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# AGENDA OF THE SPECIAL COUNCIL MEETING

To be held on Monday 18 July 2022 at 6.00pm

This Council Meeting will be held virtually.

This meeting will be closed to the public pursuant to Section 395 of the Local Government Act 2020.

This meeting will be livestreamed and may be accessed from Councils website [www.darebin.vic.gov.au](http://www.darebin.vic.gov.au).



## **ACKNOWLEDGEMENT OF TRADITIONAL OWNERS AND ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES IN DAREBIN**

Darebin City Council acknowledges the Wurundjeri Woi-Wurrung people as the Traditional Owners and custodians of the land we now call Darebin and pays respect to their Elders, past, present and emerging.

Council pays respect to all other Aboriginal and Torres Strait Islander communities in Darebin.

Council recognises, and pays tribute to, the diverse culture, resilience and heritage of Aboriginal and Torres Strait Islander people.

We acknowledge the leadership of Aboriginal and Torres Strait Islander communities and the right to self-determination in the spirit of mutual understanding and respect.



### English

These are the Minutes for the Council Meeting. For assistance with any of the items in the minutes, please telephone 8470 8888.

### Arabic

هذه هي محاضر اجتماع المجلس. للحصول على المساعدة في أي من البنود في المحاضر، يرجى الاتصال بالهاتف 8470 8888.

### Chinese

这些是市议会会议纪要。如需协助了解任何纪要项目，请致电8470 8888。

### Greek

Αυτά είναι τα Πρακτικά της συνεδρίασης του Δημοτικού Συμβουλίου. Για βοήθεια με οποιαδήποτε θέματα στα πρακτικά, παρακαλείσθε να καλέσετε το 8470 8888.

### Hindi

ये काउंसिल की बैठक का सारांश है। सारांश के किसी भी आइटम में सहायता के लिए, कृपया 8470 8888 पर टेलीफोन करें।

### Italian

Questo è il verbale della riunione del Comune. Per assistenza con qualsiasi punto del verbale, si prega di chiamare il numero 8470 8888.

### Macedonian

Ова е Записникот од состанокот на Општинскиот одбор. За помош во врска со која и да било точка од записникот, ве молиме телефонирајте на 8470 8888.

### Nepali

यी परिषद्को बैठकका माइन्युटहरू हुन्। माइन्युटका कुनै पनि वस्तुसम्बन्धी सहायताका लागि कृपया 8470 8888 मा कल गर्नुहोस्।

### Punjabi

ਇਹ ਵੈੱਸਲ ਦੀ ਮੀਟਿੰਗ ਵਾਸਤੇ ਸੰਖੇਪ ਸਾਰਾਂਸ਼ ਹੈ। ਸੰਖੇਪ ਸਾਰਾਂਸ਼ ਵਿਚਲੀਆਂ ਕਿਸੇ ਵੀ ਆਈਟਮਾਂ ਸੰਬੰਧੀ ਸਹਾਇਤਾ ਵਾਸਤੇ, ਕਿਰਪਾ ਕਰਕੇ 8470 8888 ਨੂੰ ਟੈਲੀਫੋਨ ਕਰੋ।

### Somali

Kuwaani waa qodobadii lagaga wada hadlay Fadhiga Golaha. Caawimada mid kasta oo ka mid ah qodobada laga wada hadlay, fadlan la xiriiir 8470 8888.

### Spanish

Estas son las Actas de la Reunión del Concejo. Para recibir ayuda acerca de algún tema de las actas, llame al teléfono 8470 8888.

### Urdu

یہ کاؤنسل کی میٹنگ کا ایجنڈا ہے۔ ایجنڈے کے کسی بھی حصے کے بارے میں مدد کے لیے براہ مہربانی 8470 8888 پر فون کریں۔

### Vietnamese

Đây là những Biên bản Họp Hội đồng Thành phố. Muốn có người trợ giúp mình về bất kỳ mục nào trong biên bản họp, xin quý vị gọi điện thoại số 8470 8888.

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# Agenda

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## NOTICE OF SPECIAL COUNCIL MEETING

I HEREBY GIVE NOTICE THAT THIS SPECIAL COUNCIL MEETING HAS BEEN CALLED BY THE MAYOR, CR LINA MESSINA PURSUANT TO COUNCILS GOVERNANCE RULES FOR 6.00 PM ON MONDAY 18 JULY 2022 FOR THE PURPOSE OF DEALING WITH THE FOLLOWING ITEMS:

- 4.1 CONSIDERATION OF APPOINTMENT TO COUNCILLOR CONDUCT OFFICER FUNCTION
- 4.2 APPOINTMENT OF COUNCILLOR TO RECYCLING VICTORIA LOCAL GOVERNMENT ADVISORY COMMITTEE

**RACHEL OLLIVIER**  
INTERIM CHIEF EXECUTIVE OFFICER  
CITY OF DAREBIN

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## 1. MEMBERSHIP

Cr. Lina Messina (Mayor) (Chairperson)  
Cr. Trent McCarthy (Deputy Mayor)  
Cr. Emily Dimitriadis  
Cr. Gaetano Greco  
Cr. Tom Hannan  
Cr. Tim Laurence  
Cr. Susanne Newton  
Cr. Susan Rennie  
Cr. Julie Williams

## 2. APOLOGIES

## 3. DISCLOSURES OF CONFLICTS OF INTEREST

## 4. CONSIDERATION OF REPORTS

### 4.1 CONSIDERATION OF APPOINTMENT TO COUNCILLOR CONDUCT OFFICER FUNCTION

**Author:** Interim Chief Executive Officer

**Reviewed By:** Interim Chief Executive Officer

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#### EXECUTIVE SUMMARY

The *Local Government Act 2020* sets out a framework to achieve good governance in the local government sector.

