*61 8 8577 8443  
council@southernmallee.sa.gov.au

CONFIDENTIAL



Date		day of		2018
Parties				
1.	Southern Mallee District Council of PO Box 49 Pinnaroo, South Australia (the Council); and			
2.	Jason TAYLOR of 7 Stanley Street, Daylesford, Victoria, 3480 (the Chief Executive Officer).			
Recitals				
A	The Council is a body corporate constituted by proclamation pursuant to the Local Government Act 1999 (the Act).			
B	In accordance with section 96 of the Act the Council wishes to appoint Jason Taylor as its Chief Executive Officer for a term as specified in this agreement to perform the duties of Chief Executive Officer of the Council.			
C	The Council resolved on 20 June 2018 to appoint Jason Taylor to the position of Chief Executive Officer and further resolved that a formal employment contract (this Agreement) setting out the terms of engagement be entered into between the Chief Executive Officer and the Council.			
D	The Chief Executive Officer wishes to accept the appointment in accordance with this Agreement.			

It is agreed as follows:

**1. Preliminary**

**1.1 Definitions**

In this Agreement:

- (a) **Act** means the Local Government Act 1999 (Cth);
- (b) **Agreement** means this employment Agreement;
- (c) **Award** means the South Australian Municipal Salaried Officers Award 2006;
- (d) **Chief Executive Officer** means the person appointed as the Chief Executive Officer of the Council as outlined in the Act as amended from time to time;
- (e) **Commencement Date** means 19 July 2018

CONTRACT OF EMPLOYMENT

JASON TAYLOR

- (f) **Competent Performance** means the achievement by the Chief Executive Officer of a performance level equal to or better than "competent" as identified in the Performance Rating Scale set out in Schedule 3;
- (g) **Confidential Information** means;
  - (i) information relating to the business affairs and employees of the Council;
  - (ii) matters of a technical nature, future directives and policies, technical data pertaining to the general affairs of the Council, internal procedures and information, financial information, information pertaining to other employees, salaries, strategic and business plans and like information relating to the Council;
  - (iii) other information which the Council tells the Chief Executive Officer is confidential or which if disclosed, the Chief Executive Officer knows or ought reasonably to know would be detrimental to the Council;
  - (iv) or other information which is imparted to the Chief Executive Officer in circumstances which the Chief Executive Officer knows or should reasonably know that the information is confidential to the Council or any other persons with whom the Council is concerned; and
  - (v) excludes any information that is public knowledge otherwise than as a consequence of a breach by the Chief Executive Officer of obligations under this Agreement or breach by some other person of a duty of confidence with the Council.
- (h) **Council** is the corporate entity which is the Southern Mallee District Council;
- (i) **Duties** means the responsibilities, duties and functions of the Chief Executive Officer specified in this Agreement and in Schedule 1;
- (j) **Expiry Date** means the date upon which this Agreement expires in accordance with clause 2 (a) of this Agreement;
- (k) **Immediate family or household member** means the Chief Executive Officer's spouse, domestic partner, child, parent, grandchild, grandparent or sibling, or the child, parent, grandchild, grandparent or sibling of the Chief Executive Officer's spouse or domestic partner;
- (l) **Intellectual Property** includes, without limitation, all inventions, copyright, patent, rights, trade marks or processes (and all associated rights, title and interest in or to the same) generated by the Chief Executive Officer in the course of his employment as provided for by this Agreement;
- (m) **Performance criteria** means the criteria against which the Chief Executive Officer's performance is to be assessed under the relevant performance review process;

- (n) Performance Review Process means the system by which the Chief Executive Officer's performance is assessed, under clause 8 and rated in accordance with the Performance Rating Scale specified in Schedule 3;
- (o) Sacrificed Amount means the amount elected by the Chief Executive Officer to be paid into the fund the Chief Executive Officer has nominated in clause 10(e);
- (p) Remuneration means the monetary and non-monetary entitlements of the Chief Executive Officer specified in Schedule 2; and
- (q) Term means the period of employment specified in clause 2(a).

