

Advisory Committee of Council Policy

Yarriambiack Shire Council encourages a working environment which promotes gender equality and models non-violent and respectful relationships.

1 Objective

The aim of this policy is to provide a framework for the establishment of Advisory Committees that promote:

- a) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks.
- b) The inclusion of a cross section of the community to be engaged in strategic planning that informs Council's decision making.
- c) Innovation and continuous improvement.
- d) Encourages collaboration with statutory bodies, Councils, and other agencies for the betterment of the shire.
- e) The ongoing financial viability of the Council; and
- f) The transparency of Council decision making.

This policy will support Council in ensuring good governance and appropriate management of Advisory Committees that aims to:

- a) Outline how Advisory Committees can be formed.
- b) Outline how such Committees are to be governed; and
- c) Specify limits of an Advisory Committees power.

2 Responsibility

The Chief Executive Officer (or their delegate) is responsible for the governance oversight to ensure the Advisory Committees operate in accordance with their duties that align with the Local Government Act 2020.

3 Policy Statement and Scope

This policy applies to all members of Advisory Committees, Councillors and employees responsible for Advisory Committees.

3.1 Formation of an Advisory Committee

The formation of, appointment to, and administration of an Advisory Committee is subject to input from the Council.

Advisory Committees must be formed (and rescinded) by Council Resolution, and the Terms of Reference (ToR), and membership must also be endorsed by Council resolution.

3.1.1 Special Interest Groups

Kindergarten Parent Advisory Groups (PAG's) that are incorporated, are not governed by this Policy. PAG's are to be registered not for profit organisations, recognised by a funding body agreement.

3.2 Powers and Functions of an Advisory Committee

Advisory Committees do not have any executive, financial or delegated powers.

Advisory Committees do not have the power to sub-delegate or form sub-committees without the approval of Council, via the Chief Executive Officer through a Council resolution.

The role of an Advisory Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its ToR in order to facilitate decision making by Council in relation to the discharge of its responsibilities.

An Advisory Committee can offer specialised advice and assistance with research on issues of interest to Council and the Community.

3.3 Advisory Committee Governance

Advisory Committees are subject to a ToR. Council has a standard ToR which may be amended slightly but must be adopted at the time the Committee is formed and/or reviewed at the commencement of each Council Term.

The CEO will assign a Council Officer to the Advisory Committee, who will be responsible for ensuring that the ToR are met, to provide guidance on administrative matters and to ensure that the Committee functions appropriately and in accordance with Council's Governance Rules.

Council must review, within the period of 6 months after a general election, all Advisory Committees and Advisory Committee memberships.

3.4 Advisory Committee Meeting Agendas and Minutes

The agendas and minutes of all Advisory Committee Meetings will be completed in the appropriate Corporate Template, as prescribed by the Chief Executive Officer and forwarded to Council's Information Management and Governance Officer in a timely manner, to be presented at the next scheduled Council Meeting.

3.5 Membership

All Advisory Committees must have a minimum of six members, comprising of:

- a) A minimum of one Councillor;
- b) The Chief Executive Officer, or a Council Officer appointed by the CEO; and
- c) A minimum of four external independent members.

Advisory Committee memberships will be capped at sixteen external independent members.

Memberships should aim to be equitable in gender, diversity and include local indigenous representation wherever possible.

Any community member may become a member of an Advisory Committee if appointed by Council (or the CEO pursuant to the ToR), and any such member will have the same entitlement to participate as a Councillor.

Weight will be given to ensuring diversity of membership and skills on an Advisory Committee.

All Advisory Committees will have an elected Chairperson, and will where necessary, have the casting vote.

Where appropriate, representatives of external bodies may be required to be members of a Council Advisory Committees, and where this is applicable, it will be written into the Terms of Reference.

Advisory Committee meetings will be included in the Councillor's Calendar. Any Councillor can attend a meeting of any Advisory Committee. Only Councillors who are appointed to the Advisory Committee may vote.

If the Councillor appointed to an Advisory Committee is unable to attend a meeting, they can nominate another Councillor to attend the meeting on their behalf.

3.6 Appointment of Councillors to Advisory Committees

Councillors will be appointed to an Advisory Committee:

- a) At the establishment of the Advisory Committee, and
- b) At the Annual Statutory meeting in November of each year thereafter.

