

**MINUTES OF THE STATUTORY COUNCIL MEETING AND MAYORAL  
INSTALLATION OF THE YARRIAMBIACK SHIRE COUNCIL HELD IN THE  
MUNICIPAL OFFICE 34 LYLE STREET WARRACKNABEAL ON WEDNESDAY 28  
NOVEMBER 2018 COMMENCING AT 9:00AM**

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**1 ACKNOWLEDGEMENT (with all present standing) (Mayor Massey)**

**Acknowledging Traditional Owners**

'I would like to acknowledge that this meeting is being held on the traditional lands of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk people, and I pay respects to their Elders, both past and present'

**2 OPENING PRAYER (with all present standing) (Mayor Massey)**

*Almighty God, without whom no Council can stand nor anything prosper we ask that you be present and guide us in our deliberations today. We pray that we will be fair in our judgements and wise in our actions and that decisions will be made with goodwill and a clear conscience for the betterment and welfare of the people of Yarriambiack Shire.*

*Amen*

**3 PRESENT**

Crs G Massey, H Ballentine, C Heintze, J Wise, K Zanker, S Roberts, Jessie Holmes (Chief Executive Officer), James Magee (Director Infrastructure & Planning) & Belinda Penny (Administration / Customer Service Officer)

**4 APOLOGIES**

Cr T Hamilton, Bernardine Schilling (HR Governance & Customer Service Coordinator)

**5 MAYORAL REPORT 2018 – Presented by Cr G Massey**

**6 APPOINTMENT OF TEMPORARY CHAIRPERSON (Jessie)  
(Clause 12 Local Law No 1)**

Councillors to nominate a temporary person to deal with:

- Fixing of Annual Councillor Remuneration
- Fixing of Mayoral Remuneration
- Nominations for Election of Mayor

**Moved Cr J Wise seconded Cr K Zanker that the Chief Executive Officer be appointed as temporary chairperson.**

**Carried**

**7      FIXING OF ANNUAL COUNCILLOR REMUNERATION  
(Section 74 Local Government Act 1989)**

Allowances paid to Councillors for performing their duties - \$20,634.

Allowances paid to Councillors for performing their duties have been set at the top end of the range of Category One (\$20,634) and have been adjusted in accordance with Section 73B (5) of the Local Government Act 1989.

**Moved Cr J Wise seconded Cr K Zanker the allowance paid to Councillors be fixed at \$20,634**

**Carried**

**8      FIXING OF MAYOR'S REMUNERATION  
(Section 74 Local Government Act 1989)**

An allowance paid to the Mayor for performing his/her mayoral duties - \$61,903.

Allowance paid to the Mayor for performing their duties have been set at the top end of the range of Category One (\$61,903) and have been adjusted in accordance with Section 73B (5) of the Local Government Act 1989.

**Moved Cr C Heintze seconded Cr S Roberts the allowance paid to the Mayor be fixed at \$61,903**

**Carried**

**9      ELECTION OF MAYOR**

Nominations will be invited for office of Mayor for 2018/2019  
**NB** Mayor once elected to chair remainder of meeting.

**Cr H Ballentine nominated Cr G Massey as Mayor for 2018/2019.  
Cr G Massey accepted the nomination.**

**Carried**

**10     ELECTION OF DEPUTY MAYOR**

Nominations will be invited for office of Deputy Mayor for 2018/2019

**Cr C Heintze nominated Cr H Ballentine as Deputy Mayor for 2018/2019.  
Cr H Ballentine accepted the nomination.**

**Carried**

**11     CONGRATULATORY REMARKS TO THE MAYOR**

Councillors may wish to offer their congratulations to the newly elected Mayor followed by the Chief Executive Officer.

**12 MAYORAL RESPONSE**

Mayor to acknowledge congratulations and to address meeting.

**13 DEPUTY MAYOR RESPONSE**

Deputy Mayor to acknowledge congratulations and to address meeting.

