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**I hereby give notice that a Chief Executive Officer Performance Review
Committee Meeting will be held on:**

Date: Tuesday, 12 October 2021
Time: 11.30 a.m.
Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Chief Executive Officer Performance Review Committee Meeting 12 October 2021

A handwritten signature in black ink, appearing to read 'Sarah Philpott', written over a horizontal line.

Sarah Philpott
Chief Executive Officer
7 October 2021

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1 ACKNOWLEDGEMENT OF COUNTRY

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

2 APOLOGY(IES)

Nil

3 CONFIRMATION OF MINUTES

[Chief Executive Officer Performance Review Committee Meeting - 7 July 2020](#)

RECOMMENDATION

That the minutes of the Chief Executive Officer Performance Review Committee meeting held on 7 July 2020 be confirmed as an accurate record of the proceedings of the meeting.

4 QUESTIONS WITHOUT NOTICE



5 REPORTS

5.1 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE - TERMS OF REFERENCE – REPORT NO. AR21/59971

Meeting: Chief Executive Officer Performance Review Committee
CM9 Reference: AF12/36
Author: Michael McCarthy, Manager Governance and Property
Authoriser: Darren Barber, General Manager Shared Services

REPORT RECOMMENDATION

1. That Chief Executive Officer Performance Review Committee Report No. AR21/59971 titled 'Chief Executive Officer Performance Review Committee - Terms of Reference' as presented on 12 October 2021 be noted.



BACKGROUND

At the Council meeting held in July 2021 the Chief Executive Officer Performance Review Committee was re-established and Terms of Reference were adopted.

The Terms of Reference were updated in August 2021 to amend the membership of the committee.

The updated Terms of Reference are attached for information - **Attachment 1**.

DISCUSSION

The Chief Executive Officer Performance Review Committee is established by Council for the purpose set out in clause 4 of the Terms of Reference and with the roles and responsibilities set out on clause 5.

The Committee has delegated power to procure the engagement of independent person(s) and/or specialist consultancy services to assist with undertaking of performance reviews and to provide advice as required.

CONCLUSION

The Committee Terms of Reference are provided for members information.

ATTACHMENTS

1. Terms of Reference - Chief Executive Officer (CEO) Performance Review Committee - Adopted by Council 17/08/2021 [↓](#)





Chief Executive Officer Performance Review Committee

TERMS OF REFERENCE

A Committee of Council
established pursuant to the provisions of
Section 41
of the Local Government Act 1999

The Chief Executive Officer Performance Review Committee was re-established by Council resolution dated 17 August 2021.

Terms of Reference for the conduct of the business of the Chief Executive Officer Performance Review Committee were approved and adopted by the City of Mount Gambier at its meeting held on 17 August 2021.



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Chief Executive Officer Performance Review Committee

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1. NAME

- 1.1 The name of the Council Committee shall be the Chief Executive Officer (CEO) Performance Review Committee (in these Terms of Reference referred to as "the Committee").

2. INTERPRETATION

- 2.1 For the purpose of these Terms of Reference, unless inconsistent with the subject matter or context:
- 2.1.1 "Act" means the Local Government Act 1999 and includes all Regulations and Schedules and successor legislation.
 - 2.1.2 "Committee" means the Committee of Council established pursuant to clause 3.
 - 2.1.3 "Committee Member" means the persons appointed by the Council to the Committee pursuant to clause 7.
 - 2.1.4 "Council" means the City of Mount Gambier that established the Committee and to which the Committee reports.
 - 2.1.5 "Employment Agreement" means the employment agreement between the City of Mount Gambier and the Chief Executive Officer, which came into effect on 15th June 2021 or any successor agreement.
 - 2.1.6 "Presiding Member of the Committee of Council" means the person appointed to that position pursuant to clause 8.
 - 2.1.7 "Observers" means those persons attending any meeting of the Committee of Council, but not having a vote on any matter to be determined by the Committee and not having been appointed as Committee Members.
 - 2.1.8 "Regulations" means the Local Government (Procedures at Meetings) Regulations 2013
- 2.2 Any words, phrases or terms used in these Terms of Reference that are defined in the Act shall have the same meaning as are given in the Act.
- 2.3 A reference in these Terms of Reference to a "singular" includes a reference to the "plural" and a reference to a "plural" includes a reference to the "singular".
- 2.4 These Terms of Reference shall be interpreted in line with the provisions of the Act.