3.7 Appointment of Community Representatives to Advisory Committees

Community representatives will be appointed to Council through an expression of interest and selection process.

- a) Expressions of interest will be sought by public notice in accordance with Council's Community Engagement Policy.
- b) Council will appoint the committee members to the Advisory Committee at a scheduled Council Meeting.
- c) Every effort should be made to ensure a representative cross section of people from the relevant area are elected to serve on the Advisory Committee.
- d) Appointment to Advisory Committees will be based on the membership criteria outline in the relevant Terms of Reference.
- e) Appointment to an Advisory Committee will be for a period of between one to three years.
- f) A member of an Advisory Committee can resign at any time.

3.8 Executive

The executive composition will consist of a Chairperson only.

The Chairperson maybe the appointed Councillor, or a nominated independent member. This will be defined in the Terms of Reference.

The secretary will be appointed by the Chief Executive Officer and will be a Council Officer.

3.9 Role of the Chairperson

The role of the Chairperson is to:

- a) Chair all meetings.
- b) Be the spokesperson of the Advisory Committee back to Council, including corresponding with Council Officers, including the CEO.
- c) Moderate committee meetings; and
- d) promote behaviour in line with the Conduct and Interest Provisions included in the Terms of Reference (and section 4 of this policy).

3.10 Advisory Committee Meetings

The following rules apply to Advisory Committee:

- a) A quorum of the Committee will be half the members plus one and must include at least one Councillor.
- b) Voting will be by a majority of votes by a show of hands.
- c) Only Committee members in attendance are entitled to vote.
- d) The chairperson shall have the casting vote in the event of an equality of votes.

4 Conduct and Interest Provisions

In performing the role of Advisory Committee member, a person must:

- a) Act with integrity.
- b) Impartially exercise his or her responsibilities in the interests of the local community.

- c) Not improperly seek to confer an advantage or disadvantage on any person.
- d) Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other persons.
- e) Commit to regular attendance at meetings; and
- f) Not make improper use of information acquired because of their position or release information that the member knows, or should reasonably know, is confidential in nature.

4.1.1 Confidential Information

During a member's tenure on the Advisory Committee, they may be exposed to information that must be treated confidentially. Except in the proper course of a member's duties, any unauthorised use or disclosure of information relating to the conduct of the Council is prohibited. In general, this includes:

- a) Not disclosing information relating to proceedings at the Advisory Committee unless authorised to do so by the Chief Executive Officer.
- b) Not to attempt to use confidential information gained by virtue of an official position for the purpose of securing a private benefit, whether directly or indirectly.
- c) Proposals for the sale or purchase of land or the rezoning of land. Entering into contracts of any kind, if prior knowledge of those proposals could confer an unfair financial advantage on any person.
- d) Information that is subject to legal obligations of confidence.
- e) Information including the consideration of legal advice concerning litigation or which would otherwise be privileged from production in legal proceedings on the ground of a legal professional privilege.
- f) The disclosure of information of which would prejudice the maintenance of the law.
- g) Matters affecting the security of Council, Councilors, Council staff or Council property.

Council operates under and complies with the Privacy and Data Protection Act 2014, Health Records Act 2001, and other relevant legislation.

4.1.2 Conflict of Interest

A conflict of interest exists when someone is able to derive personal benefit from actions or decisions made whilst performing their professional duties. This includes being a member of an Advisory Committee.

4.1.3 General Conflict of Interest

A person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interest could result in that person acting in a matter that is contrary to their public duty or role.

4.1.4 Private Interest

Private Interest means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.

A private interest may relate to the relevant person themselves, such as:

- A financial gain or loss to the person, either directly or indirectly.
- An impact on their reputation or responsibilities, such as an award or promotion.
- A change to their personal circumstances, such as a change to their residential amenity.

A private interest may be indirect, relating to an impact on a person associated with the relevant person, such as:

- A matter affecting the interests of a relative, friend or work colleague.
- A cost or benefit to an organisation that financially supported a Councillor’s election campaign, or
- A cost or benefit for an Advisory Committee member’s immediate or past employer.

