

Financial Management (Cemeteries and Crematoria Authority Governing Board Chief Executive Officer) Acting Appointment 2021 (No 2)

Notifiable instrument NI2021–792

made under the

Cemeteries and Crematoria Act 2020, sections 117 (Establishment of governing board) and 118 (Governing board members)

Financial Management Act 1996, section 80 (Appointment of CEO of authority with governing board)

Legislation Act 2001, sections 209, 219 and 221 (Appointments and Acting Appointments)

1 Name of instrument

This instrument is the *Financial Management (Cemeteries and Crematoria Authority Governing Board Chief Executive Officer) Acting Appointment 2021 (No 2)*.

2 Commencement

This instrument commences on 1 January 2022.

3 Acting Appointment

The governing board for the Cemeteries and Crematoria Authority appoints Kerry McMurray as the Acting Chief Executive Officer of the Cemeteries and Crematoria Authority until 31 January 2022.

4 Conditions of Acting Appointment

The conditions of appointment of the Chief Executive Officer are set out in the Conditions of Acting Appointment.

Neale Guthrie
Chair
Cemeteries and Crematoria Authority
Governing Board

Georgina McKenzie
Deputy Chair
Cemeteries and Crematoria Authority
Governing Board

Date: 22 December 2021

Date: 22 December 2021

Schedule A - Conditions of Acting Appointment

Chief Executive Officer, Cemeteries and Crematoria Authority

Kerry McMurray

(Appointee)

Operation and Application

1. The terms and conditions of the Appointee's acting appointment are regulated by:-
 - (a) these Conditions of Appointment;
 - (b) the *Cemeteries and Crematoria Act 2020*;
 - (c) the *Financial Management Act 1996*; and
 - (d) other applicable laws of the Territory.
2. The Appointee acknowledges that no oral understandings or promises have been given by the Appointer.

Definitions

3. In these Conditions of Acting Appointment the following words have the following meanings, unless a contrary intention appears:
 - (a) the *Cemeteries and Crematoria Act 2020* means the *Cemeteries and Crematoria Act 2020*, as varied from time to time;
 - (b) the *Financial Management Act 1996* means the *Financial Management Act 1996*, as varied from time to time;
 - (c) "Appointee" means the natural person specified in this *Schedule A*, being a person performing the duties of the Chief Executive Officer under the *Cemeteries and Crematoria Act 2020* and the *Financial Management Act 1996*;
 - (d) "Appointer" means the governing board for the Cemeteries and Crematoria Authority.
 - (e) "Acting Appointment Instrument" means the *Financial Management (Cemeteries and Crematoria Authority Governing Board Chief Executive Officer) Acting Appointment 2021 (No 2)*;
 - (f) "Conditions of Acting Appointment" means these conditions of appointment and the terms and conditions otherwise provided by law.

Term

4. The acting appointment commences on the date specified in clause 2 of the Acting Appointment Instrument and ends on the date specified in clause 3 of the Acting Appointment Instrument, and otherwise ends pursuant to clauses 5 and 6 of the Conditions of Acting Appointment, whichever is earlier.

End of Acting Appointment or resignation

5. The Appointee's acting appointment may be ended at any time under sections 209 and 219 of the *Legislation Act 2001*, exercisable in the same way and subject to the same conditions, as the power to make the acting appointment, by operation of sections 117 and 118 of the *Cemeteries and Crematoria Act 2020* and section 80 of the *Financial Management Act 1996*.
6. The Appointee's acting appointment ends if the Appointee provides the Appointer signed written notice that the Appointee resigns.
7. The Appointee must provide 2 weeks' notice of resignation, or such lesser time as agreed with the Appointer.
8. The Appointee may only withdraw the Appointee's resignation with the approval of the Appointer.

Remuneration, allowances and entitlements

9. The Appointee is entitled to the remuneration, allowances and entitlements that are equivalent to those provided in the relevant Australian Capital Territory Remuneration Tribunal determination that applies, from time to time to an ACT Public Service Executive Level 1.2 on the basis that the Chief Executive Officer position of the Cemeteries and Crematoria Authority has been evaluated to be a position equivalent to ACT Public Service Executive Level 1.2. The Appointee's current remuneration, allowances and entitlements are set out [Attachment 1](#).

Notes:

Currently under section 115 of the *Public Sector Management Standards 2016*, certain entitlements in the *Public Sector Management Standards 2006* (repealed) continue to apply to the Appointee as a full-time statutory office holder.