1.2 Interpretation

In this Agreement, unless it is stated to the contrary;

- (a) the singular includes the plural and conversely;
- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (d) a reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or annexure to, this Agreement;
- (e) a reference to an agreement or document (including this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document; a reference to **writing** includes any method of representing or reproducing words, figures, drawings or symbols in a visible form (including electronic mail);
- (f) a reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives);
- (g) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (h) the meaning of general words is not limited by specific examples introduced by **including**, or **for example**, or similar expressions;
- (j) references to **agree**, **approve** or **consent** are references to agreement, approval or consent (as the case may be) in writing; and
- (k) nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or any part of it.

1.3 Headings and recitals

Headings and recitals are for convenience only and do not affect the interpretation of this Agreement.

2. Commencement Date and Term

- (a) The terms and conditions in this Agreement will take effect on and from the Commencement Date and will continue for a period of 3 years concluding on the Expiry Date which subject to clause 2 (b) of this Agreement, is 19 July 2021 (the Term).
- (b) The parties agree that the Chief Executive Officer's employment will terminate on the Expiry Date unless;
  - (i) the Agreement is terminated prior to the Expiry Date pursuant to clauses 17 and 18 of this Agreement, in which case the Chief Executive Officer's employment will terminate at that time; or
  - (ii) the Council in accordance with clause 4 of this Agreement exercises the option to seek to extend this employment Agreement for a further period;

3. Probation Period

- a) It is agreed that the appointment of the Chief Executive Officer is subject to the Chief Executive Officer's satisfactory performance during the first 5 calendar months from the Commencement Date with a facilitated 360-degree review of Elected Members, an agreed sample of staff and stakeholders, to be undertaken in confidence at 4 months to measure satisfaction with the Chief Executive Officer's performance. The 5 calendar months being the Probationary Period. During the Probationary Period, the following will occur:
  - (iii) the Chief Executive Officer will meet, on a monthly basis, with the Mayor and Deputy Mayor of the Council for a discussion of his performance;
  - (iv) a written record will be kept of these discussions, and "signed off" as a true record by the Chief Executive Officer, Mayor and Deputy Mayor;
  - (v) if, during any of these monthly meetings, performance problems are raised, these will be recorded, and noted for review at the next monthly meeting; and
  - (vi) if a problem identified at the previous monthly meeting remains a problem at the next meeting, then either party may terminate this Agreement by providing 4 weeks' written notice to the other party;
  - (vii) further and in addition to clause 3 (a)(iv), the Council may following the review at 4 months if satisfied that a satisfactory level of performance has not been achieved terminate this Agreement by giving 8 weeks' notice to the Chief Executive Officer;
  - (viii) following satisfactory completion of the Probationary Period the Chief Executive Officer's contract will be formally confirmed.

**4. Option to Extend Contract of Employment**

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- (a) The Council, subject to satisfactory performance by the Chief Executive Officer in the first 2 years of the Term, may in its absolute discretion and with the agreement of the Chief Executive Officer, extend the Agreement by one year from the Expiry Date to 19 July 2022 (the Extended Term).
- (b) The Council must notify the Chief Executive Officer at least one month before the end of the first 2 years of the Term whether the Extended Term will be offered to the Chief Executive Officer.
- (c) The Council must notify the Chief Executive Officer at least 9 months before the Expiry Date (should the Extended Term not have been offered to the Chief Executive Officer) or the end of the Extended Term, whether or not a new employment agreement is to be offered to the Chief Executive Officer. Such an offer will be for a further period of 2 years from the Expiry Date (should the Extended Term not have been offered to the Chief Executive Officer) or the end of the Extended Term (the Further Term).
- (d) If the Chief Executive Officer accepts the extension of the employment for the Further Term, the terms and conditions of that employment shall be set out in writing in a new employment agreement. In the absence of any such new agreement, the terms and conditions of this Agreement shall continue to apply.
- (e) If a new employment agreement is entered into between the parties, pursuant to clause 4(d), then the Chief Executive Officer will be deemed to have continuity of service with the Council for the purpose of determining the Chief Executive Officer's accrued benefits under the new employment agreement.
- (f) The parties may subject to clause 4(c), fix such other term whether greater or lesser than 2 years by way of mutual agreement which will then be the Further Term.
- (g) In accordance with the timeframe expressed in clause 4 (c), the Council must notify the Chief Executive Officer whether or not a new employment agreement is to be offered to the Chief Executive Officer at the end of the Further Term.

