12.2 CEO Employment Matters

Department	Integrity & Performance Director Corporate Services
Confidential	**This report has been prepared for consideration by Council in a closed meeting, pursuant to Section 66 (1) and 66 (2) (a) of the *Local Government Act 2020.* This report and information contained in it and any attachment is designated as confidential information pursuant to section 3 (1) (f) as it is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.** **This ground applies because personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs. In particular, the report contains information regarding the CEO performance and remuneration.**

Attachment

SUMMARY

Council is required to conduct an annual performance review of the Chief Executive Officer (CEO), S McMillan in accordance with clause 13 of his contract.

The review was conducted by the CEO Employment Matters Committee at a meeting held Monday 17 August 2026 followed by a committee meeting held on Monday 28 September 2026 to finalise the CEO KPI's for 26/27. The review occurs annually generally on the anniversary of the employment in September each year.

The purpose of the Committee is to consider, and make recommendations to Council with respect to the:

- independent advice received from the Independent Advisor;
- performance monitoring of the CEO, including with respect to achievement of the KPIs;
- annual review of the CEO's performance, including against the KPIs;
- CEO's remuneration;
- the CEO's self-assessment against the performance criteria set by Council.

The minutes of the Committee meetings are attached for Council's confirmation.

12.2 (cont)

RECOMMENDATION

That Council:

1. Receive and note the report and minutes from the meeting of the CEO Employment Matters Committee held:
   a) Monday 17 August 2026 (Attachment 1) for the review of the Chief Executive Officer's performance for 25/26 and
   b) Monday 28 September 2026 for the setting of the CEO KPI's for the 26/27 year (Attachment 2).
2. Endorse the recommendation of the Committee that the CEO, Simon McMillan has met the provisions of his contract of employment, in particular Clause 13 (Performance Review) to the satisfaction of the committee, noting the areas of focus for 2026/2027.
3. Endorses the CEO Performance KPI Plan for 2026/27 (Attachment 3).
5. Release this report to be incorporated into the original agenda and minutes for 26 October 2026 Agenda on Council's Transparency Hub on the website.
6. Resolve that attachments and discussion relating to it remain confidential, except to the extent that the Director Corporate Services (or delegate) must disclose aspects of it to give effect to these resolutions.

KEY MATTERS

- The Chief Executive Officer's contract of employment, Clause 13, requires Council to conduct an annual performance review in accordance with the requirements of the *Local Government Act 2020*.
- Council has established the CEO Employment Matters Committee to carry out the responsibilities as required by section 45 of the *Local Government Act 2020*.
- The Chief Executive Officer Employment and Remuneration Policy outlines requirements for the annual assessment of the CEO performance.

DISCUSSION, OPTIONS AND ANALYSIS

The Committee met on Monday 17 August 2026 and considered the following matters:

- The established Chief Executive Officer's 12-month performance objectives and self- assessment by Chief Executive Officer
- Councillor comments and questions relating to aspects of the self-assessment and responses to those questions by the Chief Executive Officer

12.2 (cont)

- Remuneration adjustment for 2026/2027
- The Committee met on Monday 28 September 2026 and considered the Key Performance Indicators for 26/27.

The Minutes as attached provide further details that demonstrate that the annual review of the CEO has been undertaken in accordance with the *Local Government Act 2020*, Chief Executive Officer Employment and Remuneration Policy and contract.

The Committee appreciated S McMillan's strong support to Councillors and dedicated approach to Whitehorse.

Overarching Governance Principles and Supporting Report Details

Strategic Alignment	Strategic Direction 5 - Governance Good governance is the foundation that supports everything we do as a Council. The Chief Executive Officer Employment and Remuneration Policy provides the requirements for the governance of the CEO Employment Matters Committee and the annual review of the CEO.
Financial and Resource Implications	Operational budget includes forecasting of wage increases based upon relevant percentage of the Rate Cap as determined by the Victorian Government.
Legislative and Risk Implications	**The *Local Government Act 2020*** requires each Council to develop, adopt and keep in force a Chief Executive Officer Employment and Remuneration Policy. The Council has such policy. The Chief Executive Officer Employment and Remuneration Policy must provide for the Council to obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy, including performance monitoring and the annual review. The Committee is to hold meetings as often as is necessary to: a) prepare documentation relevant to the CEO's employment and remuneration, including Council reports and contractual documents, for the approval of Council; b) conduct and maintain appropriate records regarding performance reviews of the CEO; and c) review the Remuneration Package and conditions of employment of the CEO,

12.2 (cont)

	provided that the Committee meets at least once in each year. The Committee will provide a report to Council following each meeting describing its activities and making recommendations about any action to be taken by Council. ***Privacy and Data Protection Act 2014****:* Council must comply with the *Privacy and Data Protection Act 2014* and the Information Privacy Principles; these principles enshrine obligations to employers. Council as the employer of the CEO must take reasonable steps to protect the personal information from misuse and loss, and unauthorised access, modification or disclosure. The Human rights section below includes further privacy considerations. ***Freedom of Information Act 1982*** **(Vic)** section s.33 relates to documents affecting personal privacy / "personal affairs" exemption is routinely applied to staff records and performance material; disclosure can be refused if it would be an *unreasonable* disclosure of personal affairs. **Council must weigh public interest versus privacy.** In support of transparency releasing the report balances the public interest and protects personal information relating to employment matters.
Equity, Inclusion, and Human Rights Considerations	It is considered that the subject matter does not raise any human rights issues. Should Council decide to make any discussion or attachments public, it will need to consider Human rights, in particular section 13, the right to privacy and reputation. Under the Charter, people have the right protection of their personal information and the right to not have their reputation attacked unlawfully. Whilst human rights can be limited it must be reasonable, necessary, justified and proportionate. A balanced approach is to release the Council report.
Community Engagement	No community engagement was required for this report.

12.2 (cont)

Innovation and Continuous Improvement	The CEO KPI's have been revised to align with Council's Integrated Council Plan.
Collaboration	No collaboration was required for this report.
Conflict of Interest	The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates. The Mayor and Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENT

1 CEO Employment Matters Committee Minutes - 17 August 2026
2 CEO Employment Matters Committee Minutes - 28 September 2026- Setting KPI's 26-27
3 Draft CEO KPI Plan 2026-27