## 14 Council Delegations for 2018- 2019 - Prepared by Jessie Holmes

Australia Local Government Women's Association	J Wise
GWM Water Regional Recreation Water Users Group	H Ballentine
GWM Water Community Consultative Mallee Users Group	S Roberts
Grampians Central West Waste & Resource Recovery Group	C Heintze
Henty Highway Action Group	S Roberts
Internal Audit Committee	K Zanker / J Wise
Livestock Saleyards Association of Victoria	C Heintze
Municipal Association of Victoria	K Zanker / G Massey
North West Municipalities Association	K Zanker / G Massey
Rail Freight Alliance	T Hamilton
RoadSafe Wimmera (will cease operation as of 31 Dec 2018)	J Wise
Rural Financial Counselling Services, Victoria	K Zanker
Seasonal Conditions Committee	T Hamilton
Sunraysia Highway Improvement Committee	S Roberts
Wimmera Mallee Sustainability Alliance	S Roberts
Victorian Local Governance Association	S Roberts
Centre for Participation	K Zanker
Warracknabeal Saleyards Committee	C Heintze
Wimmera Development Association	T Hamilton / H Ballentine - Community Rep
Wimmera Mallee Tourism Association	H Ballentine
Wimmera Regional Library Service	J Wise
Wimmera Southern Mallee Regional Transport Group	C Heintze
Western Highway Action Committee	S Roberts
WORDS Steering Committee	J Wise
Yarriambiack Chaplaincy Council	K Zanker
Yarriambiack Creek Advisory Committee	S Roberts
Yarrilinks – Yarriambiack Landcare Group	G Massey / T Hamilton
Yarriambiack Tourism Association	H Ballentine / G Massey / T Hamilton / S Roberts
Council Youth Action Committee	K Zanker

### Recommendation

That Council ratify delegates to Committees as presented for 2018-2019.

**Moved Cr H Ballentine seconded Cr S Roberts that Council ratify delegates to Committees as presented for 2018- 2019.**

**Carried**

## **15 Councillor Code of Conduct (Review) – Prepared by Jessie Holmes**

### **Background/Rationale**

Council adopted its Councillor Code of Conduct at a Special Council meeting on 22 February 2017.

At the 22 February 2017 Special Council meeting all Councillors made a written declaration before the Chief Executive Officer that they had read and agreed to abide by the Code of Conduct in accordance with Section 76C(2) of the Local Government Act 1989.

Section 76C(2) of the Local Government Act 1989 requires Council within 4 months after a general election to:

- Call a Special Meeting of Council solely for the purpose of reviewing the Councillor Code of Conduct
- Approve any amendments made and adopt its Code of Conduct; and
- Councillors read the Code and make a declaration in writing to be witnessed by the Chief Executive Officer stating that they will abide by the Code.

### **Purpose**

For Council to formally review its Councillor Code of Conduct for 2018 to make any amendments if necessary.

### **Recommendation**

That Council adopt the current Councillor Code of Conduct (as tabled) with no amendments made.

**Moved Cr C Heintze seconded Cr K Zanker that Council adopt the current Councillor Code of Conduct (as tabled) with no amendments made.**

**Carried**

**15 MEETING CLOSED**

\_\_\_\_\_ **Mayor**



# **COUNCILLOR CODE OF CONDUCT**

**This Code, which incorporates the statutory requirements specified for a Code of Conduct in accordance with section 76C of the Local Government Act 1989, was adopted by the Yarriambiack Shire Council on 22 February 2017**

**In accordance with the Local Government Act, a copy of the Code has been provided to each Councillor and is available to the community for inspection on our Website or at the Yarriambiack Shire Office**

## Policy Objective

To adopt a Code of Conduct for Councillors to use as guidelines, pursuant to the Local Government Act 1989.

## Introduction

As Yarriambiack Shire Councillors, we are committed to working together in the best interests of the people within our municipality and in discharging our responsibilities to the best of our skills and judgement.

Our commitment to working together constructively will enable us to work with and empower the community by taking a strategic and forward thinking approach to our future. One that is mindful of our heritage, enhances our environment, creates economic growth and fosters a strong community spirit.

This Code of Conduct is part of Council's commitment to governing our Shire effectively and adhering to the principles of good governance.

Good governance is the complex set of processes, protocols and behaviours which lead to good decisions.

Good decisions are those which are informed by evidence and good advice, contributed to and understood by communities, underpinned by integrity and make sense in the long term interests of the community.

We also recognise that good governance means ensuring that the diversity of views and opinions in our community are given proper weight in the decision making process. However, Good Governance is also about **accountable leadership**. When we meet as a Council and take decisions, those decisions must be made in the long term best interests of the whole Municipality.

This Code of Conduct does not apply to Council Staff. Council Staff are bound by the Employees Code of Conduct.