**5. Requirements of Position**

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The Chief Executive Officer must carry out the duties as are;

- (a) set out in the Position Description in Schedule 1 and as varied from time to time by agreement between the parties;
- (b) have regard to the policies of the Council as lawful directions as to the manner in which the Duties are to be performed but it being noted that such policies do not form part of this Agreement; and
- (c) imposed by the Act or in any other statute and/or enabling regulations relevant to the position of Chief Executive Officer.

**6. Hours of Work and Performance of Duties**

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The Chief Executive Officer shall:

- (a) work such reasonable hours as are necessary to carry out the duties and functions of the position of Chief Executive Officer;
- (b) observe and carry out all lawful directions given by the Council, in relation to the performance of the Chief Executive Officer's duties and functions under this Agreement;
- (c) act in the best interest of the Council at all times;
- (d) promote the aims and objectives of the Council;
- (e) disclose any financial or other interest relating to the business of the Council in accordance with the Act or which conflicts or may conflict with the discharge of the duties and functions of the office of Chief Executive Officer and comply with any reasonable direction given by the Council in respect of that interest;
- (f) devote the whole of his professional effort to his employment and will not hold any position or take on any activities which may in any way be seen to conflict with the Chief Executive Officer's obligations under this Agreement unless he has received the prior approval of the Council;
- (g) perform the duties with such a degree of skill, care and diligence, which is appropriate to the role of Chief Executive Officer;
- (h) in the performance of the duties, conform to all reasonable instructions that may be given to him from time to time by the Council and shall promptly give to the Council full information and truthful explanations of all matters relating to his duties and responsibilities under this Agreement;
- (i) be informed and up to date on issues and developments that effect all areas of his responsibility as Chief Executive Officer; and
- (i) subject to clause 5 (b) observe the requirements of the Employee Code of Conduct that has been adopted by the Council.

**7. Performance Criteria**

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The following performance criteria apply to this Agreement:

- (a) Provide accurate and timely advice to the Council.
- (b) Work in collaboration with the Council.
- (c) Provide innovative and visionary leadership in the role of Chief Executive Officer.
- (d) Establish effective networks.
- (e) Maintain a work environment that facilitates the development of people and encourages people to perform at a high level.
- (f) Ensure the effective and accountable application of financial and physical resources.
- (g) Develop and maintain change management strategies to enhance service delivery.
- (h) Initiate the development, implementation and review of Council policies.

- (i) These performance criteria may be varied and any other criterion may be included by agreement between the parties at any time during the term of this Agreement.

8 Performance Review

- (a) The Council will ensure that a review of the Chief Executive Officer's performance is conducted on a facilitated basis half yearly with the review for the end of the June being a 360-degree review of Elected Members, an agreed sample of staff and stakeholders to be undertaken in confidence, (both described as a Performance Review).
- (b) The Council shall give the Chief Executive Officer a minimum of 10 working days' notice in writing that a Performance Review is to be conducted to enable the Chief Executive Officer sufficient time to prepare.
- (c) The Chief Executive Officer will prepare and submit to the Council an assessment of his own performance at least 2 days prior to the Performance Review.
- (d) The final report on the Performance Review of the Chief Executive Officer at the end of the June is to be forwarded to the Council or relevant Council committee for consideration (the June Half Year **Assessment**).
- (e) In the event that the Chief Executive Officer does not achieve Competent Performance in the June Quarter Assessment, a written report shall be compiled with respect to the June Quarter Assessment and a copy provided to the Chief Executive Officer within 1 month of the June Half Year Assessment. The report shall set out in detail any particular aspects of the Chief Executive Officer's performance that requires improvement, together with timeframes during which the Council expects those areas of performance to be improved to a specified standard.
- (f) The Council must provide whatever counselling, advice and assistance as may be reasonably necessary to enable the Chief Executive Officer to improve his performance during any specified timeframes referred to in clause 8 (e). If at the conclusion of the timeframes referred to in clause 8 (e) the Chief Executive Officer's performance is still below that required, the Council may:
  - (i) take no further action; or
  - (ii) extend the timeframe for specified improvement for a further specified period; or
  - (iii) terminate the contract in accordance with clause 17.3 (b).

