



# **MUNICIPAL MONITOR'S REPORT ON THE GOVERNANCE OF THE CITY OF YARRA**

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**Municipal Monitor to the City of Yarra**

**28 September 2022**

## Background

In my June 2022 report to the Minister for Local Government I advised that, whilst the Council had made some progress in relation to improvements in its governance, there remained a number of key governance policies which had yet to be completed.

In addition, I noted that the Council had been without an ongoing Chief Executive Officer (CEO) for the entire period of my appointment. The new CEO, Ms Sue Wilkinson, was due to commence a week after my appointment was due to finish.

My report also highlighted the significant remaining challenges for the Council including, but not limited to, its financial sustainability, organisational structure, planning and community engagement processes.

In these circumstances I recommended that a Monitor be appointed for a further 3 months. The Minister accepted that recommendation and extended my appointment until the end of September 2022.

The terms of reference of my appointment are included as an Appendix.

The terms of reference cover four inter-related matters:

- Governance policies which were yet to be completed.
- Council administration matters which are the responsibility of the CEO.
- Financial sustainability issues which rest collectively with the councillors and the CEO as the accountable officer.
- Policies and practices relating to the interaction between councillors and council staff.

This report addresses each of these matters in turn.

## Observations


On 23 August 2022 the Council approved three interrelated Governance policies.

### **A new set of Governance rules**

One of provisions of the new Local Government Act 2020 was the requirement for each Council to approve a set of Governance rules.

The process used by the Council to develop these rules was:

- a) the development by officers of the proposed rules.
- b) initial consideration by councillors at a councillor briefing.
- c) the release of the rules at a public meeting of Council on 31 May 2022 for a four-week community consultation process. That process resulted in 17 responses.

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- d) A councillor briefing to consider the outcomes of the community consultation was held on 19 July 2022.
  - e) Further consideration and amendments of the rules at councillor briefings on 9 August 2022 and 16 August 2022
  - f) The approval of the Rules at the Council's meeting of 23 August including some further amendments suggested by councillors at the meeting itself.

Despite some media comment to the contrary, the process to develop and consider the rules was exhaustive, involving extensive community consultation and councillor input.

As was explained at the council meeting these rules need to be considered in conjunction with further work being undertaken to improve the Council's community consultation and engagement processes.

#### **An amendment to the Council Code of Conduct proscribing personal criticism on social media by one Councillor of another**

This was a sensible addition to the previous approved Code of Conduct. Criticism by Councillors of the policy positions of their fellow Councillors are a reasonable expression of freedom of speech. However, personal criticisms are not, and this change clarified that boundary.

#### **Commitment to Respectful Community relationships**


This policy seeks to outline the Council's commitment to the way in which councillors engage with the Yarra community and sets out the community's obligations in return. The policy describes several unexceptionable mutual obligations which balance the desire for open and sometimes robust debates between Council and members of the Yarra community, with the need that these interactions are done respectfully and courteously.

It is regretful that such a policy was needed. The vast majority of people presenting at public meetings of the Council do so respectfully and courteously. However, it is also evident that some meetings of the Council have, at times, been disrupted by abuse from a small number of community members which reflects poorly on those concerned.

#### **Council administration issues**

The Local Government Act 2020 clearly outlines the responsibilities of the CEO for administration of the Council. This includes both the staff of the organisation and support to Councillors in their representative roles.

As I indicated in my previous report the City of Yarra is an organisation needing major reform and revitalisation.



One consequence of the pandemic was that it highlighted the fractures in the fabric of the Council both in relation to staff morale and the quality of services delivered by parts of the organisation. The latter has for a long time generated considerable and understandable community concern which hitherto has not been addressed.

The Covid related reduction in revenue papered over structural problems relating to the Council's financial sustainability which had been developing over a long period.

The challenges the CEO faces should not be under-estimated. They will require significant changes in the service mix provided by the Council, a restructuring of the organisation both in lines of accountability and culture, major investments in IT to improve the quality and efficiency of internal business processes, the implementation of a contemporary asset management system and improved processes for community interactions with Council. In short, significant reform is required to create a modern service-orientated organisation.

### **Review of Council Operations and Culture**

In response to the issues raised in my previous report the CEO has commenced a review of the operations and culture of the Council's administration. This review reflects the CEO's assessment that the organisation will need to be reoriented towards a culture of continuous improvement. I agree with this view and note that these changes will take some time to bear fruit. The review will also need to incorporate actions necessary to ensure the financial sustainability of the Council

### **Review of Statutory and Strategic Planning**

The CEO has also begun to scope out a review of the Council's statutory and strategic planning processes. During my time as Monitor, concerns regarding these processes were the most frequent issues raised with me by individuals and community organisations.


In my first report I noted the complexity of the issues involved in the Council's planning processes in part because of the rapidly changing character of the municipality. These issues will continue to be a feature of the municipality for many years to come.

