



# **Chief Executive Officer Employment Matters Advisory Committee Terms of Reference**

Adopted by Council on 28 February 2024



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## 1. Purpose

This Terms of Reference (ToR) sets out the role of the CEOEMAC, along with its objectives, authority, membership and tenure, roles and responsibilities and the administrative arrangements.

The Chief Executive Officer Employment Matters Advisory Committee (CEOEMAC) is an Advisory Committee to the Colac Otway Shire Council. This CEOEMAC Terms of Reference (ToR) may only be adopted or amended only by resolution of Council. The CEOEMAC's role is to report to the Council and provide recommendations, advice, information and feedback on matters relevant to the employment, remuneration and performance management of the Chief Executive Officer, in order to facilitate decision making by the Council in relation to the discharge of its responsibilities. THE CEOEMAC is critical to building and maintaining a constructive and positive relationship between Council and the CEO throughout the employment life cycle. The CEOEMAC does not have any delegated authority to make decisions that bind the Council.

The CEOEMAC is established to assist the Council in:

- The recruitment and appointment of the Chief Executive Officer
- Determining the Chief Executive Officer's Performance Plan in advance of the performance cycle
- Assessing the Chief Executive Officer's performance against set criteria in the Plan
- Providing for two-way communication with the CEO on setting priorities and determining KPIs and measures
- Providing feedback to the CEO throughout the performance cycle and in advance of Council determinations including through a mid-cycle review and end of cycle performance assessment
- Advising the remuneration of the Chief Executive Officer including annual adjustments
- The extension, reappointment, or advertising of an Chief Executive Officer position.

## 2. Composition

The CEOEMAC shall comprise eight members, constituted by all seven Councillors appointed for a term set by Council and an independent member appointed by Council who is appointed as Chair.

### Independent Chair

#### 2.1. Qualities and Qualifications

The Independent Chair will have a position description outlining their role.



The position description will include, among other requirements, the following key competencies:

- High level interpersonal skills and a demonstrated ability to work effectively with Councillors and senior executives
- Previous executive experience working with elected representatives, boards and CEOs in facilitation roles
- Demonstrated human resource management skills (including executive recruitment and talent management), senior business experience and/or local government experience
- Experience working across disciplines and seeking advice were required to ensure all aspects of the employment relationship are well planned and managed and Council's employment obligations are observed
- Demonstrated ability in supporting the development of senior executive level staff
- Proven capabilities to constructively support the Council in linking its strategic objectives and priorities to a performance plan
- Proven chairing abilities

## 2.2. Appointment Process for Independent Chair

Council administration will support the process for selecting and appointing an Independent Chair. Council will call for Expressions of Interest in a manner consistent with Council's recruitment policy from interested persons to be the Independent Member of the CEOEMAC where there is a vacancy or an impending vacancy.

With administrative assistance from the Manager People and Culture, a selection panel comprising the Mayor and at least two interested Councillors as determined by CEOEMAC, will assess the nominations against the selection criteria, conduct interviews and make a recommendation to Council on the appointment of the Independent Member. The recommendation by the panel will be discussed and agreed by majority vote at a meeting of CEOEMAC in advance of a report being prepared for Council.

The list of all Expressions of Interest considered by the Selection Panel will be provided to Council in the Committee's report.

The Independent Member will be impartial with appropriate experience as outlined in the adopted position description and cannot be a Councillor or member of Council staff.



### 2.3. Appointment Term

The Independent Member is to be appointed for a three-year term with an option for a further two, two-year term extensions, by resolution of Council. To maintain the independence of the position over time the maximum term for an individual to hold the position is seven years.

Where the incumbent resigns from their position on the CEOEMAC or is not reappointed by Council, the process outlined in section 2.2 will be followed.

### 2.4. Fees

The Chairperson's fee will be paid to the Independent Member of the CEOEMAC immediately following the scheduled CEOEMAC meetings, upon receipt of an invoice from the Independent Member. This amount will be inclusive of all out-of-pocket expenses.

The independent member will be paid a fixed sitting fee for scheduled CEOEMAC meetings and an hourly preparation fee for work based on their quoted fee in the lead up to meetings in regards to agenda liaison, seeking advice and Councillor and executive liaison as determined in the appointment process and resolved by Council. Fees are subject to Council resolution.