4.1.5 A Material Conflict of Interest

A relevant person has a Material Conflict of Interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

Affected Person

An affected person can be:

- the relevant person
- family member of the relevant person
- a businessperson of a relevant person
- a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee
- a person from whom the relevant person has received a gift
- a business partner of the relevant person
- an employer of the relevant person or a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body.

The Act states that a benefit or loss, for material conflicts of interest, includes benefits or losses that are:

- direct or indirect, and
- pecuniary or non-pecuniary.

Direct or Indirect

A direct benefit or loss includes where the affected person is the immediate recipient or suffers the loss themselves. An indirect benefit or loss includes where the affected person would gain a benefit or suffer a loss because of the impact on another person or body, or as an indirect effect of a process.

Pecuniary or Non-pecuniary

A benefit or loss does not have to be pecuniary. A pecuniary benefit or loss is one that can be measured in money.

Examples of non-pecuniary benefits or losses might include:

- an impact on a person’s residential amenity (such as a proposed change in use of a nearby property that will impact on their enjoyment of their home or a change to parking arrangements in their street), or
- a permit allowing a person to conduct an activity.

Disclosure and Reporting

Advisory Committee members are required to comply with the conflict-of-interest provisions as set down in the *Local Government Act 2020* and Council’s Governance Rules. When an Advisory Committee member declares a conflict of interest in relation to a matter in which the committee is concerned, they must disclose the interest to the committee before the matter is considered or discussed at the meeting.

Disclosure must include the nature of the relevant interest and be recorded in the minutes of the meeting. The member must leave the room while the matter is being considered

and may return only after consideration of the matter and all votes on the matter have occurred.

4.2 Media

Contact with the media by Advisory Committee members will be conducted in accordance with Yarriambiack Shire Council's Media and Communications Policy.

Committee members should defer all media enquiries to the Chief Executive Officer in the first instance and should take care not to respond as a representative of the Advisory Committee, or Council.

4.3 Financial Management

- a) Council will hold the funds of the Advisory Committee.
- b) Decisions to spend the funds will be made by Council on the advice of the Advisory Committee.
- c) Funds are to be expended in accordance with Council's Procurement Policy.

4.4 Sponsorship, Donations and Fundraising

Council Advisory Committees cannot accept sponsorship, donations or fundraise, and are governed by Council's Gifts, Benefits and Hospitality Policy requirements.

5 Review of Policy

This policy is to undertake a review cycle every three years.

6 References

- a) Governance Rules
- b) Public Transparency Policy
- c) Community Engagement Policy
- d) Advisory Committee Terms of Reference Template
- e) Local Government Act 2020
- f) Equal Opportunity Act (2010)
- g) Charter of Human Rights and Responsibilities Act 2006
- h) Privacy and Data Protection Act 2014

7 Definitions

Council	Means Yarriambiack Shire Council
Act	Means Local Government Act 2020
Advisory Committee	Means an Advisory Committee established under this policy
Advisory Committee Meeting	Means a meeting of an Advisory Committee
Advisory Committee Report	Means a formal report produced by an Advisory Committee
Committee Meeting	Means a meeting of an Advisory Committee
Quorum	Means the absolute majority of members present at the meeting and must include at least one Councillor
External Independent Members	Means people who are not Councillors or Council Officers

8 Consistency with Governance Principles Local Government Act 2020

Governance Principle	Section of policy where covered
(a) Council decisions are to be made and actions taken in accordance with the relevant law;	Section 1, establishment of the Advisory Committee in accordance with the Local Government Act 2020.
(b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;	Section 1 outlines the objectives of establishing advisory committees, which includes providing the best outcome for the municipality, including future generations.
(c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;	Section 1
(d) the municipal community is to be engaged in strategic planning and strategic decision making;	Section 1
(e) innovation and continuous improvement is to be pursued;	Section 1
(f) collaboration with other Councils and Governments and statutory bodies is to be sought;	Section 1
(g) the ongoing financial viability of the Council is to be ensured;	Section 1
(h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;	Establishment of the Advisory Committee.
(i) the transparency of Council decisions, actions and information is to be ensured.	Sections 1, 3.1, 3.4 and 3.7

In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

Council Approved Policy

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