9. Outside Interests

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- (a) The Chief Executive Officer may accept Board positions where the Board is part of a statutory or not for profit authority provided that there is no conflict of interest apparent to the Chief Executive Officer in accepting the appointment. The Chief Executive Officer must advise the Mayor in writing of the Board position immediately upon accepting the position.
- (b) Otherwise, the Chief Executive Officer must not be directly or indirectly engaged, concerned or interested in any employment, trade, business, profession or occupation requiring the provision of services or advice by the Chief Executive Officer (other than the employment provided by this Agreement) except with the prior consent in writing of the Council.
- (c) The Council will not unreasonably withhold its consent in relation to the matters described in clause 9(b).
- (d) Where the Council so requests, the Chief Executive Officer must disclose to the Council all the Chief Executive Officer's outside activities and interests which fall within the scope of this clause.

10. Remuneration

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- (a) In consideration of performing the duties, the Chief Executive Officer is entitled to the remuneration per annum as outlined in Schedule 2 (the Remuneration).
- (b) The Remuneration includes all payments for all hours worked including all payments for reasonable overtime, annual leave loading and any other monetary entitlements that the Council may be obligated to provide under the Award and in particular having regard to clause 5.4.6 of the Award.
- (c) The Remuneration will be paid in arrears in equal fortnightly instalments by direct deposit to an account nominated by the Chief Executive Officer.
- (d) The Chief Executive Officer, further to clause 10 (b), agrees that the Remuneration is offered as full compensation for all work performed, which takes into account:
  - (i) any service on rostered days off or for attendance at meetings or functions outside the Council's usual office hours;
  - (ii) any entitlement to formal rostered days off;
  - (iii) an acknowledgement that the position of Chief Executive Officer is measured on performance and not on the number of hours worked;
  - (iv) the statutory superannuation contribution required to be made by the Council to the Chief Executive Officer pursuant to the *Superannuation Guarantee (Administration) Act 1992 (Cth) (SGA)* which shall be included in the Remuneration and paid into a fund nominated by the Chief Executive Officer that complies with the SGA.



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- (e) The Chief Executive Officer may with the consent of the Council elect to have a portion of before tax remuneration paid by way of salary sacrifice into the fund the Chief Executive Officer has nominated (or which the Council has nominated as the default fund) in clause 10 (d) ("the sacrificed amount"). The fund must be capable of accepting the sacrificed amount.
  - (f) The sacrificed amount nominated in this clause must not exceed that permitted by the SGA or other relevant tax and superannuation legislation and shall be agreed in writing in the form as attached at Schedule 4 of this Agreement. The Chief Executive Officer may apply to vary the sacrificed amount or terminate this arrangement on no more than one occasion in every 12-month period.
  - (g) An application to salary sacrifice under this clause must be made by completing the form attached at Schedule 4 of this agreement.
  - (h) The Chief Executive Officer shall continue to receive the following entitlements and payments calculated by reference to his salary before the sacrificed amount is deducted:
    - (i) paid leave;
    - (ii) any entitlement derived from the salary;
    - (iii) employer superannuation guarantee contributions;
    - (iv) termination benefits including notice;
    - (v) allowances.
  - (i) Should the Council and the Chief Executive Officer agree to structure the remuneration in such a way that Fringe Benefits Tax (*FBT*) is payable on all or any part of the remuneration, the *FBT* shall be paid by the Chief Executive Officer from the remuneration unless otherwise specified in this agreement.
  - (j) Subject to clause 10 (i), the Council shall pay any liability with respect to *FBT* incurred as a result of the ordinary carrying out of the Council business by the Chief Executive Officer by way of functions or travelling or on any part of the Remuneration.

#### **11. Remuneration Review**

- (a) The Remuneration specified in Schedule 2 will be reviewed annually and any such review shall not result in a decrease in the Remuneration.
- (b) The annual review of the Remuneration shall be conducted within 1 month following the performance review described in clause 8 (if reasonably practicable), and any change to the Remuneration shall be back dated to take effect from the anniversary of the commencement date of this agreement.
- (c) The review of the Remuneration will take into account the following:
  - (i) the agreed criteria upon which the Chief Executive Officer's performance is assessed in accordance with the performance review process, and
  - (ii) movements in the annual CPI (all groups Adelaide) and the increase and movement in executive salaries within Local Government in South Australia.

