



Yarriambiack
SHIRE COUNCIL

TERMS OF REFERENCE

HOPETOUN OLD SCHOOL SITE

ADVISORY COMMITTEE TO YARRIAMBIACK SHIRE COUNCIL

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1 Background

- 1.1 By this Terms of Reference document, Yarriambiack Shire Council (**Council**) establishes the Hopetoun Old School Site Advisory Committee.
- 1.2 Council will establish from time to time various Advisory Committees. The purpose of such committees is to provide advice to Council with expertise in relevant matters to assist its decision making for the Yarriambiack Community.
- 1.3 The Committee has functions and responsibilities as set out in this Terms of Reference document. The Terms of Reference document sets out the structure and basis on which the Committee can make recommendations to Council.
- 1.4 This Terms of Reference document is authorised by a resolution of Council passed on **[insert date]**.

2 Purpose

- 2.1 The purpose of the Hopetoun Old School Site Advisory Committee (**Committee**) is to:
 - 2.1.1 Provide strategic insight with regards to the future use of the Hopetoun Old School site to enhance the Hopetoun and broader communities' prosperity.
 - 2.1.2 provide a means of effective and efficient communication between Council and the community in relation to planning and future development of the site.
 - 2.1.3 provide feedback and comments on matters referred by Council or other matters brought to the Committee's attention.

3 Role of the Committee

- 3.1 The role of the Committee is to:
 - 3.1.1 Identify strategic initiatives to develop the Hopetoun Old School site.
 - 3.1.2 Be the voice of the community to ensure the development of the site meets the future needs of Hopetoun and the surrounding region.
 - 3.1.3 Consider growth, development, social well-being and prosperity when developing plans for the site.
 - 3.1.4 Endeavor to identify cost neutral initiatives, that do not require significant future investment from Council's own source revenue; and that provide a future economic benefit to the township and region.

4 Finances

- 4.1 No funds will be held by or on behalf of this Advisory Committee.

5 Membership

- 5.1 The Committee will consist of up to nine members comprising of:
 - 5.1.1 One Councillor nominated by Council
 - 5.1.2 The Chief Executive Officer (CEO)
 - 5.1.3 A Council Officer appointed by the CEO
 - 5.1.4 Up to six community representatives

- 5.2 Each member of the Committee has and may exercise one equal vote on any question before the Committee for determination.
- 5.3 Councillors, other than a Councillor appointed under clause 5.1.1, who attend a meeting are not to be classed as members of the Committee and do not have voting rights.
- 5.4 Membership is for a period of three (3) years.
- 5.5 Any Councillor can attend meetings of the Committee as an observer.
- 5.6 Appointment to the Committee may be decided by factors such as suitability, experience, expertise, and with a view to ensuring a diverse and well-balanced Committee.
- 5.7 People wishing to serve as an external independent member may nominate for successive terms without restriction.
- 5.8 Members of an Advisory Committee must abide by the Advisory Committee Conduct and Interest Provisions as outlined in Section 6.
- 5.9 Disqualification of a member:
 - 5.9.1 If the Council proposes to remove a member from the Committee, it must give written notice to the member of its intention to do so and provide that member with the opportunity to be heard if that member so requests.
- 5.10 If the Councillor appointed under 5.1.1 cannot attend an Advisory Committee Meeting they can nominate another Councillor to attend the meeting on their behalf.

6 Conduct and Interest Provisions

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

- 6.1 Act with integrity.
- 6.2 Impartially exercise his or her responsibilities in the interests of the local community.
- 6.3 Not improperly seek to confer an advantage or disadvantage on any person.
- 6.4 Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other persons.
- 6.5 Commit to regular attendance at meetings; and
- 6.6 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.

6.7 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:

- 6.7.1 Not disclosing information relating to proceedings at the Advisory Committee unless authorised to do so by the Chief Executive Officer.
- 6.7.2 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.
- 6.7.3 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.
- 6.7.4 Information that is subject to legal obligations of confidence.
- 6.7.5 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.
- 6.7.6 The disclosure of information of which would prejudice the maintenance of the law.
- 6.7.7 Matters affecting the security of Council, Councillors, 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.

6.8 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.

6.8.1 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.

6.8.2 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 immediately or past employer.

6.9 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.

6.9.1 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.

6.9.2 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.

6.9.3 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.

6.9.4 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.