## 3. Roles and Responsibilities

### 3.1. Independent Member

The Independent Chair must:

- Set the agenda for bi-annual CEOEMAC meetings, in consultation with the Mayor and other members
- Chair all meetings of the CEOEMAC
- Ensure the minutes are an accurate reflection of meetings prior to presentation to Council
- Vote on recommendations put before the CEOEMAC and exercise their casting vote as necessary
- Facilitate the development of draft performance criteria and performance review methodology (in consultation with the Chief Executive Officer) for consideration by CEOEMAC before being presented to Council
- Oversee a feedback process as part of the bi-annual Chief Executive Officer's performance reviews inclusive of a mid-cycle review and end of cycle assessment
- Identify and seek to resolve with CEOEMAC members any issues impacting the effective discharge of the Council's employment obligations or the relationship with the CEO



- Identify and seek provision of any essential training or information to be distributed to CEOEMAC members which would be of assistance in their role
- Ensure the CEO is advised of CEOEMAC meetings, provided agendas and an opportunity to present in person in the view and planning processes
- Ensure the CEO is given notice of all meetings, provided with agendas and an opportunity to present to the Committee during review and planning processes
- Provide advice and constructive suggestions to CEOEMAC on any issues relevant to its purpose.

### 3.2. The Mayor

- The Mayor as highlighted in the policy must fulfil the obligations as at 3.2 and must lead the management of the relationship with the Independent Chair and the CEO throughout the CEO's appointment term including leading on ensuring the timely completion of performance processes as required by the Act

### 3.3. Councillor CEOEMAC Members

CEOEMAC Members are responsible for:

- Attending CEOEMAC meetings
- Undertaking the duties of the CEOEMAC as set out in the Chief Executive Officer Employment and Remuneration Policy and these ToR
- Requesting information or advice in respect of discharging any of the obligations of CEOEMAC or Council's role as an employer
- Identifying and raising with the Committee any issues which should be urgently discussed or included in forthcoming agendas
- Confirming that CEOEMAC is providing advice to Council to ensure it adheres to its statutory obligations and Council policies and procedures, including equity and fairness.
- Considering and making recommendations to Council in respect to:
  - The annual performance review of the Chief Executive Officer
  - The mid-cycle review and feedback process with the Chief Executive Officer
  - The performance plan for the upcoming cycle linked to Council strategies and priorities
  - In the event of an impending vacancy, appointing a suitably qualified recruitment firm to assist with the recruitment of a Chief Executive Officer
  - The appointment of an Acting Chief Executive Officer



- A shortlist of candidates to interview for the permanent role of Chief Executive Officer
- Appointing a Chief Executive Officer after the completion of the interviews (including the form and term of the contract and remuneration).

### 3.4. Chief Executive Officer

The Chief Executive Officer is responsible for:

- Attending CEOEMAC meetings as required and actively participating in performance reviews
- Contributing to the performance plan by proposing specific KPIs and priorities Council might consider recognising in the plan
- Undertaking self-assessment though the performance cycle and identifying any areas of development which would assist in meeting priorities set by Council
- Advising the CEOEMAC of any factors which have impeded achievement of set objectives and strategies for addressing these
- Providing relevant information to the CEOEMAC in a timely manner
- Advising the Council in instances where an Acting Chief Executive Officer is to be appointed under delegation during the temporary absence of the Chief Executive Officer, in accordance with approved delegations

### 3.5. Manager Governance

The Manager Governance will source and provide expert advice and assistance to the Chair and CEOEMAC as required on the following matters:

- Industry trends regarding salary and packaging
- Expert advice on the structuring of performance plans and KPIs as required
- Employment law and Local Government specific compliance obligations
- Contractual obligations and contracts
- Any technical or professional advice required by CEOEMAC related to its functions including facilitating the provision of specialist legal advice if required

In order to avoid any conflicts, the Manager Governance will not be present during or involved in the performance assessment or feedback process. The Manager Governance will not be involved in the recruitment of a Chief Executive Officer other than in the provision of support to appointment of a recruitment firm, advertising and contractual matters.



### 3.6. Administrative support to meetings

As the request of the Independent Chair, the Manager Governance will facilitate the provision of administrative support in the creation of agendas and preparation of minutes.

The CEOEMAC Chair must ensure Council business staff are not present during performance assessment discussions however staff may be recalled to take minutes of recommendations proceeding to Council.