3. ESTABLISHMENT

- 3.1 The Chief Executive Officer Performance Review Committee is established under Section 41 of the Local Government Act 1999.
- 3.2 The Committee was re-established on from 20 July 2021.

4. PURPOSE

- 4.1 The Committee's primary purpose, in conjunction with the CEO, is to establish relevant performance objectives for the CEO and for the Committee to undertake the annual formal review of the performance of the CEO against those performance criteria, including as specified within the Employment Agreement.
- 4.2 The Committee's secondary purpose is, upon the completion of the performance review process, to undertake an annual review of the CEO's remuneration in accordance with the Employment Agreement.
- 4.3 To obtain and consider the advice of a qualified independent person(s) in accordance with s102A of the Local Government Act 1999 and independent human resource support as determined appropriate by the Presiding Member to support the effective conduct of the reviews in 4.1 and 4.2.



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5. ROLE AND RESPONSIBILITIES

- 5.1 To provide advice to Council on the CEO's performance and development, including the following matters:
 - 5.1.1 Reviewing the CEO's performance over the preceding 12 month performance period, in particular the performance against the agreed performance targets, Employment Agreement and position description requirements.
 - 5.1.2 Monitoring the progress on the CEO's agreed performance targets for the current 12 month performance period.
 - 5.1.3 Determining performance targets for the forthcoming 12 month performance period.
 - 5.1.4 Identifying development opportunities for the CEO.
 - 5.1.5 Reviewing the remuneration and conditions of employment of the CEO.
 - 5.1.6 Making any recommendations to Council on any review of the CEO Employment Agreement.
- 5.2 In support of the Committee's role, the Council will appoint an independent human resource specialist to assist with the undertaking of performance reviews and to provide advice as required.

6. DELEGATED POWERS

- 6.1 The Committee is an advisory committee and, with the exception of procurement for the purposes of 4.3 and 5.2 in accordance with 6.2, has no power or authority to make delegated decisions on Council's behalf.
- 6.2 The engagement of independent person(s) and/or specialist consultancy services under 4.3 and 5.2 shall be administered by the administration under (sub)delegation in conjunction with the Presiding Member and in accordance with Council's Procurement & Disposal of Land and Assets Policy P420.

7. MEMBERSHIP

- 7.1 Membership of the Committee will be comprised of five Elected Members being the Mayor (Presiding Member), Deputy Mayor, the Presiding Members of the Economic & Environment and the People & Place Committees, and otherwise as resolved by Council.
- 7.2 Should any one or more of the positions specified in 7.1 be filled by the same Elected Member Council may appoint other Elected Members to fill up to the full membership of **five**.
- 7.3 Should Council's committee structure change from that specified in 7.1 then the Elected Members membership of the Committee shall remain as in place prior to the change until these Terms of Reference are amended by Council.

8. PRESIDING MEMBER

- 8.1 The Mayor will be the Presiding Member of the Committee.
- 8.2 If the Presiding Member of the Committee is absent from a meeting, then a member of the Committee chosen from those present will preside at the meeting until the Presiding Member is present.
- 8.3 The role of the Presiding Member includes:
 - 8.3.1 overseeing and facilitating the conduct of meetings in accordance with the Act; and the Regulations.
 - 8.3.2 Ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner.
 - 8.3.3 In conjunction with an Administration Officer with appropriate sub-delegation to determine and procure the services of an independent person and/or specialist consulting services to support the Committee in fulfilling its purpose, role and responsibilities.