The Territory's enhanced minimum employer superannuation contribution for the Appointee is provided in the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement* as varied from time to time. Currently clause D7 of the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021* contains the minimum employer superannuation contribution for the Appointee and the adjustments required to this rate.

Leave

10. The Appointer may approve leave of absence for the Appointee.

Note:

Currently under section 115 of the Public Sector Management Standards 2016, certain entitlements in the *Public Sector Management Standards 2006* (repealed) continue to apply to the Appointee as a full-time statutory office holder.

Position duties

11. The duties of the Appointee are those described in Attachment 2.

12. The parties acknowledge that the position, role and levels of responsibility may be varied by the Appointer. In the event of such a variation, the remaining terms and conditions of these Conditions of Acting Appointment will continue to apply.

13. The Appointer may direct the Appointee to perform or not perform any part of the duties at any time.

Performance management

14. The Appointee's performance will be formally appraised on a monthly basis or as required. The format of the appraisal and review will be determined by the Appointer.

15. The Appointer and the Appointee will negotiate and agree on Key Performance Indicators, such indicators to be documented in writing.

Hours of work

16. The hours of work under these Conditions of Acting Appointment are 36 hours and 45 minutes per week (Monday to Friday).

17. The Appointee may be required to work such additional hours as are reasonably necessary for the Appointee to perform all of their duties and functions. Such hours may be performed outside Monday to Friday.

18. The remuneration payable under clause 9 of these Conditions of Acting Appointment includes adequate compensation for any reasonable additional hours.

Payment of Remuneration

19. Annual salary will be paid fortnightly in arrears, less applicable taxation, by direct deposit into a bank account nominated by the Appointee.

Conflict of interest

20. The Appointee must give the Appointer a written statement of material interests relevant to their acting appointment prior to the commencement of the Acting Appointment.

Note:

The Statutory Office Holder Declaration of Private Interests form should be used for this purpose.

21. The Appointee must advise the Appointer in writing if he or she has a material interest relevant to their acting appointment that has not been disclosed previously to the Appointer as soon as practicable after the relevant facts come to the Appointee's knowledge.
22. The Appointee warrants that he or she has, prior to the commencement of this Acting Appointment, notified the Appointer of any actual, possible or potential conflicts of interest of which the Appointee is aware, or ought reasonably be aware.
23. Section 86 of the *Financial Management Act 1996* (conflicts of interest by governing board members), as varied from time to time, applies to the Appointee.
24. Section 88 of the *Financial Management Act 1996* (disclosure of interests by governing board members), as varied from time to time, applies to the Appointee.

Protection of confidential information

25. The Appointee must not disclose, without lawful authority:
 - (a) any information acquired by him or her as a consequence of his or her acting appointment; or
 - (b) any information acquired by him or her from any document to which he or she has access as a consequence of his or her acting appointment.
26. The Appointee acknowledges that he or she is subject to section 153 of the *Crimes Act 1900* and has ongoing legislative obligations at the end of this Acting Appointment.

27. The Appointee must, if requested by the Appointer, deliver to the Appointer all confidential information and other property of the Appointer, which is in the possession or custody or under control of the Appointee. Where any confidential information is recorded electronically, the Appointer may require that such information be deleted in such a manner that it cannot be retrieved.

Improper use of information

28. The Appointee acknowledges a person commits an offence if-

- (a) The person uses or discloses information gained because of performing a function for or on behalf of the Territory; and
- (b) The person does so with the intention of dishonestly obtaining a benefit for the person or someone else.

29. The Appointee further acknowledges a person commits an offence if-

- (a) The person has stopped performing a relevant function for the Territory; and
- (b) The person uses or discloses information that the person obtained because of performing the function; and
- (c) The person does so with the intention of dishonestly obtaining a benefit for the person or someone else.

30. In this clause, a person acts dishonestly if-

- (a) The person's conduct is dishonest according to the standards of ordinary people; and
- (b) The person knows that the conduct is dishonest according to those standards.

Intellectual Property

31. The Territory owns all intellectual property created by the Appointee arising out of or in the course of his or her acting appointment and the Appointee assigns and transfers any such property to the Territory.

32. The Appointee must, during and after the term of this Acting Appointment Instrument and Conditions of Acting Appointment, undertake to execute all documents which the Appointer may reasonably request to secure the Territory's ownership of rights in the intellectual property.