- (d) any variation to the remuneration must be approved by the Council.

#### 12. Expense of Office Payments

In addition to the Remuneration in Schedule 2 the Council will:

- (a) Reimburse the Chief Executive Officer for all reasonable work-related expenses upon production of appropriate tax invoices or receipts.
- (b) Provide to the Chief Executive Officer all reasonable tools of trade which are necessary or desirable having regard to his position and responsibilities including:
- (i) an iPhone or similar "smart phone";
  - (ii) a Microsoft Surface Pro or similar;
  - (iii) payment of costs associated with both the mobile phone service, tablet PC service and home phone/internet service and reasonable costs for ink and maintenance of the printer;
  - (iv) a fully maintained motor vehicle (Toyota Kluger or equivalent) consistent with Councils Motor Vehicle Policy.
- (c) The following conditions apply to the smart phone and laptop:
- (i) they will be for the Chief Executive Officer's work-related use and reasonable private use;
  - (ii) the Chief Executive Officer must return all upon cessation of his employment for any reason, or at any other time upon demand by the Council, but may keep the SIM card for the smart phone.
- (d) The following conditions apply to the motor vehicle:
- (i) the Chief Executive Officer may use the vehicle for work related and reasonable private purposes;
  - (ii) persons nominated by the Chief Executive Officer are permitted to drive the vehicle outside of working hours without the Chief Executive Officer being present. The nominated persons are restricted to the Immediate Family or Household Member as defined in this Agreement;
  - (iii) the Chief Executive Officer must keep and provide upon request by the Council, all receipts and records as are reasonably necessary to enable the Council to comply with its FBT liability to the Australian Tax Office concerning the Chief Executive Officer;
  - (iv) the Chief Executive Officer will be solely responsible for all parking fines, speeding fines, infringement notices or other penalties imposed due to his use of the vehicle;
  - (v) the Chief Executive Officer must keep the vehicle in a clean and presentable condition at all times and must promptly report to the Council any damage or defect;
  - (vi) the Council shall be responsible for all costs associated with the vehicle (but subject to clause 12 (d) (iii)) including but not limited to, registration, insurance, fuel, maintenance and FBT;

- (vii) the Chief Executive Officer must return the vehicle to the Council upon cessation of his employment for any reason, or at any other time upon demand by the Council; and
- (viii) the Chief Executive Officer releases, discharges and indemnifies the Council against all claims which may arise in respect of the Chief Executive Officer's negligent or unlawful use of the vehicle.
- (e) The Council will meet the reasonable membership fees and subscriptions payable by the Chief Executive Officer to professional associations, the membership of which is reasonably necessary or desirable for the Chief Executive Officer to hold in the performance of his duties. For the purposes of this clause membership shall include without limitation Local Government Managers Australia or any other such organisation as approved by Council

**13. Annual Leave**

- (a) The Chief Executive Officer is entitled to 20 days paid annual leave each year to be taken during agreed periods.
- (b) The Chief Executive Officer is not entitled to any leave loading payment.
- (c) There should not be more than 40 days annual leave owing in one year of service. The Council may direct the Chief Executive Officer to take any outstanding annual leave in excess of 40 days.
- (d) Any entitlement to annual leave standing to the credit of the Chief Executive Officer at the time of cessation of employment will be paid out in cash.
- (e) The Chief Executive Officer is entitled to 10 additional days annual leave in each year of this Agreement without loss of pay or other entitlements. Additional days of annual leave not taken in any year will not be carried forward to any subsequent year and will not attract any form of monetary loading.

**14. Personal/Carer's Leave**

- (a) The Chief Executive Officer is entitled to 12 paid days of personal/carers leave per year when:
  - (i) the Chief Executive Officer is suffering from a personal illness or injury (sick leave); and/or
  - (ii) to provide care and support to an immediate family or household member who is suffering from a personal illness or injury (carer's leave).
- (b) Personal/carers leave not taken shall accumulate without limit.
- (c) There shall be no entitlement to payment in lieu of accrued personal/carers leave entitlements.
- (d) The Council has a discretion to require a medical certificate for any absence on personal/carers leave. If it is not reasonably practicable to provide a medical certificate, the Chief Executive Officer may provide a statutory declaration.

