

CONTRACT STAFF REMUNERATION POLICY

1. Scope

The Contract Staff Remuneration Policy (this 'Policy') applies to all persons employed on individual employment contract arrangements into positions not covered by the Certified Agreement. Typically, this includes the Chief Executive Officer, General Managers, Chief Officers, Level 3 Managers and some specialist roles reporting directly to General Managers/Chief Officers. While all officers are expected to comply with this Policy, this Policy does not form any part of the contract of employment with officers covered by the policy.

2. Purpose

This Policy is to provide Council-approved governance over the employment conditions of senior and executive staff.

3. References (legislation/related documents)

Legislative reference

Local Government Act 2009

Related documents

Motor Vehicle Allowance (Contract Employees) Directive Contract
Recruitment and Selection Directive
Individual Employment Contract Arrangement

4. Definitions

To assist in interpretation, the following definitions shall apply:

CEO	Chief Executive Officer Means a person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> .
Senior Officers	Means employees as defined by the <i>Local Government Industry Award 2017</i> and are those not generally covered by the Certified Agreement such as the Chief Executive Officer, General Managers, Chief Officers, Department Managers (Level 3) and some specialist positions.
Council	Livingstone Shire Council.
Individual Employment Contract Arrangement	The contractual agreement between Council and the Contract Officer which specifies the terms and conditions of engagement (Refer to Appendix 1).
Total Remuneration Package (TRP)	Means the total salary arrangement and the cost of all other benefits, including superannuation.

5. Policy Statement

Council is a large employer and competes in a dynamic regional labour market. It is important that Council sets some clear parameters around how and why it offers employment conditions for those senior and executive staff not captured by the Certified Agreement.

5.1 Contract Employment Principles

- 5.1.1 Individual Employment Contract Arrangements will continue to be offered to senior officers (as defined by the *Local Government Industry Award 2017*) and to others by agreement where there is mutual benefit.
- 5.1.2 Employment will generally either be governed by employment contract or the Award/Certified Agreement, but not both.
- 5.1.3 Standard contract duration will be no greater than four (4) years, with the Chief Executive Officer to approve lesser durations in appropriate circumstances.
- 5.1.4 Parties to employment contracts recognise that professional officers will freely offer their skills, expertise, time and effort to ensure positive outcomes for the organisation.
- 5.1.5 Employment contracts will not be extended and Council reserves the right to not offer renewal, or to have the incumbent contest any renewal as part of a recruitment process. Council, at its sole discretion, may offer existing contract employees a new employment contract without advertising the position.
- 5.1.6 Any and all employment conditions of the CEO are to be determined by Council resolution. Employment conditions for all other individual employment contract arrangement employees are to be determined by the CEO (or delegate) in accordance with this Policy.
- 5.1.7 Council's approved contract employment conditions will be captured in a Model Employment contract endorsed by Council from time to time.

5.2 Remuneration Principles

- 5.2.1 Senior officer remuneration in local government is generally about the position and not the person.
- 5.2.2 Senior officer remuneration is to be reviewed annually against market rates. Any proposed salary increase is predicated on:
 - a) Positive performance;
 - b) Demonstrable achievement of agreed outcomes;
 - c) Strong leadership behaviours; and
 - d) A commitment to the organisation and community.
- 5.2.3 The chosen position of Council is to remunerate within +/- 15% of the 25th percentile benchmark against a reputable market rate (i.e. meaning that 75% of comparative organisations have higher remuneration scales).
- 5.2.4 Subject to 5.2.6 (below):
 - a) Those senior officers currently paid below the relevant benchmark shall be offered a salary increase no greater than that offered by the Certified Agreement.
 - b) Those senior officers currently paid above the relevant benchmark shall not receive any salary increase.

- 5.2.5** The Chief Executive Officer is authorized to withhold any salary increase, or grant a discretionary increase (no greater than that afforded by the Certified Agreement) in circumstances where the Executive Leadership Team believes that assessment of performance under Principle 5.2.2 warrants.
- 5.2.6** Remuneration for the CEO is to be determined by Council Resolution. The CEO has delegation to approve the remuneration for all other individual employment contract arrangement employees within the range specified in section 5.2 above.

6. Changes to this Policy

This Policy is to remain in force until any of the following occur:

1. The related information is amended/replaced; or
2. Other circumstances as determined from time to time by the Council

7. Repeals/Amendments

Version	Date	Action
1.0	15/11/2022	Policy Adopted
2.0	16/07/2024	Policy Adopted – Motor vehicle clause and long service leave provisions updated in Appendix 1 – Model Contract

CALE DENDLE
CHIEF EXECUTIVE OFFICER

APPENDIX 1 – MODEL CONTRACT

Contract of Employment (Fixed Term)

This contract of employment is made on the _____ day of _____ [#2024].

BETWEEN: **Livingstone Shire Council** of 70 Anzac Parade, Yeppoon, QLD, 4703 (“**Council**”)

AND: [#INSERT EMPLOYEE’S FULL NAME] of [#INSERT EMPLOYEE’S ADDRESS] (“**Employee**”)

1 Appointment

- 1.1 The Council has offered, and the Employee accepts, employment with Council in the Position of [#INSERT POSITION] (“**Position**”).
- 1.2 The Employee’s place of work is [#LOCATION]. The Employee acknowledges that their place of work may vary from time to time. The Employee will be advised in writing, with at least four weeks’ notice, of any permanent variation of work location. The Council and the Employee may agree to reduce this notice period.
- 1.3 The Employee will report to the [#INSERT POSITION] or such other person as the Council may reasonably stipulate from time to time.
- 1.4 The terms and conditions of the employment of the Employee are set out in this contract of employment (“**Contract**”).