The Council's planning division needs to be better resourced and adopt a more facilitative approach to respond to these issues than has been the case to date.

The decision to undertake this review is a timely one. I would expect that its terms of reference will include considerable consultation with the Yarra community.

### **Councillor-staff relationships**

The relationships between staff and councillors are guided in part by the staff Code of Conduct, but even more so by the example set by the CEO. It is the CEO who sets the terms



of appropriate engagement with councillors and the boundaries for both councillors and staff as to what is permissible.

One of the most striking developments over the past two months has been the improvement in the quality of discussions at councillor briefings, as officers have been encouraged by the CEO and indeed the councillors attending, openly to express their views on the matters under consideration. Whist decisions remain the responsibility of councillors alone this authorisation has assisted the councillors to make better decisions by appreciating the complexity of matters they need to consider and contribute constructively to the development of those policies.

In order to better codify these relationships, the CEO is preparing a Staff and Councillor Interactions protocol which I am advised she will approve in early October 2022.

### **Financial sustainability**

In my previous report, I gave particular emphasis to the need to take action to place the Council's finances on a sound footing. One of the critical roles of councillors is to be stewards of the continued viability of the municipality to which they were elected. The current Yarra Councillors have this responsibility, notwithstanding the fact that it is the decisions taken or not taken, over many years which led to the current poor state of the Council's finances.


As the review of the Council's financial sustainability demonstrated, those decisions can no longer be put off to the distant future.

In my extensive discussions with the CEO over the past three months, it is evident that she has a clear understanding of what needs to be done to bring the Council's finances on to a sustainable footing. What is now required is a willingness by councillors to authorise the CEO to proceed with implementation of the required changes.

Despite some small measures taken in the current budget, I remain concerned that some councillors do not appreciate the extent of the changes needed. A recent internal discussion relating to a minor change in service delivery arrangements was deferred in part because of concern about media reaction.

It is my view that the Council requires continual oversight of its decisions to bring its budget to a sustainable position. This should be done through the normal annual auditing process undertaken by the Victorian Auditor-General.

Accordingly, I recommend that the Minister write to the Auditor-General requesting that, in addition to his annual audit of the City of Yarra's accounts, the Auditor-General undertake an annual performance review of the progress of Yarra towards financial sustainability.



I further recommend that these performance reviews continue until the Auditor-General is satisfied that the Council has achieved financial sustainability.

### Summary

In the period since my appointment was extended, the Council has approved the key policy documents necessary for the good governance of the municipality.

Councillors have an obligation to work together in a respectful manner even if they disagree with each other. The City of Yarra now has a set of governance policies which meet that objective. It is hoped that all the City of Yarra's councillors comply with both the letter and spirit of these policies.

The new CEO has also commenced or will shortly commence much needed changes to the operations and organisational culture at the City of Yarra including the Council's planning processes. They will require extensive consultation with the community and will take some time to implement.

These changes notwithstanding, the Council will need to continue addressing its financial problems on an ongoing basis. My recommendation that the Minister request the Auditor-General to undertake annual performance reviews of progress is intended to assist the Council to maintain its focus on this matter.

Finally, I would like to place on record my appreciation to the City of Yarra Councillors and staff for their co-operation with me during my period as Monitor and wish them well for the future.

## APPENDIX

### **TERMS OF REFERENCE OF APPOINTMENT OF THE MUNICIPAL MONITOR TO YARRA CITY COUNCIL APPOINTED UNDER SECTION 179 OF THE LOCAL GOVERNMENT ACT 2020**

Without limiting the Municipal Monitor's functions and powers under sections 180 and 181, respectively, of the Act, the Municipal Monitor is:

1. To monitor the governance processes and practices of the Council, with specific regard to the following matters –
  - a. the Council's meeting procedures and decision making, including Councillor attendance at Council briefings, the adequacy of the Council's Governance Rules and Councillor adherence to the Governance Rules;
  - b. the Council's policies and processes related to key decisions to improve Council's governance and financial sustainability as outlined in the Municipal Monitor's Final Report;
  - c. the Councillors' understanding and performance of their statutory roles and responsibilities, including the adequacy of the Council's Councillor induction training program and any ongoing professional development opportunities;
  - d. the Council's Councillor Code of Conduct, Councillor behaviour with respect to the Councillor Code of Conduct and processes for resolving disputes between Councillors;
  - e. the Chief Executive Officer's policies and practices that manage the interactions between Councillors and Council staff and contractors, and compliance with those policies and practices; and
  - f. any other Council governance policies, processes and practices.
  
2. To advise, and provide any relevant assistance and support, to the Council in relation to the improvement of the Council's governance processes and practices, with specific regard to the matters raised in clause 1.
  
3. To report to the Minister for Local Government, with respect to the matters in clause 1, on:
  - a. any steps or actions taken by the Council to improve its governance and the effectiveness of those steps or actions; and
  - b. any recommendations in relation to the exercise of any Ministerial power under the Act.