15. Long Service Leave

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- (a) Long service leave entitlements will be granted in accordance with the provisions of the *Long Service Leave Act (SA) 1987* and the Act.
- (b) Upon completion of service with the Council or under Council's long service leave policy, the Council will pay out the Chief Executive Officer's long service leave deemed to have accrued.

16. Compassionate Leave

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- (a) The Chief Executive Officer will be entitled to 2 days of paid compassionate leave on each occasion when a member of the Chief Executive Officer's immediate family or household:
  - (i) contracts or develops a personal illness that poses a serious threat to the member's life;
  - (ii) sustains a personal injury that poses a serious threat to the member's life; or
  - (iii) dies.
- (b) The Chief Executive Officer must provide reasonable proof of the need to take compassionate leave, if so requested by the Council.


17. Termination of Employment

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17.1 Summary of Termination

- (a) This Agreement may be terminated by the Council without notice and without the payment of compensation if the Employee engages in Serious Misconduct, including but not limited to:
  - (i) The commission of any serious or persistent breach of any term of this Agreement;
  - (ii) serious neglect of duty in the discharge of the Duties;
  - (iii) knowingly acting in breach of the Council's policies in force from time to time;
  - (iv) making improper use of the Council's property;
  - (v) engaging in any action or omission which brings the Council into public disrepute, contempt, ridicule or which reflects unfavourably on the Council; or
  - (vi) conviction of any criminal offence which prescribes a term of imprisonment.

**17.2 Termination by the Provision of Notice**

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- (a) This Agreement may be terminated by the Chief Executive Officer by giving the Council a period of two (2) months' notice in writing, unless otherwise agreed by the parties.
  - (a) This Agreement may be terminated by the Council by giving six (6) months written notice to the Chief Executive Officer and making a payment of up to the value of six (6) months remuneration if the Agreement has six (6) months or more to run.
  - (b) In the event that the Council determines through the performance review process that the Employee has failed to reasonably meet the performance expected, and provided that the Council has complied with the procedure specified in Clause 7 above, the Council may terminate this Agreement by giving no more than one month's notice or by making an equivalent payment in lieu of notice.
  - (c) Council may terminate the employment with no more than one month's notice if the Employee is incapacitated from performing their duties due to ill health for longer than three months and where all leave entitlements have been exhausted. This does not apply where such illness is a compensable disability under applicable workers rehabilitation and compensation legislation.
  - (d) In addition to any right of termination, and without derogating from any right available in this Agreement, the Employee's employment may at any time be terminated by the agreement of the parties on any notice and terms the parties may then agree.
  - (e) Upon termination of the employment, the Council may offset any money which the Employee owes the Council against any money which the Council owes the Employee. This includes situations where the Employee has taken more leave than the amount of annual leave they have been entitled to accrue.

**18. No Disparagement**

The Council and the Employee must not at any time, either during the Agreement or at any time after its termination, disparage or otherwise make any statement, or permit or authorise any statement to be made, which is calculated or reasonably likely to damage the reputation or cause other damage to the other or any of the Council's employees or Councillors.

**19. Absences**

- (a) The Employee must notify the Council of any absence for personal leave as soon as reasonably practicable but no later than 3 days after the Employee's absence begins.
- (b) If the Employee is absent due to personal illness or injury, the Council may require a medical certificate signed by a registered health practitioner or a statutory declaration sworn by the Employee, whether or not the Employee seeks payment for leave. The Council will require such documentary evidence if the Employee's absence is equal to or exceeds three days or falls on either day prior to or after a weekend or public holiday.

- (c) Where the Employee is absent for any other reason, and the Employee seeks payment for that absence under this agreement, the Council may require the Employee to provide appropriate evidence of the reason for the absence.
- (d) Abandonment of Employment
  - (i) Where the Employee is absent from their place of work for a continuous period of 3 working days without contact, the Employee shall be deemed to have abandoned their employment.
  - (ii) The Council acknowledges that before the Employee is deemed to have abandoned their employment it will take reasonable steps to find out why the Employee has not contacted it.
  - (iii) The Employee shall keep the Council informed of the Employee's current home address and contact telephone number.
  - (iv) Should the Employee be physically or mentally unable to contact the Council, the Employee shall not be deemed to have abandoned their employment.