2 Acknowledgement

- 2.1 The Employee acknowledges and agrees that:
 - (a) they have a legal right to work in Australia and to perform the duties and responsibilities contemplated by the Position;
 - (b) the Employee will immediately notify the Council of any circumstance that might prejudice this right at any time during their employment with the Council; and
 - (c) to enable the Council to verify at any time that the Employee has this right, the Employee will provide to the Council upon request sufficient evidence to establish this fact.

3 Award and Certified Agreement Not to Apply

- 3.1 In accordance with clause 4.2 of Section 1 of Division 2 of the *Queensland Local Government Industry (Stream A) Award – State 2017* (“**Award**”) and clause 1.3 of the Livingstone Shire Council Officers Certified Agreement 2021 (“**Agreement**”) the Employee and Council agree that the Award and Agreement are not to apply to the employment of the Employee.
- 3.2 In agreeing to the Award and the Agreement not applying as set out in clause 3.1, the Employee specifically acknowledges and agrees that:
 - (a) the Employee is a “*senior officer*” as defined in clause 4.2(c) of Section 1 of Division 2 of the Award;
 - (b) the Council brought the provisions of Division 1 and Section 2 of Division 2 of the Award to the Employee’s attention before the Employee entered this Contract;
 - (c) the Council has notified the Employee in writing that the effect of this Contract is that the

Employee is not covered by the Agreement;

- (d) a copy of this Contract was given to the Employee seven (7) clear days prior to the Contract being entered into by the Employee;
- (e) the Contract is voluntarily entered into by the Employee; and
- (f) the Employee is satisfied that the Contract's terms and conditions do not result, on balance, in a reduction in the overall terms and conditions that the Employee would receive under the Award and the Agreement.

3.3 The Employee acknowledges that the Council has given the Employee the opportunity to seek independent advice of the Employee's own choosing prior to executing this Contract, and that the Employee understands the terms of this Contract and accepts them as fair and reasonable.

3.4 Unless specifically varied by this Contract, the policies and procedures of the Council apply to the Employee's employment. The Employee must comply with these policies and procedures as varied by Council from time to time.

3.5 The Council's policies and procedures do not form part of the Employee's Contract and nothing within the policies and procedures gives rise to a legal right or benefit enforceable by the Employee.

4 Duration of Contract (Fixed Term Contract)

4.1 This contract will commence to take effect on **[#INSERT DATE]** and, subject to clauses 4.2, 5, 18 and 19, will continue until the Expiry Date of **[#INSERT DATE]**.

4.2 The Employee will be employed on probation for a period of six (6) months from the Commencement Date. At any time during this period the Employee or Council may terminate the Employee's employment by giving four (4) weeks' notice.

4.3 If the Council terminates the Employee's employment, it may elect to pay the Employee in lieu of all or part of the notice. Payment in lieu of notice will be calculated by reference to the Employee's Cash Component.

4.4 If the probation period elapses without either party giving notice under clause 4.2, the Employee's employment will continue until the Expiry Date, subject to any right to terminate the employment under clauses 18 and 19. **[DELETE 4.2, 4.3, 4.4 IF CONTRACT IS FOR A CONTINUING EMPLOYEE]**

4.5 Unless otherwise agreed in writing by the Parties, the Employee's employment with the Council will terminate automatically on the Expiry Date without the need for further notice to the Employee.

5 New Appointment

5.1 The Employee may advise the Chief Executive Officer by providing written notice that they wish to be considered for a new appointment under a new employment contract.

5.2 The written notice pursuant to clause 5.1 must be provided by the Employee to the Chief Executive Officer at least 12 weeks before the end of the Contract Period.

5.3 The Employee will be advised of whether a new appointment will be offered to the Employee and if so, on what terms, four (4) weeks before the end of the Contract Period, where practicable.

5.4 Where an offer of a new appointment is made, the Employee must advise the Chief Executive Officer of whether the offer is accepted within two weeks from the date of the offer. Should the Employee fail to respond to the offer before the end of the Contract Period and continue working for Council after that time, the Employee will be taken to have agreed to the terms of the offer.

5.5 Should the request for a new appointment under a new employment contract not be granted, the Employee's employment will terminate pursuant to clause 4.5.

- 5.6 Should the Employee not provide written notice for consideration of a new appointment pursuant to clause 5.1, the Employee's employment with Council will end after the end of the Contract Period without the need for further action by either the Employee or the Council.

6 Responsibilities

- 6.1 The Employee is to comply with the responsibilities of local government employees as prescribed in the Local Government Act 2009 (Qld).
- 6.2 Without limiting clause 6.1, the Employee must:-
- (a) faithfully, diligently and with reasonable care and skill, exercise the powers and carry out the duties and responsibilities of the Position as set out in Schedule A;
 - (b) take all necessary action to meet any performance criteria set for the Position;
 - (c) devote the whole of the Employee's time, attention and skill during normal business hours, and at other times as reasonably necessary, to the duties and responsibilities of the Position;
 - (d) not be engaged in secondary employment or be concerned or interested in any other business or undertaking without the Council's prior written consent;
 - (e) comply with all lawful and reasonable directions of the Council's Chief Executive Officer;
 - (f) comply with all Council's resolutions, policies and procedures as may be amended from time to time;
 - (g) comply with and promote Council's Code of Conduct;
 - (h) not engage in activities where the employee has a financial interest or a (non-financial) conflict of interest, or which may inhibit the exercise of impartial judgment;
 - (i) immediately disclose to the Council's Chief Executive Officer any financial or non-financial interest of the Employee that may conflict with the Council's interests;
 - (j) in performing duties, not accept any financial or other benefit from any person other than the Council as an inducement or reward in connection with the performance of the Employee's duties or any business carried on by or on behalf of the Council. However, this clause does not prohibit the Employee receiving benefits that do not breach the requirements of Council's Code of Conduct and policies;
 - (k) not engage in any interview or public comment concerning the business or affairs of the Council unless authorised to do so by the Council, or in accordance with the Council's policies; and
 - (l) not engage in conduct, whether during work hours or after work hours, which causes damage to Council's property or reputation or has the potential to do so.
- 6.3 The duties and responsibilities of the Position as set out in Schedule A may only be varied after consultation between the Council and the Employee and, whilst agreement on such variations will be sought, the Council retains the right to determine reasonable amendments to the duties and responsibilities in order to meet the needs of Council.
- 6.4 The Employee must use their best endeavours to promote and enhance the interests, business, profitability and reputation of the Council. Moreover, the Employee must not intentionally do anything that is reasonably likely to be harmful to the Council or the Council's interests.