33. The Appointee must not make use of or reproduce any intellectual property owned by the Territory or the Appointer without the Appointer's prior written approval other than in the ordinary course of their acting appointment.
34. The Appointee's obligations under this clause continue after the cessation of their acting appointment.
35. Intellectual property means:
- (a) all developments, discoveries, innovations, inventions, novel or technical designs, procedures and trade secrets.
 - (b) the entire copyright in all works included but not limited to all works as defined in the *Copyright Act 1968*.
 - (c) all designs within the meaning of the *Designs Act 1906*.
 - (d) all patents and patented application, processes and products within the meaning of the *Patents Act 1990*.
 - (e) any trade name, brand name, common law trademark or trademark within the meaning of the *Trademark Act 1995*.

Secondary employment

36. The Appointee shall not, except in accordance with the written approval of the Appointer, accept or engage in any remunerative employment other than in relation to the performance of his or her duties as Chief Executive Officer.

Policies that apply to the Appointee

37. The Appointee must comply with any policies, procedures and practices of the Appointer as they exist from time to time and the Appointee acknowledges that:
- (a) the Appointer may vary any policies and procedure; and
 - (b) to the extent that any such policies impose obligations on the Appointer, those obligations are guidelines only and are not to be relied upon by the Appointee.

Notification of Acting Appointment— publication

38. The Acting Appointment Instrument may be notified (and possibly the content of these Conditions of Acting Appointment, in whole or in part) may be required to be disclosed by the Territory and the Appointee acknowledges the same.

Additional obligations of Appointee

Honesty, care and diligence

39. In exercising the functions, the Appointee must comply with Division 2.1 (Public Sector Standards) of the *Public Sector Management Act 1994* (PSM Act), as varied from time to time, to the extent that the application of division 2.1 is consistent with the exercise of the Appointee's functions.

Note:

The Appointee is considered a public sector member under section 150 of the *Public Sector Management Act 1994*.

40. In exercising the functions, the Appointee is required to adhere to the *ACT Public Sector Code of Conduct*, as varied from time to time, to the extent that the application of *ACT Public Sector Code of Conduct* is consistent with the exercise of the Appointee's functions.
41. Section 85 of the *Financial Management Act 1996* (honest, care and diligence of governing board members), as varied from time to time, applies to the Appointee.

Applicable Law

42. These Conditions of Acting Appointment are governed by the law of the Australian Capital Territory.

Interpretation

43. References to the "Territory" in these Conditions are references to the Australian Capital Territory, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Signed:

Kerry McMurray
Chief Executive Officer
Cemeteries and Crematoria
Authority

Date: _____

Neale Guthrie
Chair
Cemeteries and Crematoria
Authority Governing Board

Date:

Georgina McKenzie
Deputy Chair
Cemeteries and Crematoria
Authority Governing Board

Date:

ATTACHMENT 1

Remuneration - rates equivalent to those applicable to an Executive Level 1.2, effective 1 July 2021

- | | |
|---|---------------------|
| 1. Total Remuneration package | \$225,196 pa |
| 2. Annual Salary determined in accordance with clause 9 of the Conditions of Acting Appointment | \$172,249 pa |
| 3. Superannuation contribution | \$18,947 pa |
| 4. Additional allowances: | |
| (a) \$24,000 pa in lieu of use of government leased motor vehicle; | |
| (b) parking; or | |
| {b} \$2,500 pa in lieu of parking; | |
| (c) fringe benefits tax allowance of \$7,500 pa . | |

ATTACHMENT 2

Duties of the position

The Chief Executive Officer's functions are outlined in section 84 of the [Financial Management Act 1996](#), as varied from time to time:

(1) The Chief Executive Officer of a territory authority with a governing board has the following functions:

(a) ensuring, as far as practicable, that the authority's statement of intent is implemented effectively and efficiently;

Example of implementation of statement of intent

achieving objectives in statement of intent

(b) managing the day-to-day operations of the authority in accordance with—

(i) applicable governmental policies (if any); and

(ii) the policies of the authority set by the board; and

(iii) each legal requirement that applies to the authority;

Example for par (iii)

a direction by the independent competition and regulatory commission that relates to the authority

(c) regularly advising the board about the operation and financial performance of the authority;

(d) immediately advising the board about significant events.

(2) In this section:

significant event, for a territory authority, means an event that the authority is required to tell the responsible Minister about under section 101.