**20. Council Property**

- (a) The Employee must take all reasonable care in using the Council's property.
- (b) Any Council motor vehicles supplied as part of the TEC Package for the Employee's care and use must be kept and maintained in accordance with the Council's motor vehicle policy. Should the Employee fail to do so, the Employee shall be liable to indemnify the Council and it shall have a right of recovery against the Employee for any loss (including loss of fees, payment of damages to a third party, fines incurred and legal fees) sustained as a result of the Employee's breach.
- (c) On termination of the Employee's employment or upon request, the Employee must return in good condition (subject to fair wear and tear) any property in the Employee's possession belonging to the Council.
- (d) On the Employee's termination, either by the expiry of this Agreement or otherwise, the Council can deduct from the Employee's final pay any sums owing for the loss sustained by the Council as defined in clause 20 (b).

**21. Confidential Information**

- (a) The parties acknowledge that the Employee may be given access to Confidential Information during their employment. The Employee must treat such information with absolute confidentiality. It will be considered serious and willful misconduct should the Employee fail to do so.
- (d) It is a condition of the Employment and the Employee hereby acknowledges and agrees that they will maintain the confidentiality of the Confidential Information and not, during the course of their Employment or thereafter, use or disclose Confidential information except:

- (i) with the written consent of the Council; or
  - (ii) if they are required by law; or
  - (iii) in the performance of their Duties in a manner and for the purpose of the Council,
- (c) In doing so, the Employee must:
- (i) comply with all security policies and protocols of the Council and of the Council's clients and customers for whom the Employee undertakes work;
  - (ii) not disclose Confidential Information to any third party except as is strictly necessary in the ordinary and proper course of their Duties or after first obtaining the written consent of the Council and having first ensured that the third party agrees to keep the Confidential Information confidential in terms no less restrictive than those set out in this clause;
  - (iii) not use, copy or record the Confidential Information except as is strictly necessary in the ordinary and proper course of their Duties;
  - (iv) not remove any Confidential Information from the Council's premises except as is strictly necessary in the ordinary and proper course of their Duties provided that the Employee may keep Confidential Information at their usual place of residence if undertaking their Duties at home; and
  - (v) return Confidential Information to the Council immediately upon request and in any event, upon termination of this agreement;
  - (vi) return the Confidential Information of clients to them upon their request; and
  - (vii) notify the Council immediately of any suspected or actual unauthorised use or disclosure of Confidential Information.
- (d) Upon the termination of the Employee's employment, the Employee must return to the Council:
- (i) all Confidential Information;
  - (ii) parts of all notes and other records based on or incorporating Confidential Information;
  - (iii) all copies of Confidential Information and notes and other records based on or incorporating Confidential Information; and
  - (iv) all of the Council's property, in the Employee's possession or control.
- (e) The Employee's obligation of confidentiality under this clause shall survive the termination of this Agreement and the Employee's employment, notwithstanding the reason for termination, other than with regards to information forming part of the Employee's stock of general skill and knowledge.

**22. Intellectual Property**

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- (a) The Employee acknowledges that the Council is the owner of any Intellectual Property; and acknowledges that all existing Intellectual Property, and future
- (b) The Employee must, without further consideration or payment, upon the Council's request and expense, execute all documents and do all acts as may be necessary or desirable to obtain the exclusive benefit of the Intellectual Property for the Council in any parts of the world.
- (c) The Employee's obligations under this clause 22 survive the termination of their service with the Council.

**23. Media Statements**

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The Employee must only make media statements that are consistent with Council's Media Policy. Any variation from that policy shall be authorised by Council.

**24. Enforceability of this Agreement**

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- (a) The Employee acknowledges that the Council is the owner of any Intellectual Property; and acknowledges that all existing Intellectual Property, and future Intellectual Property on their creation, vest in the Council.
- (b) The Employee must, without further consideration or payment, upon the Council's request and expense, execute all documents and do all acts as may be necessary or desirable to obtain the exclusive benefit of the intellectual Property for the Council in any parts of the world.
- (c) The Employee's obligations under this clause 24 survive the termination of their service with the Council.

**25. Confidentiality of this Agreement**

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Subject to the written consent of both parties, the terms of this Agreement must be kept confidential, except for the purposes of receiving legal or financial advice, or as required by law.