7 Performance Review

- 7.1 The Employee will be required to participate in the Council's performance review and development

process. Throughout the year the Council will also review the Employee's performance on specific engagements or projects and informally on an ongoing basis.

8 Remuneration Package

- 8.1 The Employee will receive the remuneration package comprised of the elements set out in Schedule B ("Total Remuneration Package").
- 8.2 The Total Remuneration Package remunerates the Employee for all work undertaken by the Employee.
- 8.3 The Total Remuneration Package, the value of other terms and conditions and any payments made at the discretion of the Council under this Contract, are intended to exceed all entitlements under legislation or any applicable industrial award or agreement that may apply to the Employee's employment. To the extent possible, the excess will be used to offset any monetary entitlements under the law and under any other applicable industrial award or agreement, including penalty rates, overtime, annual leave loading and allowances. This arrangement does not disadvantage the Employee and at the same time complies with any legislative, award or agreement obligation the Council may have, to the extent that the excess covers such entitlements.
- 8.4 The Council will make superannuation contributions required under the *Local Government Act 2009* and the *Superannuation Guarantee (Administration) Act 1992* on the Employee's behalf.
- 8.5 The Employee will be paid fortnightly, in arrears, into the Employee's nominated bank account.
- 8.6 The Employee's remuneration will initially be reviewed in December 20XX with any increase commencing from 1 January 20XX. Following the initial review, clause 8.7 will apply thereafter.
- 8.7 Following the initial review pursuant to clause 8.6, the Employee's Cash Component will be reviewed in December of each year of the Employee's appointment, with any increase commencing from the following 1st January.
- 8.8 Any increase in the Employee's Cash Component, pursuant to clause 8.6 or 8.7, will be solely at the discretion of the Council.
- 8.9 The Employee may apply salary sacrificing arrangements to the Employee's Cash Component, provided that such arrangements are lawful and that the effect of such arrangements does not increase the cost of the Total Remuneration Package.
- 8.10 The Employee is responsible for obtaining independent legal and financial advice on any salary sacrifice arrangement.
- 8.11 Unless otherwise agreed in writing between the Employee and the Council, the Employee will be solely responsible for any arrangements relating to non-cash benefits made under a salary sacrifice arrangement, including retaining or taking over from the Council any ongoing legal obligations in respect of those non-cash benefits on the termination of the Employee's employment.
- 8.12 The Employee may request in writing at any time that the structure of the Total Remuneration Package be varied and the Council will not unreasonably refuse the request. Under no circumstances will any such restructure involve an increase in the Total Remuneration Package unless the Council agrees to the increase in writing.
- 8.13 The Council must ensure that any changes to Fringe Benefits Tax legislation do not result in a reduction to the Employee's net Total Remuneration Package.
- 8.14 Council may establish incentive arrangements which include bonus or incentive payments linked directly to the achievement of individual and/or organisational key performance indicators and or targets. Details of these arrangements will be provided in writing to the Employee separately and do not form part of the Employee's employment contract.

9 Motor Vehicle

- 9.1 The Employee's Cash Component includes a Motor Vehicle Allowance set out in Schedule B and will be based upon the published Australian Taxation Office business use of motor vehicle cents per kilometre rate calculated on a standard 25,000km.
- 9.2 The Motor Vehicle Allowance will be reviewed in December 20XX with any increase commencing from 1 January 20XX. Following the initial review, clause 9.3 will apply thereafter.
- 9.3 Following the initial review pursuant to clause 9.2, the Employee's Motor Vehicle Allowance will be reviewed in December of each year of the Employee's appointment, with any increase commencing from the following 1st January.
- 9.4 Any increase in the Employee's Cash Component, pursuant to clause 9.2 or 9.3 will be solely at the discretion of the Council.
- 9.5 The Employee must provide a suitable motor vehicle for carrying out their duties. The motor vehicle must be:
- (a) roadworthy and in good mechanical condition;
 - (b) registered;
 - (c) comprehensively insured for business purposes to cover all risks that may arise during the use of the vehicle for the purposes of performing the Employee's duties; and
 - (d) maintained in a clean and tidy state at all times while it is used in the performance of the Employee's duties.
- 9.6 The Employee may, at their discretion, allocate use of their motor vehicle to other Council employees for business purposes.
- 9.7 The use of the motor vehicle for business purposes will not be subject to any reimbursement of fuel costs or mileage allowance.
- 9.8 The Employee indemnifies the Council in respect of all claims, proceedings, costs, losses, expenses and damages (including legal costs on an indemnity basis), other than a compensation claim for injury made under the *Workers' Compensation and Rehabilitation Act 2003*, arising as a result of:-
- (a) the Employee's failure to comply with the requirements of clause 9.5; and
 - (b) the Employee's use of the motor vehicle provided pursuant to clause 9.5.