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9. REPORTING RESPONSIBILITIES

- 9.1 The minutes of each Committee meeting will be included in the agenda papers of the next ordinary meeting of the Council.
- 9.2 The Committee shall make whatever recommendations to the Council it deems appropriate on any area within its terms of reference where in its view action or improvement is needed.

10. MEETING PROCEDURES

- 10.1 Meeting procedure for the Committee is as set out in the Act and Regulations.
- 10.2 A quorum for the Committee shall constitute half the membership, ignoring any fraction from the division, plus one.
- 10.3 All decisions of the Committee shall be made on the basis of a majority decision of the members present.

11. FREQUENCY OF MEETINGS

- 11.1 The Committee shall meet at appropriate times and places as determined by the Committee and, at least, annually. A special meeting of the Committee may be called in accordance with the Act.
- 11.2 Actions undertaken in calling meetings and their frequency will be consistent with the Act and the Employment Agreement.

12. NOTICE OF MEETINGS

- 12.1 Notice of the meetings of the Committee will be given in accordance with the Act and with the Employment Agreement.

13. PUBLIC ACCESS TO MEETINGS & DOCUMENTS

- 13.1 Members of the public are able to attend all meetings of the Committee, unless excluded by order of the Committee, under the confidentiality provisions of the Act.
- 13.2 Members of the public have access to all documents relating to the Committee unless withheld by order of the Committee or Council under the confidentiality provisions of the Act.

14. MINUTES OF MEETINGS

- 14.1 Minutes shall be kept of all meetings of the Committee in accordance with the Act.

15. CONDUCT AND DISCLOSURE OF INTERESTS

- 15.1 Members of the Committee must comply with the conflict of interest provisions of the Act.
- 15.2 Members of the Committee must comply with the Code of Conduct for Council Members and Chapter 5 Part 4 of the Act relating to Conduct and Disclosure of Interests.

16. LIABILITY OF THE COMMITTEE

- 16.1 A liability incurred by the Committee rests against Council.
- 16.2 No liability attaches to a Member of the Committee for an honest act or omission by that Member of the Committee in the performance or discharge, or purported performance or discharge, of the Member's or the Committee's functions or duties.
- 16.3 All members of the committee are bound by the Council Member Code of Conduct as published in accordance with Section 63 of the Act.



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17 AMENDMENTS TO TERMS OF REFERENCE

- 17.1 It will be lawful for the Council by resolution to revoke, vary or add to any of the provisions of these Terms of Reference at its own discretion within the parameters of the Act, the Employment Agreement and any other relevant legislation.
- 17.2 Notwithstanding 17.1 hereof before the Council resolves to revoke, vary or add to any of the provisions of these Terms of Reference it may, but will be under no obligation, to obtain the opinion of the Committee and the CEO.

18. INTERPRETATION OF TERMS OF REFERENCE

- 18.1 Should there be any dispute as to the definition and/or interpretation of these Terms of Reference, or any part thereof or any irregularities whatsoever that are unable to be resolved by the Presiding Member then the Council shall determine the dispute and the decision of the Council shall be final and binding.

19. OTHER MATTERS

- 19.1 The Committee shall:
- 19.1.1 Have access to reasonable resources in order to carry out its duties, recognising the constraints within the Council's Budget.
 - 19.1.2 Give due consideration to laws and regulations, including the Act and relevant employment law.
 - 19.1.3 Seek independent human resource support and advice to enable it to comply with its responsibilities set out in the Employment Agreement.
 - 19.1.4 Where the Committee is required to act jointly with or to obtain the concurrence of the CEO in the performance of its functions, the Council expects that both parties will negotiate and consult in good faith to achieve the necessary objectives.
- 19.2 The CEO will provide administrative support for the purposes of co-ordination and preparation of agendas and reports for and minutes of Committee meetings and as a point of contact for all Committee members.
- 19.3 The Council may cease the operation of the Committee and the Committee may, in conjunction with the CEO, make such recommendation to the Council on the completion of its function.