## 4. Meetings

### 4.1. Chair

The Independent Person shall chair all meetings of the CEOEMAC.

### 4.2. Meeting Schedule

The CEOEMAC will meet at least six monthly, and report to Council (including by providing minutes of its meetings) on a six-monthly basis.

Meetings of the CEOEMAC may be held more frequently if deemed necessary by the CEOEMAC to fulfil its objectives, taking into account the Chief Executive Officer's Contract of Employment, Remuneration and Performance Review processes.

All meetings of the CEOEMAC will be set by the Independent Member, in consultation with the Mayor, with the aim of including all members.

### 4.3. Attendance

CEOEMAC members are expected to attend each meeting.

Attendance by teleconference or electronically (ie Teams, Zoom or the like), is acceptable.

### 4.4. Meeting Procedures

Meetings of the CEOEMAC will follow the standard meeting procedures established in any guidance material for Advisory Committees and outlined in these ToR.

All discussion, recommendations, proposals and advice must be directed through the Chair.

### 4.5. Quorum

The Independent Member (Chair) and a majority of the Councillors at least (4) of the CEOEMAC will constitute a quorum.





If at any meeting of the CEOEMAC a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting shall be rescheduled.

#### 4.6. Voting

All eight CEOEMAC members have one vote and the Chair retains a casting vote.

#### 4.7. Meeting Agenda and Minutes

The Manager Governance will arrange for minutes to be taken for each meeting of the CEOEMAC.

The agenda for each meeting of the CEOEMAC shall be distributed at least five (5) working days in advance of the meeting to all CEOEMAC members.

A call for agenda items will be made prior to the issue of the agenda. Information requested or expert advice sought by members relating to items on the agenda shall be directed to the Independent Chair who will in turn make arrangements with the Manager Governance to ensure information is provided to the meeting.

A copy of the minutes shall be distributed to all CEOEMAC members within 10 working days of the meeting and submitted to the next practicable Council meeting.

The minutes will include a record of:

- The time the meeting commenced
- The CEOEMAC members present (in-person or via electronic means)
- Presence of the CEO for part of meeting
- Any apologies
- Any declarations of Conflicts of Interest
- Recommendations voted on by CEOEMAC and those carried
- The time the meeting concluded.

### 5. Support to the CEOEMAC

Administrative responsibility and support for the CEOEMAC is assigned to the Manager Governance.

This function includes providing:

- Information and any necessary training for members in relation to their responsibilities under these ToR and the Act on requests
- Preparation of meeting agendas and minutes



- Officer advice in respect to matters before the CEOEMAC
- Secretariat and logistical support to the CEOEMAC

## 6. Authority and Compliance Requirements

The CEOEMAC is an Advisory Committee only and has no delegated authority to make decisions that bind the Council.

A meeting of the CEOEMAC constitutes a meeting conducted under the auspices of the Council. The Record of Informal Meetings of Councillors will be reported within the agenda of the next practicable open Council meeting.

### 6.1. Conflict of Interest

If a CEOEMAC member has a conflict of interest relating to any item on the agenda, the member must verbally disclose the type and nature of the interest immediately before consideration of the agenda item in question and leave the room prior to the matter being discussed.

### 6.2. Confidentiality

All meetings of the CEOEMAC and its records are considered confidential and the information provided to the CEOEMAC will be designated as confidential in accordance with section 3(1)(f) of the *Local Government Act 2020*, as it relates to personal information.

Consideration will be given to whether the information, or parts thereof, referred by the CEOEMAC to Council can be released to the public following resolution by Council.

### 6.3. Records

All records relating to the CEOEMAC function shall be securely retained by the Manager People and Culture on the Chief Executive Officer's personnel file.