10 Recognition of Prior Service (Delete if not applicable)

- 10.1 Council has agreed to recognise the Employee's service at the **[#INSERT PREVIOUS EMPLOYER]** for the purpose of calculating the Employee's period of employment for the taking of Long Service Leave entitlements.
- 10.2 The Employee's Long Service Leave entitlement will commence accrual from the Employee's Commencement Date with the Council, however their entitlement to take Long Service Leave will be based on the service as per clause 10.1.
- 10.3 The Council will not be liable for payment to the Employee of any Long Service Leave accrual or entitlement accrued during the Employee's previous employment with a Local Government employer except as required by Chapter 8, Part 3, Division 2 of the *Local Government Regulation 2012*.
- 10.4 The Employee is required to provide a statement from their previous Local Government employer confirming the following details,

- (a) the length of Continuous Service with the Local Government employer;
- (b) the Employee's Long Service Leave accrual up to the termination date of the Employee with the previous Local Government employer.
- (c) The Employee's rate of pay applicable at the time which the Employee received immediately before the termination date of the Employee with the previous Local Government employer.

10.5 Refer to clause 14.3, for the definition of "**Continuous Service**".

11 Training and Development

11.1 If the Employee wishes to undertake professional development (for example post graduate studies or study tours) the Council may provide financial support. The decision whether to provide financial support and to what level will be at the Council's discretion, but in any case will not be granted unless the Council is satisfied that the cost is not unreasonable and that the likely benefits to Council, of the development exercise, justify the cost.

12 Telecommunications and Laptop

12.1 The Employee will be provided with the following telecommunication equipment for work purposes:-

- (a) smart phone; and
- (b) laptop; or
- (c) tablet computer.

12.2 The Council will meet all reasonable costs associated with the maintenance and operation of these connections and for all business calls and a reasonable number of private calls. This amount is not redeemable for cash.

13 Hours

13.1 The Employee's ordinary hours of work will be 38 hours per week plus such reasonable additional hours as are required to discharge the responsibilities of the Position as detailed in clause 6.

13.2 The Employee agrees and acknowledges that:-

- (a) they will discharge their responsibilities as detailed in clause 6 of this Contract to the best of their abilities;
- (b) where necessary, the Employee will work outside ordinary business hours, which from time to time, may require work on weekends and/or public holidays; and
- (c) the Total Remuneration Package in Schedule B takes into account the non-standard conditions and additional hours which may be involved in the carrying out of the Employee's duties under this Contract; and
- (d) the Total Remuneration Package in Schedule B is payment for all hours worked and the overall discharge of the responsibilities detailed in clause 6 of this Contract.

14 Leave Entitlements

14.1 Annual Leave

- (a) For each twelve months of service, the Employee will be entitled to 4 weeks annual leave on full pay, exclusive of any public holiday falling within the period of leave taken, in accordance with the *Industrial Relations Act 2016*.

- (b) The Employee's Cash Component includes a leave loading of 17.5% and as such, no additional leave loading will be payable during periods of annual leave.
- (c) Annual leave must be taken at a time as agreed between the Employee and the Council. However, Council may require the Employee to take annual leave by giving at least eight weeks' written notice to the Employee.
- (d) If whilst taking a period of annual leave the Employee becomes ill, the Employee will, on the production of a medical certificate certifying that the Employee was incapacitated by such illness to the extent that the Employee would have been unfit to perform normal work duties, and upon the Employee providing notification to Council that they were incapacitated, be entitled to have such period of illness debited against sick leave entitlements and annual leave entitlements will be adjusted accordingly.
- (e) On termination of employment, the Employee will be paid for any accrued but untaken annual leave to be paid based on the Employee's Cash Component.
- (f) Council and the Employee may agree to the Employee cashing out a particular amount of annual leave provided that the agreed cashing out does not reduce the Employee's annual leave accrual below four (4) weeks. Each cashing out of annual leave must be in accordance with the following requirements:-
 - I. Each cashing out of a particular amount of annual leave must be by a separate agreement in writing.
 - II. Where an agreement is reached for the cashing out of annual leave, Council will pay the Employee at least the full amount that the Employee would have received had they taken the annual leave.
 - III. Each particular amount of annual leave cashed out will reduce the Employees annual leave accrual.

14.2 Annual shut down

- (a) The Council may elect to implement a full or partial shut down during the period between Christmas and the New Year and may require the Employee to take leave during this period. The Council will give the Employee 90 days' written notice of the requirement to take the leave.
- (b) Where the Employee is required to take all or part of the Christmas/New Year shut down period as leave, must in accordance with the following requirements:-
 - I. at the sole discretion of the Chief Executive Officer, the employee may be offered paid leave with no deduction from any leave accruals for all or part of the leave period; and
 - II. otherwise must take the leave as annual leave or, where the Employee's annual leave balance is not sufficient to cover the period, as leave without pay.

14.3 Long Service Leave

- (a) Accruing and taking long service leave shall be in accordance with the *Industrial Relations Act 2016* except where varied by this clause and clauses 10.2 and 10.3.
 - I. The Employee, upon completion of ten (10) years Continuous Service will be entitled to 13 weeks long service leave on full pay.¹

Where the Employee completes a further five (5) years of Continuous Service (i.e. a total of 15 years of continuous service), they will be entitled to long service leave, on full pay, of a period that bears to 13 weeks the proportion that the employee's further period of

¹ For the avoidance of doubt, this amount of long service leave is instead of the amount of 8.6667 weeks long service leave provided under the *Industrial Relations Act 2016*.

continuous service bears to 10 years.²

The employee, upon completion of five (5) years Continuous Service, will be entitled to access long service leave on a pro-rata basis on full pay.

- II. Long service leave will be exclusive of any public holidays occurring during the period of such leave.
- III. If, while taking a period of long service leave, the Employee becomes ill, the Employee will, on the production of a medical certificate certifying that the Employee was incapacitated by such illness to the extent that the Employee would have been unfit to perform normal work duties, and upon the Employee providing notification to Council that they were incapacitated, be entitled to have such period of illness debited against sick leave entitlements and long service leave entitlements will be adjusted accordingly.
- IV. For the purpose of this clause 14.3 and clause 10, "**Continuous Service**" means the Employee's continuous service with the Council together with other service (if any) required to be recognised by Chapter 8, Part 3, Division 2 of the *Local Government Regulations 2012*.

