



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

Date: Tuesday, 3 March 2020
Time: 5.00 p.m.
Location: Mayor Martin's Office
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Chief Executive Officer Performance Review Committee Meeting 3 March 2020

**Andrew Meddle
Chief Executive Officer
26 February 2020**

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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

N/A

4 QUESTIONS WITHOUT NOTICE



5 REPORTS

5.1 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE TERMS OF REFERENCE – REPORT NO. AR20/9108

Committee:	Chief Executive Officer Performance Review Committee
Meeting Date:	3 March 2020
Report No.:	AR20/9108
CM9 Reference:	AF12/36
Author:	Andrew Meddle, Chief Executive Officer
Authoriser:	Michael McCarthy, Manager Executive Administration
Summary:	A report seeking endorsement of Terms of Reference for the newly established Chief Executive Officer Performance Review Committee.
Community Plan Reference:	Goal 1: Our People Goal 2: Our Location Goal 3: Our Diverse Economy Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION

1. That Chief Executive Officer Performance Review Committee Report No. AR20/9108 titled 'Chief Executive Officer Performance Review Committee Terms of Reference' as presented on 03 March 2020 be noted.
2. That the Chief Executive Officer Performance Review Committee endorse the Terms of Reference.



BACKGROUND

The Chief Executive Officer Performance Review Committee was established by resolution of Council on 3 December 2019. As a new committee, it requires Terms of Reference to give clarity to its role. A draft Terms of Reference can be found as **Attachment 1**.

DISCUSSION

The Terms of Reference are based upon those for a previous similar committee and they have been updated to reflect the current contractual obligations of the City of Mount Gambier to the Chief Executive Officer and vice versa.

CONCLUSION

That the Chief Executive Officer Performance Review Committee endorse the attached draft Terms of Reference.

ATTACHMENTS

1. Chief Executive Officer Performance Review Committee Terms of Reference [↓](#)





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 established by Council
resolution dated 3rd December 2019.

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 [insert date].

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 27th May 2019 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 became operative from 3rd December 2019.
- 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.
- 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 has no power or authority to make delegated decisions on Council's behalf. The Committee is an advisory committee.
- 7. MEMBERSHIP**
- 7.1 Membership of the Committee will comprise the Mayor (Presiding Member), Deputy Mayor and the Presiding Members of the Economic & Environment and the People & Place Committees.
- 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.
- 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.

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

[INSERT DATE ENDORSED]



6 URGENT MOTIONS WITHOUT NOTICE



7 CONFIDENTIAL ITEMS

7.1 SELECTION OF PROFESSIONAL SUPPORT FOR THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE REVIEW – REPORT NO. AR20/9109

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 Mezinac, F Morello and C Greco and Council Officers M McCarthy be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 7.1 AR20/9109 Selection of professional support for the Chief Executive Officer's Performance Review.

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

- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
 - conducting business; or
 - proposing to conduct business; or
 - to prejudice the commercial position of the Council
- tenders for the:
 - supply of goods, or
 - the provision of services, or
 - the carrying out of works

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 includes offers for the supply of services, the disclosure of which prior to the making of a procurement decision could reasonably be expected to confer an advantage on a third party or prejudice the commercial position of the Council negotiations..

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 7.1 AR20/9109 Selection of professional support for the Chief Executive Officer's Performance Review 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) (b) and (k) be kept confidential and not available for public inspection until 2 years have elapsed. The name and contract value of the selected service provider be released immediately upon execution of a service contract.
2. Further that Council delegates the power to review, revoke, but not extension 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*.

8 MEETING CLOSE