## 7. References

*Local Government Act 2020*

Chief Executive Officer Employment and Remuneration Policy



## 8. Review

<b>Policy owner</b>	Manager Governance	<b>Division</b>	Executive
<b>Adopted by council</b>	28 February 2024	<b>Review date</b>	2026
<b>File Number</b>	D24/33008	<b>Version Control</b>	



## **Appendix 1: Chief Executive Officer Employment Matters Advisory Functions and Responsibilities**

### **Recruitment of the Chief Executive Officer**

To fulfil its role, the CEOEMAC shall:

1. Receive quotes from suitably experienced recruitment firms, interview these firms and recommend to Council the appointment of a firm to assist with the recruitment of a permanent Chief Executive Officer.
2. Undertake preparatory work on the recruitment process in conjunction with the appointed Recruitment Consultant. Develop and agree on:
  - 2.1. A search and selection process and timeframe.
  - 2.2. A range for the Total Remuneration Package.
  - 2.3. Conditions of employment.
  - 2.4. Key accountabilities of the role.
  - 2.5. Key selection criteria.
  - 2.6. Candidate application material.
  - 2.7. A candidate identification strategy.
  - 2.8. Methods of applicant evaluation.
  - 2.9. Public relations and internal communications activities.
3. Liaise with Council's legal representative to review and recommend on the form and terms of the Contract of Employment, including:
  - 3.1. Term of employment – no greater than five (5) years.
  - 3.2. Total Remuneration Package (TRP).
  - 3.3. Additional expenses payable by Council.
  - 3.4. Annual review of performance.
  - 3.5. Annual review of the TRP.
  - 3.6. Leave entitlements.
  - 3.7. Ownership of intellectual property.
  - 3.8. Performance criteria.
  - 3.9. Conduct matters.
  - 3.10. Suspension, redundancy and termination of contract provisions.
  - 3.11. No compensation for termination of a contract beyond payment in lieu of notice and accrued leave.



- 3.12. Employment notice provisions.
- 3.13. Dispute resolution procedure.
4. Make a recommendation to Council with a shortlist of candidates for the permanent role of Chief Executive Officer.
5. Interview final candidates for the permanent role of Chief Executive Officer.
6. Make a recommendation to Council to appoint a Chief Executive Officer at the next appropriate Council meeting after the completion of the interviews.

#### **Determining the Performance Plan**

To fulfil its role, the CEOEMAC shall:

7. In consultation with the Chief Executive Officer, identify and agree the Performance Plan objectives and measures (KPIs) that the Chief Executive Officer should work towards achieving over a 12-month period and submit to the Council for approval.
8. Ensure that the Chief Executive Officer is consulted and advised of the process.

#### **Monitoring achievement of the Performance Plan**

To fulfil its role, the CEOEMAC shall:

9. Monitor the Chief Executive Officer's performance and provide feedback to the Chief Executive Officer about their performance at a six-month review meeting.
10. Ensure that the Chief Executive Officer submits a written end-of-year self-assessment on the Performance Plan.
11. Consider Council members' feedback in relation to the Chief Executive Officer's performance as measured against the Performance Plan.

#### **Annual Review**

To fulfil its role, the CEOEMAC shall:

12. Make a detailed assessment of the Chief Executive Officer's performance against the Performance Plan.
13. Review the Chief Executive Officer's Total Remuneration Package as a component of the annual review. In considering its recommendations on the Chief Executive Officer Total Remuneration Package the CEOEMAC must have regard to:
  - 13.1. The principles in the Government of Victoria's Policy on Executive Remuneration in Public Entities; and
  - 13.2. Any Determination that is currently in effect under section 21 of the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* relating to remuneration bands for executives employed in public service bodies.



14. The Independent Member (Chair) shall arrange for the preparation of an Annual Review Report having regards to:
  - 14.1. Other Information, both quantitative and qualitative, pertinent to the various measure of performance established in the Performance Plan.
  - 14.2. The Chief Executive Officer's written appraisal of their performance.
  - 14.3. The CEOEMAC's own deliberations.
15. Provide feedback to the Chief Executive Officer about the proposed outcome of the annual performance review and the TRP review and provide the Chief Executive Officer the opportunity to submit a response.
16. Submit the Annual Review Report to the Council.
17. The Chief Executive Officer's written self-assessment and response to the CEOEMAC's assessment will form part of the Report to the Council.
18. The Report will seek decisions on outcomes of the review process, including:
  - 18.1. The Chief Executive Officer's achievement of the Performance Plan.
  - 18.2. Any proposed variation to the Total Remuneration Package.
  - 18.3. Setting the Chief Executive Officer's Performance Plan for the next 12-month period.
  - 18.4. Setting the Chief Executive Officer's Professional and Personal Development Plan for the next 12-month period.
  - 18.5. Whether any options of the Chief Executive Officer's contract should be exercised in accordance with the Contract of Employment.