(b) *Proportionate payment on termination of employment*

- I. Where the Employee has completed at least five (5), but less than ten (10) years of continuous service with Council, the Employee will on termination be entitled to a proportionate payment in respect of long service leave provided the employment was not terminated pursuant to clause 18.2 (e).
- II. Where the Employee has completed at least ten (10) years of continuous service the Employee will on termination for any reason, be entitled to payment in respect of any accrued yet untaken long service leave and a proportionate payment in respect of the additional long service leave entitlement accruing after ten years of service.

14.4 Sick Leave

- (a) The Employee will be entitled to sick leave in accordance with the *Industrial Relations Act 2016* except where varied by this clause.
- (b) The Employee will be entitled to 15 days³ paid sick leave for each year of employment for absences occasioned through illness or injury. Any untaken sick leave will be cumulative but will not be paid out on termination.
- (c) The Employee is required to provide a medical certificate, or other evidence of the illness to Council's satisfaction, for sick leave in excess of two (2) consecutive working days upon the Employee returning to work.
- (d) The Employee's entitlement under this clause 14.4 is conditional on the Employee promptly notifying Council of:-
 - I. any illness that will cause the Employee to be absent from work; and
 - II. the approximate period for which the Employee will be absent.

14.5 Carer's Leave

- (a) Provided clauses 14.8(a) and 14.8(b) do not apply, the Employee is entitled to use up to 10

² For the avoidance of doubt, this amount of long service leave is instead of a period that bears to 8.6667 the proportion that the employee's further period of continuous service bears to 10 years provided under the *Industrial Relations Act 2016*.

³ For the avoidance of doubt, this amount of sick leave is instead of the 10 days sick leave provided under the *Industrial Relations Act 2016*.

days per year of the Employee's sick leave entitlement to care for or support:-

- I. a person who is an Immediate Family Member or a member of the Employee's household, who requires care or support due to illness or injury or because an unexpected emergency arises in relation to the person;
 - II. a person who has experienced domestic violence (as defined in the *Industrial Relations Act 2016*).
- (b) Where the Employee has exhausted their entitlement under clause 14.5(a), the Employee may take an additional 2 days unpaid carer's leave each time the Employee needs to use the leave.
- (c) Carer's leave may be taken for part of a day.
- (d) The Employee must, when practicable, give Council—
- I. notice of the intention to take carer's leave before taking the leave;
 - II. the name of the person requiring care and the person's relationship to the Employee;
 - III. the reason for taking the leave;
 - IV. the period that the Employee estimates they will be absent;
 - V. if the reason for taking the leave is because an unexpected emergency has arisen—the nature of the emergency.
- (e) If it is not practicable for the Employee to notify Council of the intention to take carer's leave before taking the leave, the Employee must notify Council at the first reasonable opportunity.
- (f) Refer to clause 14.8 for the definition of **"Immediate Family Member"**.

14.6 Workcover Top-Up

- (a) The Employee may opt to use sick leave, annual leave or long service leave accruals to make up the difference between payments received from Work Cover and the Employee's Cash Component, where the Employee is in receipt of Workers Compensation payments.

14.7 Public Holidays

- (a) Subject to clause 13.2, the Employee will be entitled to leave on full pay for all public holidays that are gazetted in the Queensland Government Industrial Gazette for Council employees in accordance with the *Industrial Relations Act 2016*.

14.8 Compassionate Leave

- (a) The Employee will be entitled to up to 2 days paid compassionate leave, in accordance with the *Industrial Relations Act 2016*, on each occasion that an Immediate Family Member or a member of the Employee's household, contracts or develops an illness or sustains a personal injury which poses a serious threat to the person's life.
- (b) To be entitled to compassionate leave, the Employee must provide the Council with evidence of the illness, injury or death if the Council requests such evidence.
- (c) For the purpose of clauses 14.5, clause 14.8, and clause 14.9, **"Immediate Family Member"** means the Employee's spouse (including a de facto or former spouse), child or stepchild, parent, grandparent, grandchild or sibling; or a child, parent, grandparent, grandchild or sibling of the Employee's spouse.

14.9 Bereavement Leave

- (a) In accordance with the *Industrial Relations Act 2016*, except as varied by this clause, the Employee will be entitled to up to 5 days paid bereavement leave on the death of an Immediate Family Member or a member of the Employee's household.

- (b) Refer to clause 14.8 for the definition of "**Immediate Family Member**".

14.10 Jury Service

- (a) In accordance with the *Industrial Relations Act 2016*, jury service leave will be granted when the Employee is required to attend for jury service. The Council will pay to the Employee the difference between the amount stated in the document relating to jury service as the amount the Employee receives as remuneration and allowances, other than meal allowances, and the Employee's Cash Component.
- (b) When the Employee is given a document relating to jury service, the Employee must give the document, or a copy of it, to Council.

14.11 Parental Leave

- (a) Subject to the terms of this clause, the *Industrial Relations Act 2016*, and any applicable Council policy, the Employee is entitled to paid parental leave or paid maternity leave **[DELETE WORDS IN YELLOW IF NOT APPLICABLE – FOR FEMALE EMPLOYEES RETAIN BOTH]** in connection with the birth, surrogacy or adoption of a child by them self or by their spouse, after the completion of 12 months continuous service with Council.
- (b) The Employee is entitled to utilise other forms of leave entitlements whilst on parental leave.
- (c) The remaining statutory parental leave, up to 52 weeks in total including any paid period, may be taken without pay.