## Primary role of Council

The primary role of Council is to provide leadership for the good governance of Yarriambiack. The role of Council also includes:

- Acting as a representative government by taking into account the diverse needs of the local community in decision making;
- Providing leadership by establishing strategic objectives and monitoring their achievements;
- Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- Advocating the interests of the local community to other communities and governments;
- Acting as a responsible partner in government by taking into account the needs of other communities; and
- Fostering community cohesion and encouraging active participation in civic life.

## Community Expectations

The community's expectations of us, their elected representatives, are high. The business of Council will be conducted in a professional manner with efficiency and impartiality, whilst demonstrating compassion and sensitivity towards the needs of the community.

We acknowledge our obligations as Councillors to carry out our duties:

- (a) In the best interests of the community, and
- (b) In accordance with the Local Government Act 1989

## Councillors Working Together

Our primary role as Councillors is to set the vision and directions for the Yarriambiack Shire and to advocate on behalf of the whole community. We recognise that, as Councillors we should represent and promote the interests of the Yarriambiack Shire community as a whole, whilst recognising our special relationship with our constituents.

## Councillor Conduct Principles

In carrying out our role as Councillors, we will;

- Act with integrity;
- Exercise our responsibilities impartially in the interests of the local community;
- Not make improper use of our position to advantage or disadvantage any person;
- Adhere to the conflict of interest requirements of the Local Government Act and avoid any other conflicts between our public duties as Councillors and our personal interests and obligations;
- Act honestly and avoid making oral or written statements and avoid actions that may mislead a person;
- Treat all persons with respect and we show due respect for the opinions, beliefs, rights and responsibilities of other Councillors, Council Officers and members of the community;
- Exercise reasonable care and diligence and submit to lawful scrutiny that is appropriate to our office;
- Try to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in us as elected representatives of our community; and
- We will support and promote these principles by leadership and example, so as to ensure the public has confidence in the office of Councillor.



## Adherence to Code of Conduct

We confirm that we will adhere to these principles in our general conduct as councillors and specifically by;

Treating all people with **courtesy and respect**, respecting differences in opinions, race, culture, religion, language, gender and abilities. This includes:

- Treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused;
- Treating fellow Councillors with respect, even when disagreeing with their views or decisions;
- Debating contentious issues without resorting to personal acrimony or insult;
- Ensuring punctual attendance at Council and committee meetings;
- Acting with courtesy toward Council staff.

Always acting with **integrity and honesty**:

- Being honest in all dealings with the community, with other Councillors and with Council staff;
- Always acting with impartiality and in the best interests of the community as a whole;
- Not acting in ways that may damage the Council or its ability to exercise good government;
- Exercising reasonable care and diligence in performing our functions as Councillors;
- Complying with all relevant laws, be they Federal, State or Local Laws.

Recognising that we hold a **position of trust** and will not misuse or derive inappropriate benefit from our position:

- We will avoid conflicts of interest and comply with the relevant provisions of the Act and this Code of Governance relating to interests and conflicts of interest;
- We will not exercise undue influence on other Councillors, members of the Council staff or members of the public to gain or attempt to gain an advantage for ourselves;
- We will not accept gifts either in our role as Councillors or where it could be perceived to influence Councillors except;
  - Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions;
  - Where refusal of the gift may cause offence or embarrassment, in which case the gift may be accepted on behalf of the Council and becomes the property of the Council.

Exercising appropriate prudence in the use of **Council Resources**. This includes:

- Not using Council resources, including staff, equipment and intellectual property for electoral or other personal purposes;
- Ensuring that Council resources are always used effectively and economically and for the purposes for which they are provided;
- Ensuring that Council's letterhead or logo is not inappropriately used or not used in a way that creates an impression of Council endorsement;
- Ensuring that claims for out of pocket expenses are accurate and relate strictly to Council business.

Treating **Council Information** appropriately by:

- Not using information gained by virtue of being a Councillor for any purpose other than to exercise our role as a councillor;
- Respecting the Council's policies in relation to public comments and communications with the media;
- Not releasing information deemed 'confidential information' in accordance with section 77 of the Act;
- Recognising the requirements of the Information Privacy Act 2000 regarding the access, use and release of personal information.

### **Confidential Information**

Councillors acknowledge that we will comply with our obligations under S77 in relation to confidential briefings or information (as defined under the Act) and recognise that this obligation extends to ensuring the safekeeping of confidential information.

### **Use of Confidential Information – Personal Benefit**

Councillors shall not use confidential information:

- To gain improper advantage for themselves or others;
- In ways which may conflict with impartiality; or
- To cause harm to any person, organisation or Council.