7 Appointment of Community Representatives to Advisory Committees

- 7.1 Community representatives will be appointed to Council through an expression of interest and selection process.
- 7.2 Expressions of interest will be sought by public notice in the local media and on Yarriambiack Shire Council's website.
- 7.3 Council will appoint the committee members to the Advisory Committee at Council Meeting, via a resolution of Council.
- 7.4 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.
- 7.5 Appointment to an Advisory Committee will be for a period of three (3) years.
- 7.6 A member of an Advisory Committee is able to resign at any time.

8 Chairperson

- 8.1 The Chairperson of the Committee can only be a Community representative.
- 8.2 The Community representatives will elect the Chairperson.
- 8.3 The Councillor, CEO and Councill Officer will have no voting rights in electing the Chairperson.

8.4 Role of the Chairperson

- 8.4.1 The Chairperson will chair all meetings.
- 8.5 If the Chairperson is absent from a Committee meeting, the Chairperson will nominate a Community Representative as the Acting Chairperson for that meet.

9 Secretary

- 9.1 An additional Council Officer appointed by the Chief Executive Officer will be the secretary for the Committee. The Council Officer will not be a member of the Committee and will have no voting rights.
- 9.2 Advise Committee members of term completion dates and their eligibility for reappointment as relevant.
- 9.3 Assist with meeting the Committee's reporting requirements.
- 9.4 Assist the Information Management and Governance Officer to meet legislative record keeping requirements in relation to the Advisory Committee.

10 Chief Executive Officer

- 10.1 The CEO will be the spokesperson for the Committee, liaising with the media, the Mayor, Councillors and politicians (and their advisors).

11 Agenda and Minutes

- 11.1 For an item to be listed on the Agenda, the Secretary must be notified seven days prior to the meeting.
- 11.2 The Agenda is to be circulated to all Committee members four days prior to the meeting.
- 11.3 The Agenda format to be followed is in accordance with Schedule 1: Agenda.

- 11.4 The Draft Minutes are to be reviewed by the Chairperson within three business days and circulated to the Committee for review and comment within five business days.

12 Meetings

- 12.1 Unless Council resolves otherwise, Committee meetings must be conducted in accordance with these Terms of Reference.
- 12.2 The Committee will meet a minimum of four (4) times per year.
- 12.3 A quorum of the Committee will be half the members plus one and must include one Councillor.
- 12.4 Voting will be by a majority of votes by a show of hands.
- 12.5 Only Committee members in attendance are entitled to vote.
- 12.6 The chairperson shall have the casting vote in the event of an equality of votes.
- 12.7 All Advisory Committee Meetings will be held in Hopetoun at the Gateway BEET Office.
- 12.8 Meetings may be held virtually or in a hybrid setting. Advisory Committee Meetings should comply with Council's Governance Rules in relation to the Conduct of Virtual and Hybrid Meetings.

13 Resolutions

- 13.1 Resolutions that are made by the Committee become advice to Council which can be approved or denied.
- 13.2 Resolutions should read as follows and as applicable to the resolution:
- 13.2.1 *The Committee recommends that Council take the decision to support project XXX OR*
- 13.2.2 *The Committee recommends that Council take the decision to approve the [event] as a Council event.*

14 Reporting

- 14.1 The Committee is responsible for taking proper minutes of all meetings and preparing reports for the Committee's consideration in accordance with:
- 14.1.1 Council's Governance Rules (as amended from time to time and adopted by Council).
- 14.2 Minutes are to be forwarded to the Advisory Committee Members within 10 business days of the meeting to be tabled at the following Council meeting.

15 Creation and Dissolution

- 15.1 By the Terms of Reference, the Committee:
- 15.1.1 is established; and
- 15.1.2 has the responsibilities as set out in the Terms of Reference.
- 15.2 These Terms of Reference:
- 15.2.1 come into force immediately the resolution of Council adopting them is made; and

15.2.2 remain in force until Council determines to vary or revoke it.

15.3 The Committee may only be dissolved by Council.

All Members of the Advisory Committee Acknowledge and confirm they will comply with this Terms of Reference

Member Name	Signature

SCHEDULE 1 AGENDA

1. Acknowledgement of Country
2. Apologies
3. Confirmation of minutes
4. Disclosure by Committee members or Councillors or Council Officers of any interest or conflicts of interest in any item on the agenda
5. Business Plan / Project Planning / Project Delivery
6. Advocacy
7. General business as notified to the Chair
8. Meeting Close