[DELETE AS APPLICABLE – FOR FEMALE EMPLOYEES RETAIN BOTH CLAUSES]

I. Paid Maternity Leave

- A. Where the Employee is pregnant, the Employee will be entitled to 14 weeks, on full pay, maternity leave in relation to the birth of her child.
- B. Where the Employee is Pregnant, the Employee will be entitled to 14 weeks, on full pay, maternity leave where the pregnancy of the Employee, not then on paid maternity leave, terminates after 28 weeks other than by the birth of a living child.

II. Paid Parental Leave

- A. Where the Employee is not pregnant, the Employee will be entitled to two (2) weeks, on full pay, parental leave in relation to the birth, adoption or surrogacy of their child.
- B. Where the Employee is not pregnant, the Employee will be entitled to two (2) weeks, on full pay, parental leave where the pregnancy of their spouse terminates after 28 weeks other than by the birth of a living child.

14.12 Cultural Leave

- (a) In accordance with the *Industrial Relations Act 2016*, Council and the Employee may agree to the Employee taking up to 5 days unpaid cultural leave in each year.
- (b) Council will not unreasonably refuse access to this leave by the Employee.

14.13 Leave Without Pay

- (a) Council may, at its absolute discretion, approve leave for any purpose not covered by this clause 14, including leave without pay, upon the submission of a written application by the

Employee.

15 Confidentiality

15.1 During and after the Employee's employment in the Position, the Employee must:

- (a) keep any Confidential Information secret and confidential, except to the extent the Employee is required by law to disclose it;
- (b) take all reasonable and necessary precautions to maintain the secrecy and prevent the disclosure of any Confidential Information; and
- (c) not disclose any Confidential Information to any third party except in the ordinary and proper course of the employment, or after first obtaining the written consent of the Council.

15.2 For the purpose of this clause 15, "**Confidential Information**" means any information that is by its nature confidential, and includes information belonging to Council that is designated as confidential, or which the recipient knows or ought to know is confidential, including but not limited to any documents, book, account, process, patent, specification, drawing, design or know-how which is:-

- (a) supplied by the Council to the Employee; or
- (b) generated by the Employee in the course of performing the duties and responsibilities of the Position.

It does not include information which:

- (a) is or becomes public knowledge other than by breach of any obligation of confidence by the Employee;
- (b) is by law permitted or required to be disclosed; or
- (c) is required to be disclosed to any government agency or authority,

and the burden of establishing any exception is on the Employee.

15.3 The Employee's obligations under this clause 15 will continue to be binding following the termination of the Employee's employment with Council.

16 Intellectual Property

16.1 Any invention, improvement, secret process, document or other intellectual property developed by the Employee during the course of their employment, whether during or outside working hours, which relates to the Council's:

- (a) products or services or methods of making, using, marketing, or providing the Council's products or services; or
- (b) general methods of operation, whether existing or in development,

will be solely the property of the Council. The Employee will immediately and fully disclose to the Council any such invention, improvement, secret process, document or other intellectual property.

16.2 The Employee agrees, at the Council's expense, to do everything in their power, including signing any documents, required by the Council to:

- (a) give the Council, or the Council's nominee, full legal ownership of the intellectual property rights referred to in clause 16.1; and
- (b) make applications for patents, registered trademarks or similar protection, in Australia and such

other countries as the Council consider necessary.

- 16.3 The Employee consents to the Council infringing any moral rights that the Employee may have or become entitled to in any work created, developed, modified or enhanced in the course of the Employee's employment. For the purpose of this consent, 'work' has the meaning given to that term in the Copyright Amendment (Moral Rights) Act 2000 (Cth) and 'moral rights' refers to any rights arising under the provisions of that legislation.

17 Suspension

- 17.1 The Council may suspend the Employee's employment with pay during a period where the Employee is subject to a charge with a criminal offence.
- 17.2 The Council may also suspend the Employee's employment with pay if there are reasonable grounds for suspecting that the Employee has breached the terms of this Contract, or breached the Council's Code of Conduct, or breached a policy of the Council, so as to enable the Council to investigate the alleged breach and consider what further action (if any) should be taken.
- 17.3 Suspension pursuant to clauses 17.1 or 17.2 will not affect the Employee's continuity of service.

18 Termination

- 18.1 The termination of this Contract will result in the termination of the employment of the Employee unless this Contract is being superseded or replaced by a new Contract.
- 18.2 Where a Party wishes to terminate this Contract prior to the Expiry Date and following completion of the Employee's probationary period, it may be terminated in one or more of the following ways:
- (a) By the Council and the Employee agreeing in writing.
 - (b) By the Employee by giving 8 week's written notice to the Council.
 - I. If the Employee does not provide the required notice, they authorise Council to withhold or deduct from any money owed to them an amount in total or partial satisfaction of that obligation.
 - II. Where the Contract is due to expire within 8 weeks, the notice period will be reduced to the balance period of the Contract.
 - III. If the Employee gives notice to terminate the Employment, the Employee and the Council may, by mutual agreement, come to an arrangement on a shorter period of notice than provided in clause 18.2(b) for termination of the Employment.
 - (c) By the Council, giving 4 weeks' written notice to the Employee where Council have concluded that the Employee has not substantially met the performance criteria or the terms of the performance agreement.
 - (d) By the Council, for any reason other than those specified in clauses 4, 18(c), (e), (f) or (g) by giving 12 week's written notice to the Employee.
 - I. Where the Contract is due to expire within 12 weeks, the notice period will be reduced to the balance period of the Contract.
 - II. If Council gives notice to terminate the Employment, the Employee and the Council may, by mutual agreement, come to an arrangement on a shorter period of notice than provided in clause 18.2(c) for termination of the Employment.
 - (e) By the Council without notice if the Employee commits any act which would entitle it to summarily dismiss the Employee including, but not limited to:

- I. a serious or persistent breach of any of the terms of this Contract;
 - II. any act or acts of dishonesty, fraud, wilful disobedience or serious misconduct;
 - III. any wilful breach, non-observance or neglect to perform, comply with or carry out the Employee's powers, functions or duties;
 - IV. disobedience or neglect of lawful instructions, reasonable restrictions or directions duly authorised;
 - V. the Employee failing to provide accurate information on their qualifications, professional accreditation, professional training and/or currency of relevant licenses required to perform their Position;
 - VI. the Employee being charged with or convicted of any offence that, in the Council's reasonable opinion, affects the Employee's suitability for the Position or is likely to bring the reputation of the Council into disrepute;
 - VII. using any of the Council's property for purposes other than to carry out the Employee's duties;
 - VIII. disseminating pornographic or offensive material within the workplace via e-mail or otherwise;
 - IX. any act or omission which causes the Council to breach its obligations under the *Work Health and Safety Act 2011* (Qld);
 - X. committing an act of workplace bullying or harassment of an employee of the Council;
 - XI. committing an act of sexual harassment or acting in breach of the Council's sexual harassment or anti-discrimination policies; or
 - XII. engaging in any conduct which, in the reasonable opinion of the Council, might tend to injure the reputation or business of the Council.
- (f) By the Council upon giving 12 weeks' notice, should the Employee's Position become redundant. In cases where the Contract is due to expire within 12 weeks, the notice period will be reduced to the balance period of the Contract.
- (g) By the Council upon giving five (5) weeks' notice, where, in circumstances other than where the Employee is suffering an illness or injury to which Chapter 4, Part 5 of the *Workers' Compensation and Rehabilitation Act 2003* applies:-
- I. the total of the employee's absences in a 12-month period, arising from 1 or more illnesses or injuries, is more than 3 months;
 - II. at the time of termination, the Employee's incapacitation prevents the Employee from performing the inherent requirements of the Position;
 - III. the Employee is not on paid sick leave pursuant to clause 14.4; and
 - IV. the duration of the Employee's incapacity remains indefinite.

In cases where the Contract is due to expire within five (5) weeks, the notice period will be reduced to the balance period of the Contract.

- 18.3 If the Employee is absent for a period of seven (7) working days without the consent of the Council and does not, during such time, establish to the satisfaction of the Council a reasonable cause for the absence, the Employee will be deemed to have abandoned their employment. The Employee will have been taken to have initiated the termination of employment in accordance with clause 18.2(b).

- 18.4 If at any time either party gives notice of termination pursuant to clause 18.2, the Council may at its discretion:-
- (a) pay the Employee in lieu of part or all of the period of notice not served by the Employee;
 - (b) require the Employee to perform duties which are different to those that the Employee was required to perform prior to notice of termination being given;
 - (c) require the Employee to perform no duties at all; and/or
 - (d) require the Employee not to attend the premises of the Council, unless expressly requested to do so by Council;
- 18.5 Any payment made in lieu of notice under clause 18 will be calculated by reference to the value of the Employee's Cash Component.
- 18.6 If at any time either party gives notice of termination pursuant to clause 18.2, during the notice period the Employee:-
- (a) agrees to be reasonably available to the Council to attend work and complete duties which they are reasonably capable of completing at the direction of the Council;
 - (b) will remain an employee of the Council;
 - (c) acknowledges that the Council has no obligation to provide work, training or any other duties or facilities during the notice period; and
 - (d) agrees not to commence work as an employee, independent contractor or consultant with any other person or entity during the notice period.
- 18.7 Upon termination of employment for any reason the Employee must immediately return to the Council all property (including intellectual property) of the Council and all other documents, papers, records and information (including records and information stored electronically) relating to the Council or its business.

19 Severance/Redundancy

- 19.1 If:
- (a) the Employee's Position is made redundant; and
 - (b) there is no suitable position available for the redeployment of the Employee; and
 - (c) the Employee has completed at least one (1) year's continuous service,
- the Employee will be entitled to redundancy pay of two (2) weeks' pay per completed year of service upon termination by Council of the Employee's employment due to the redundancy of the Position.
- 19.2 Any redundancy payment will be capped at 52 weeks pay.
- 19.3 The redundancy payment will be calculated by reference to the value of the Employee's Cash Component.
- 19.4 The Employee will not be entitled to any severance/redundancy payment where a Suitable Alternative Position has been offered to the Employee and where the Employee has rejected the offer.
- 19.5 The offer of a Suitable Alternative Position will be at Council's discretion. Council will consider the qualifications, skills, knowledge and experience of the Employee in determining the availability of a suitable alternative position.

- 19.6 A "Suitable Alternative Position" is the offer of an alternative position to the Position where:-
- (a) the terms and conditions of employment for the alternative position were substantially similar to, and considered on an overall basis, no less favourable than the terms and conditions of employment immediately before the termination; and
 - (b) the employee's continuous service with Council would have been recognised.

20 Restricted Activities

- 20.1 The Employee must not for the period set out in clause 20.2 following the termination of the Employee's employment with the Council, without the prior written consent of the Council, induce or attempt to induce any employee of the Council to terminate their employment with the Council, whether or not that person would act in breach of that person's contract of employment.
- 20.2 For the purpose of clause 20.1, the period is:
- (a) Twelve (12) months; or if this period is held by a court to be unenforceable,
 - (b) Six (6) months; or if this period is held by a court to be unenforceable,
 - (c) Three (3) months; or if this period is held by a court to be unenforceable,
 - (d) One (1) month.
- 20.3 The Employee acknowledges that:
- (a) the restrictive covenants contained in this clause 20 are reasonable and necessary for the protection of Council's business interests; and
 - (b) the remedy of damages may be inadequate to protect the interests of the Council and the Council is entitled to seek and obtain injunctive relief or any other remedy in any court.
- 20.4 The Employee and the Council intend the restraints contained in clauses 20.1 and 20.2 are to operate to the maximum extent permitted by law.
- 20.5 The Employee's obligations under this clause 20 will continue to be binding following the termination of the Employee's employment with Council.