### **Conflict of Interest Procedures**

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

For the purpose of this Code, "direct interest", "indirect interest" and "conflicts of interest" have the meanings specified in the Act.

Councillors will comply with all the provisions of the Act in regard to Conflicts of Interest:

- If a Councillor considers that they have a **direct or indirect interest** in a matter before the Council, a special committee of Council or an assembly of Councillors, they have a conflict of interest;
- If a Councillor has a **conflict of interest** in a matter, they will comply with the requirements of the Act and ensure they disclose the class and nature of the interest, leave the room in which the meeting or assembly is being held during any discussion, debate and vote on the matter;
- If a Councillor has a personal interest in a matter to be considered by the Council or special committee that is not a conflict of interest, and the Councillor considers that their personal interest **may be in conflict** with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a **conflicting personal interest** under section 79B of the Act immediately before the matter is considered at the relevant meeting and apply to the Council or special committee to be exempted from voting on the matter.

In addition to the requirements of the Act:

- Councillors will give early consideration to each matter to be considered by the Council, special committee of which the Councillor is a member, or assembly of Councillors, to ascertain if they have a conflict of interest;
- Councillors recognise that the legal onus to determine whether a conflict of interest exists rests entirely with the individual Councillor and that Council Officers cannot offer legal advice in relation to potential conflicts.

### **Pecuniary Interest**

A pecuniary interest is an interest that a person has in a matter because of the likelihood or expectation of financial gain or loss to them, or to another, associated person.

If the interest is remote or insignificant and unlikely to influence a decision, there is no pecuniary interest.

In addition to having a direct interest themselves, a person is believed to have a pecuniary interest if:

- (i) The person's spouse, de facto or relative has a pecuniary interest;
- (ii) The person, a nominee, partner or employer is a member of a company or other body which has a pecuniary interest.

A person is not taken to have a pecuniary interest if they are unaware of the financial interests of their spouse, de facto, relative or other body, or if the person derives no benefit from any shares in the company.

It is the responsibility of individual persons to identify possible areas of conflict and disclosure should be made in accordance with the Local Government Act.

## **Non - Pecuniary Interest**

A non-pecuniary interest is any private or personal interest which does not pertain or relate to money, for example, kinship, friendship, membership of an association, society or trade union or involvement or interest in an activity.

Where the interest is a non-pecuniary one, the person with the interest should not do anything which they could not justify to the public. A person should avoid any occasion for reasonable suspicion or the appearance of improper conduct or partial performance of duty.

## **Dispute Resolution**

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of the Council's three phase dispute resolution process.

The Council's three phase dispute resolution process involves:

- direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
- external mediation by an independent mediator engaged by the Chief Executive Officer; and
- an internal resolution procedure involving an independent arbiter.

### **Phase 1 – Direct negotiation**

Where Councillors who are in dispute have not been able to resolve the dispute between them, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged contravention of the Councillor Code of Conduct.

The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a "direct negotiation" dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of councillors; and
- be signed and dated by the requestor or the requestor's representative.

The requestor is to notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a "direct negotiation" meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. No further action is required of the Mayor.

If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within 5 working days of receiving the consent of the other party.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and the observation of the councillor conduct principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

## **Phase 2 – External mediation**

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation whether or not the dispute has been the subject of an application for “direct negotiation”.

An application made for a dispute to be referred for external mediation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged contravention of the Councillor Code of Conduct.

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an “external mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of councillors; and
- be signed and dated by the applicant or the applicant’s representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the Principal Conduct Officer or as soon as practical thereafter.

The Principal Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an “external mediation”. If the other party declines to participate in an external mediation, he or she is to provide their reasons for doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

When the other party declines to participate in an external mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an external mediation, the Principal Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.

The Chief Executive Officer is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

### **Phase 3 - Internal resolution procedure - Arbiter**

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- the application was made by the Council and the Council so resolves; or
- the application were made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

A councillor or a group of councillors may make an application alleging that a Councillor has contravened this Councillor Code of Conduct. The application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of councillors; and
- be signed and dated by the applicant or the applicant’s representative.

The application must be submitted to the Council’s Principal Conduct Officer.

An applicant may withdraw an application for an internal resolution procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent Councillor cannot be resubmitted by the applicant.

<b>Council Adoption Date</b>	<b>22 February 2018</b>
<b>Minute No</b>	<b>15</b>
<b>Review Date</b>	<b>28 November 2019</b>
<b>Officer Responsible</b>	<b>Chief Executive Officer</b>