20. NOTICES

- 20.1 All communication to be given to the Committee shall be addressed to:

City of Mount Gambier Chief Executive Officer Performance Review Committee
PO Box 56
MOUNT GAMBIER SA 5290
Email: city@mountgambier.sa.gov.au

30 September 2021



5.2 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE - INDEPENDENT SPECIALIST SUPPORT – REPORT NO. AR21/59986

Meeting: Chief Executive Officer Performance Review Committee
CM9 Reference: AF12/36
Author: Michael McCarthy, Manager Governance and Property
Authoriser: Darren Barber, General Manager Shared Services

REPORT RECOMMENDATION

1. That Chief Executive Officer Performance Review Committee Report No. AR21/59986 titled 'Chief Executive Officer Performance Review Committee - Independent Specialist Support' as presented on 12 October 2021 be noted.
2. That the Chief Executive Officer Performance Review Committee endorse the procurement process for the 'Independent Specialist Support'.



BACKGROUND

At the Council meeting held on 20 July 2021 the Chief Executive Officer Performance Review Committee was re-established and Terms of Reference for the committee were adopted.

The committee membership provisions in the Terms of Reference were amended in August 2021.

The adopted Terms of Reference are an attachment to Report No. AR21/59971 with this agenda.

DISCUSSION

The Terms of Reference for the Chief Executive Officer Performance Review Committee include:

- 4.3 To obtain and consider the advice of a qualified independent person(s) in accordance with s102A of the Local Government Act 1999 and independent human resource support as determined appropriate by the Presiding Member to support the effective conduct of the reviews in 4.1 and 4.2.
...
- 5.2 In support of the Committee's role, the Council will appoint an independent human resource specialist to assist with the undertaking of performance reviews and to provide advice as required.
...
- 6.1 The Committee is an advisory committee and, with the exception of procurement for the purposes of 4.3 and 5.2 in accordance with 6.2, has no power or authority to make delegated decisions on Council's behalf.
- 6.2 The engagement of independent person(s) and/or specialist consultancy services under 4.3 and 5.2 shall be administered by the administration under (sub)delegation in conjunction with the Presiding Member and in accordance with Council's Procurement & Disposal of Land and Assets Policy P420.

As noted in clause 4.3, these provisions are consistent with the new section 102A of the Local Government Act 1999 that provides as follows:

102A—Chief executive officer—performance review

- (1) A council must review the performance of its chief executive officer—
 - (a) at least once in each year that the chief executive officer holds office as chief executive officer; and
 - (b) if relevant, before reappointment of the chief executive officer.
- (2) The council must obtain and consider the advice of a qualified independent person on a review under subsection (1).
- (3) In this section—
 - qualified independent person** means a person who is—
 - (a) not a member or employee of the council; and
 - (b) determined by the council to have appropriate qualifications or experience in human resource management.

Accordingly, the Committee, is empowered to engage independent specialist consultancy services to support the performance review of the Chief Executive Officer compliant with the provisions in the Local Government Act 1999.

The process for procuring a suitably qualified consultant to facilitate the performance review process will be in accordance with councils procurement policy through a request for quote. Once all quotes



have been received a report will be presented to the committee with recommendations on the most suitable identified proposal.

CONCLUSION

That the Chief Executive Officer Performance Review Committee approve the procurement process for the 'Independent Specialist Support'.

ATTACHMENTS

Nil



6 CONFIDENTIAL ITEMS

6.1 CHIEF EXECUTIVE OFFICER KPI'S – REPORT NO. AR21/59974

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Chief Executive Officer Performance Review Committee orders that all members of the public, except the Mayor, Councillors and (Council Officers) be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 6.1 AR21/59974 Chief Executive Officer KPI's.

The Chief Executive Officer Performance Review Committee is satisfied that, pursuant to section 90(3) (a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

The Chief Executive Officer Performance Review Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be considered relates to the performance review measures for the Chief Executive Officer, the disclosure of which would be an unreasonable disclosure of personal information relating to the employment of the Chief Executive Officer, Sarah Philpott.

CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 6.1 AR21/59974 Chief Executive Officer KPI's and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (a) be kept confidential and not available for public inspection until 2 years after the initial appointment term and any renewal term of the Chief Executive Officer, Sarah Philpott has elapsed.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

6.2 CHIEF EXECUTIVE OFFICER - PERFORMANCE UPDATE – REPORT NO. AR21/59977

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Chief Executive Officer Performance Review Committee orders that all members of the public, except the Mayor, Councillors and (Council Officers) be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 6.2 AR21/59977 Chief Executive Officer - Performance Update.

The Chief Executive Officer Performance Review Committee is satisfied that, pursuant to section 90(3) (a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

The Chief Executive Officer Performance Review Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be presented and discussed relates to the performance review of the Chief Executive Officer, the disclosure of which would be unreasonable disclosure of personal information relating to the employment of the Chief Executive Officer, Sarah Philpott.

CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 6.2 AR21/59977 Chief Executive Officer - Performance Update and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (a) be kept confidential and not available for public inspection until 2 years after the initial appointment term and any renewal term of the Chief Executive Officer, Sarah Philpott has elapsed.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

7 MEETING CLOSE



**MINUTES OF CITY OF MOUNT GAMBIER
CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE MEETING
HELD AT THE CIVIC CENTRE, 10 WATSON TERRACE, MOUNT GAMBIER
ON TUESDAY, 7 JULY 2020 AT 5.04 P.M.**

PRESENT: Mayor Lynette Martin (OAM), Cr Sonya Meziniec, Cr Christian Greco (arrived at 5.08 p.m.), Cr Frank Morello

IN ATTENDANCE: Cr Steven Perryman

OFFICERS IN ATTENDANCE: Manager Executive Administration - Mr M McCarthy

1 ACKNOWLEDGEMENT OF COUNTRY

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

2 APOLOGY(IES)

Nil

3 CONFIRMATION OF MINUTES

COMMITTEE RESOLUTION

Moved: Cr Frank Morello
Seconded: Cr Sonya Meziniec

That the minutes of the Chief Executive Officer Performance Review Committee meeting held on 6 May 2020 be confirmed as an accurate record of the proceedings of the meeting.

!CARRIED

4 QUESTIONS WITHOUT NOTICE

Nil

5 MOTIONS WITHOUT NOTICE

Nil



6 CONFIDENTIAL ITEMS

6.1 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW RESULTS AND KPI'S – REPORT NO. AR20/41809

COMMITTEE RESOLUTION

Moved: Cr Frank Morello
Seconded: Cr Sonya Mezinec

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Chief Executive Officer Performance Review Committee orders that all members of the public, except Mayor L Martin, Councillors S Mezinec, C Greco, Cr Perryman and F Morello and Council Officer M McCarthy be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 6.1 AR20/41809 Chief Executive Officer Performance Review Results and KPI's.

The Chief Executive Officer Performance Review Committee is satisfied that, pursuant to section 90(3) (a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

The Chief Executive Officer Performance Review Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the matters for consideration relate to personal affairs being the employment performance, future Key Performance Indicators and remuneration review of the Chief Executive Officer, Mr Andrew Meddle.

CARRIED

Cr Greco arrived at 5.08 p.m.

Cr Perryman left the meeting at 6.04 p.m. and did not return.

COMMITTEE RESOLUTION

Moved: Cr Christian Greco
Seconded: Cr Sonya Mezinec

CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 6.1 AR20/41809 Chief Executive Officer Performance Review Results and KPI's and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (a) be kept confidential and not available for public inspection until the employment contract of the Chief Executive Officer, Mr Andrew Meddle has expired and not been renewed, with report attachments numbered 1, 2 & 3 to be released to the Chief Executive Officer only upon the making of this Order by Committee.



2. Further that Council delegates the power to review, revoke, but extend of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

CARRIED

7 MEETING CLOSE

The Meeting closed at 6.45 p.m.

The minutes of this meeting were confirmed at the Chief Executive Officer Performance Review Committee held on

.....
PRESIDING MEMBER