The primary responsibilities of the position are to:

- As a Board Member and strategic partner to the Board, the Chief Executive Officer is responsible for participating in the strategic plan development and controlling its delivery. This end-to-end remit is to be reflected in strong business execution with high collaboration across all areas by:
 - ensuring Canberra Cemeteries stays on strategy, works within risk appetite, manages resources and delivers high quality services
 - acting as a custodian of Canberra Cemeteries delivering financial performance and building and maintaining self-sufficiency
 - managing the operations/offices including developing and fostering a positive and empowering culture

- leading and managing Canberra Cemeteries' service and marketing activities
- The Chief Executive Officer is responsible for ensuring the Cemeteries and Crematoria Authority:
 - provides the equitable availability of interment and memorialisation options, and maintains burial capacity for the long-term needs of the ACT community
 - operates as an efficient financially sustainable Government business with a strong customer service focus
 - adopts operating practices that safeguard the environment and the health and safety of staff and visitors
 - maintains burial grounds to a level that meets the expectations of the ACT community
 - provides high level advice on strategic, finance and people matters to the Minister, and Director-General TCCS
- The Chief Executive Officer is responsible for providing influential leadership and for the long term sustainability and impact of the Cemeteries and Crematoria Authority by pursuing business development opportunities, advocating for service users and communities, building strong relationships with key stakeholders to maximise growth and profitability, and positioning the organisation as a leading provider of interment and memorialisation services for the Canberra community's long-term needs.
- In collaboration with the Chair, the Chief Executive Officer is the face of the Cemeteries and Crematoria Authority and is responsible its relationship and reputation with service users, funeral directors and industry providers, government officials, national and state/territory sector organisations, partners and industry associations. The Chief Executive Officer is also expected to role model Canberra Cemeteries' values and represent Canberra Cemeteries' interests at all times. As the Chief Executive Officer will need to effectively communicate Canberra Cemeteries' policies, strategic changes and performance updates, sector issues, risks and opportunities, the position requires a person with strong information conduit skills and an excellent communicator, both externally and internally.

Business Development

- Achieve business growth by undertaking master and business planning, optimizing products/services and developing partnerships
 - Review and improve environmentally sustainable practices across all aspects of the business and ensure preparedness for extreme weather conditions

- Improve existing products to enhance service delivery and decrease costs, develop new physical and eservices that build profile and increase revenues and commence crematoria services within the ACT
- Develop industry partnerships and understanding via structured relationship management program, taskforce representation and targeted e-communications

Community and Business Engagement

- Build brand profile and engagement by resourcing the marketing function (internally/externally) and via advocacy initiatives:
 - Develop integrated digital strategy;
 - Develop Government engagement plan, with a focus on Ministerial and TCCS relations;
 - Develop community engagement plan incorporating media outreach;
 - Build customer marketing program for funeral directors and service users.

Leadership

- Harness a skilled, engaged and appropriately resourced workforce aligned to our values:
 - Develop a skills matrix for each position and development plan for all staff;
 - Ensure performance management practices;
 - Provide leadership, manage succession and develop future leaders who live the ACT Public Service and Canberra Cemeteries values.

Governance

- Build strong effective systems and practices:
 - Create reporting framework to support Board and Committee activities;
 - Ensure financial and audit practices align with ACT Government requirements;
 - Ensure risk management practices including internal audit, WHS, reputation/media, policies, procedures & guidelines and ensure meet legislative requirements and industry standards;
 - Embed a systems approach via a Business Continuity Plan and a technology strategy;
 - Continuously improve business process, including where necessary challenging conventional approaches and driving forward change.

Stakeholder management

- Lead the organisation and its staff in a way that successfully navigates internal and external relationships build relationships with the board and partnerships essential to the success of the enterprise:
 - represent the Authority and Directorate (TCCS) at inter-government and external forums;
 - provides high level advice on Cemeteries matters to the Minister and Director-General TCCS.

Strategic Projects

- Manage the Authorities strategic projects including but not limited to:
 - The development, completion and operation of a new crematorium at Gungahlin Cemetery;
 - The design, completion and operation of a new major cemetery in the south of Canberra;
 - Update strategic asset and cemetery master plans within a strategic portfolio approach and the Legislative Review context, recommend and progress program of proposed changes for Government's consideration.

The Appointee should meet the following requirements:

- Permanent Resident of Australia;
- Drivers Licence (C-class) is mandatory;
- Relevant tertiary qualifications are desirable but not essential;
- Relevant horticulture qualifications are desirable but not essential.