**26. Governing Laws and Jurisdiction**

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Any legal dispute arising out of this Agreement or the employment is to be heard in the South Australian Registry of the Court or Tribunal which has jurisdiction to deal with that dispute and unless governed by a Federal law, the law of South Australia applies

**27. Entire Agreement**

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This Agreement contains the entire agreement between the parties regarding the employment of the Employee and supersedes all prior agreements, understandings and negotiations regarding the employment of the Employee.



28. Variation

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This Agreement may only be varied by further agreement of the parties in writing.

29. Invalidity

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- (a) If a provision of this Agreement or a right or remedy of a party under this agreement is invalid or unenforceable in a particular jurisdiction:
  - (i) it is read down or severed in that jurisdiction only to the extent of the invalidity or unenforceability; and
  - (ii) it does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions in any jurisdiction.
- (b) This clause is not limited by any other provision of this Agreement in relation to severability, prohibition or enforceability.

CONFIDENTIAL

Executed unconditionally by the parties.

Signed for and on behalf of The Southern  
Mallee District Council

(Mayor)  
in the presence of:

[ Witness ]

Print name *Alan King*

Dated *27* day of *June* 2018

2018

Signed by Jason Taylor [ CEO ]

in the presence of:

[ Witness ]

Print name *Sherin Bennier*

Dated *27* day of *JUNE*

2018

CONTRACT OF EMPLOYMENT

JASON TAYLOR

Schedule 1

Southern Mallee District Council

Chief Executive Officer Position Description



Refer attachment for current Position Description

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CONTRACT OF EMPLOYMENT

JASON TAYLOR

Schedule 2

Southern Mallee District Council

Remuneration- Total Employment Package

Chief Executive Officer

Schedule effective from 19 July 2018

Annualised Salary	\$132,000
Notional Value of Motor Vehicle	\$15,000
Compulsory Superannuation Guarantee Levy (Currently 9.5%)	\$12,540
Housing Provision (Notional \$150 per week)	\$7,800
Additional 2 weeks leave per annum	\$5,080
Additional 2% superannuation	\$2,640
<b>TOTAL EMPLOYMENT PACKAGE</b>	<b>\$175,060</b>

Items provided to the Chief Executive Officer in order to conduct business:

- Mobile Phone (Smartphone with all expenses by employer)
- Laptop Computer (Microsoft Surface Pro or equivalent)
- Internet provision at place of residence (Up to \$100 per month)
- Corporate Uniform Allowance in-line with Council policy.
- \$4,000 per annum from CEO Professional Development with prior approval from Council

.....  
CEO to sign

.....  
Council Representative to sign

CONTRACT OF EMPLOYMENT

JASON TAYLOR

Schedule 3

Southern Mallee District Council

Performance Rating Scale



Rating	Definition
5	<p><b>Exceptional</b></p> <ul style="list-style-type: none"> <li>0 A standard of competency/performance/achievement that far exceeds overall requirements,</li> <li>0 Ability, initiative and creativity far beyond the normal requirements for the job.</li> <li>0 Achievement and influence goes beyond the immediate job.</li> <li>0 Behaviour always exemplifies commitment to constructive culture.</li> </ul>
4	<p><b>Highly Commendable</b></p> <ul style="list-style-type: none"> <li>0 Standard of competency/performance/achievement that clearly exceeds the overall requirements.</li> <li>• Achievement goes beyond the immediate job.</li> <li>• Looks for opportunities and show initiative and creativity.</li> <li>0 Behaviour consistently demonstrates commitment to constructive cultures and sets an example for others.</li> </ul>
3	<p><b>Competent</b></p> <p>A standard of competency/performance/achievement that meets with the requirements.</p> <ul style="list-style-type: none"> <li>• Developing within the position.</li> <li>• Behaviour demonstrates commitment to constructive culture.</li> </ul>
2	<p><b>Below required performance</b></p> <ul style="list-style-type: none"> <li>0 A standard of competency/performance/achievement that meets minimum requirements.</li> <li>0 Performance improvement is required in some areas (could be new to role).</li> </ul>
1	<p><b>Unacceptable</b></p> <ul style="list-style-type: none"> <li>«j A standard of competency/performance/achievement that requires significant improvement.</li> <li>0 Behaviour rarely demonstrates constructive approach.</li> </ul>