21 Accuracy of Information

- 21.1 The Employee acknowledges that all information provided by the Employee to the Council, such as information about the Employee's education, work experience, right to work in Australia and previous remuneration, is accurate and has been given on a bona fide basis.
- 21.2 Where it is substantiated that the Employee has failed to provide accurate information on their qualifications, professional accreditation, professional training, currency of relevant licenses required to perform their Position and/or right to work in Australia, the Employee may be terminated under clause 18.2(e).

22 Notification of Charges and Convictions

- 22.1 The Employee agrees to notify the Council if:
- (a) they are charged with any offence or convicted of any offence during their employment with the Council, or
 - (b) the Employee has been charged with an offence and the matter is likely to be pending when the Employee commences employment with the Council, or

(c) the Employee has a prior conviction.

22.2 Any notification required pursuant to clause 22.1 must be made:-

(a) prior to the Employee executing this Contract; or

(b) otherwise, as soon as possible after the Employee becomes aware that they have been charged with or convicted of an offence.

22.3 If the Employee has a prior conviction that the Employee believes is spent or lapsed at law, the Employee should seek legal advice about whether they are obligated to notify the Council of their prior conviction.

22.4 Failure to disclose such charges or convictions may result in disciplinary action being taken against the Employee, including termination of employment.

23 Variation of Contract

23.1 Except where otherwise provided in this Contract, any variation to this Contract must be by written agreement, signed by the Council and the Employee.

24 Waiver

24.1 The failure of either the Council or the Employee to enforce at any time any provisions of this Contract or any right under this Contract or to exercise any election in this Contract will in no way be considered to be a waiver of such provision, right or election and will not affect the validity of this Contract.

25 Notice

25.1 Any notice or notification required under this Contract must be in writing addressed to the party at the party's address specified in this Contract or to such other address as may be advised by either party to the other from time to time in writing.

26 Schedules

26.1 All schedules form part of the Contract.

27 Entire Agreement

27.1 This Contract constitutes the entire agreement between the Council and the Employee in respect of the matters dealt with in this Contract and supersedes all prior agreements, understandings, arrangements and negotiations in respect of the Employee's employment with the Council.

27.2 To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion has no effect except to the extent expressly set out or incorporated by reference in this Contract.

28 Interpretation and Construction

28.1 In this Contract, unless the contrary intention appears:

(a) words in the singular number include the plural and words in the plural number include the singular;

(b) words importing a gender include any other gender;

(c) words importing persons include a partnership and a body whether corporate or otherwise;

- (d) all references to clauses are clauses in this Contract;
- (e) a clause or part of a clause of this Contract that is illegal or unenforceable may be severed from this Contract and the remaining clauses or parts of the clause of this Contract continue in force.
- (f) all references to dollars are to Australian dollars and this Contract uses Australian currency;
- (g) references to laws includes statutes amending, consolidating or replacing the laws referred to, and to all regulations, by-laws, local laws, rules, orders-in-Council and ordinances of any competent authority;
- (h) an uncertainty or ambiguity in the meaning of a provision of this Contract will not be interpreted against a Party just because that Party prepared the provision;
- (i) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (j) headings are to be disregarded when interpreting the Contract documents;
- (k) the meaning of the words that appear before the word “including” or “includes” is not limited by the words that follow;
- (l) any undertaking by a Party not to do an act includes an undertaking by that Party not to permit or suffer the doing of the act;
- (m) covenants by each Party include an obligation to procure compliance by the Party’s Employees and all other persons under the control of that Party.

28.2 Any reading down or severance of a particular provision does not affect the other provisions of this Contract.

29 Governing Law

29.1 This Contract will be governed by and construed in accordance with the laws of the State of Queensland.

29.2 The Council and the Employee submit to the non-exclusive jurisdiction of the courts of Queensland.

Signed for and on behalf of the Council
pursuant to *Local Government Act 2009* section 236
by a Council delegate, who certifies their authority to sign
in the presence of a witness:

Signature of witness

Chief Executive Officer

Name of witness (please print)

Date

Date

Signed by **[#insert Employee's full name]**
in the presence of a witness:

Signature of witness

[#insert Employee's full name]

Name of witness (please print)

Date

Date

Schedule A

Position Description

[#insert position description]

Schedule B

Total Remuneration Package

This schedule operates on **[#Insert Commencement Date]** and remains in force unless varied in accordance with the provisions of this Contract or by agreement in writing between the parties.

The Total Remuneration Package comprises:-

Cash Component

Base Salary	\$X gross p.a.
Motor Vehicle Allowance	<u>\$X gross p.a.</u>

Cash Component Total	\$X gross p.a.
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*Superannuation	\$X gross p.a.
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(12% employer contribution where required by the *Local Government Act 2009* see *)

Total Remuneration Package	\$X gross p.a.
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**Pursuant to section 220 of the Local Government Act 2009, where the Employee does not meet the definition of a "permanent employee" contained in the Act, the superannuation contributions payable by Council on commencement of employment will be 11% of the Cash Component Amount.*

Where the Employee meets the definition of a "permanent employee" contained in the Local Government Act 2009, Council will make contributions to Brighter Super, or another superannuation fund directed by the Employee, in the amount of 12% of the Cash Component Amount.

Pursuant to section 220A of the Local Government Act 2009, where the Employee meets the definition of a "permanent employee" contained in the Act, the Employee will be required to make contributions to the employee's superannuation fund equal to 6% of the Cash Component Amount.