Section 150 of the *Local Government Act 2020 (the Act)* requires the CEO to appoint a Councillor Conduct Officer. A person may be appointed to be a Councillor Conduct Officer if the person is a member of staff or the Council resolves that the person is suitably qualified to perform the functions of the Councillor Conduct Officer. The function of the Councillor Conduct Officer is set out in section 151 of the *Act* and includes responsibility for assisting the Council to implement and conduct its Council's internal arbitration process.

This function requires specialist skills and operates in a largely autonomous way from Council the organisation, which is important for the nature of the governance function it performs. It requires specialist skills and the ability to operate independently, which requires a senior and experienced person to perform it.

The role of Councillor Conduct Officer was previously undertaken by the Integrity and Conduct Officer. This position has become vacant, creating a temporary and urgent need for an appointment for the next three months whilst recruitment is undertaken for the Chief Legal Counsel and Integrity position. During this period, the CEO and Councillors will assess the way in which this function operates through external resourcing to determine the ongoing model for the Councillor Conduct Officer.

To best provide for this function for the next three months, it is recommended that a qualified individual at a specialist independent organisation be appointed for a period of 3 months. This recommendation is for two main reasons:

- There is not a readily available and appropriately skilled officer currently on Council staff that could provide this function without putting at risk other critical work.
- There may be benefit in having the function performed by an independent organisation, and this engagement would allow Council to test whether it is a model it would like to continue for this function.

The decision before Council is not the procurement decision, but rather the decision about whether the recommended person is suitably qualified to perform the functions of the Councillor Conduct Officer. Should Council endorse this recommendation, the CEO (or delegate) would make the necessary decisions, including in relation to procurement, and to formally appoint the individual to the role.

|                               |
|-------------------------------|
| <b>Officer Recommendation</b> |
|-------------------------------|

**That** Council:

- (1) Confirm the qualifications and experience contained in the resume provided in **Appendix A** demonstrates the proposed Councillor Conduct Officer is suitably qualified to perform the functions of the Councillor Conduct Officer.
  - (2) Appoint \_\_\_\_\_ as the Councillor Conduct Officer effective from 19 July 2022.
  - (3) Note the appointment of the Councillor Conduct Officer is made with an exemption from the Social and Sustainable Procurement Policy due to urgency and the sensitive nature of requirements and matters in hand.
  - (4) Directs and authorises the CEO (or delegate) to do all things necessary to appoint \_\_\_\_\_ as Councillor Conduct Officer
- 

## **BACKGROUND / KEY INFORMATION**

### The requirement for and role of the Councillor Conduct Officer

The *Local Government Act 2020* sets out the following

“*Section 150*

#### **Appointment of Councillor Conduct Officer**

- (1) The Chief Executive Officer must—
  - (a) appoint a person in writing to be the Councillor Conduct Officer; and
  - (b) notify the Principal Councillor Conduct Registrar of the appointment.
- (2) Subject to subsection (3), a person may be appointed to be a Councillor Conduct Officer if—
  - (a) the person is a member of Council staff; or
  - (b) the Council resolves that the person is suitably qualified to perform the functions of the Councillor Conduct Officer.
- (3) The Chief Executive Officer cannot be appointed as a Councillor Conduct Officer.

And

*Section 151*

#### **Functions of a Councillor Conduct Officer**

A Councillor Conduct Officer must—

- (a) assist the Council in the implementation of, and conduct of, the internal arbitration process of a Council; and
- (b) assist the Principal Councillor Conduct Registrar to perform the functions specified in section 149(1); and
- (c) assist the Principal Councillor Conduct Registrar in relation to any request for information under section 149(3).

**Previous Council Resolution**

This matter is not the subject of a previous Council resolution.

**ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION**

Strategic Direction 1: Vibrant, Respectful and Connected

Strategic Direction 2: Prosperous, Liveable and Flourishing

Strategic Direction 3: Climate, Green and Sustainable

**ALIGNMENT TO 2021-25 COUNCIL PLAN**

Strategic Direction 4 Responsible, Transparent and Responsive

**ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES**

Good governance underpins achievement of all the Council Plan objectives.

**DISCUSSION****Temporary and urgent need to provide for function**

There is a temporary and urgent need to fill the Councillor Conduct Officer function. This has arisen because of a recent staff vacancy and whilst a temporary appointment has been made this cannot be sustained for the duration of the recruitment process. Recruitment is underway for a Chief Legal Counsel and Integrity position, however it is expected to be several months before this is completed.

To best provide this function for the next three months, it is recommended that a qualified individual at a specialist independent organisation be appointed for a period of 3 months. The individual's resume is provided at **Appendix A** and the quotation provided separately at **Appendix B**.

This recommendation is for two main reasons:

- There is not a readily available and appropriately skilled officer currently on council staff that could provide this function without putting at risk other critical work.
- There may be benefit in having the function performed by an independent organisation, and this would allow Council to test whether it is a model it would like to continue for this function.

**The requirements of the Councillor Conduct Officer**

- Assist the Council in the implementation of, and conduct of, the internal arbitration process of a Council. This includes liaising with the Arbiter appointed by the Principal Councillor Conduct Registrar, parties involved in a complaint (complainant and respondent), any relevant witnesses and the engagement of transcription services required.
- Assist the Principal Councillor Conduct Registrar to perform the functions specified in section 149(1) of the Act.
- Assist the Principal Councillor Conduct Registrar in relation to any request for information under section 149(3) of the Act.



- Promote awareness of the processes associated with the handling of complaints with Councillors.
- Maintain a register of matters, detailing date of lodgement, case number, parties involved, appointed arbiter.
- Brief the CEO monthly on the status of matters at a high level to assure the CEO that matters are being properly handled and progressed.

**The requirements of the Chief Legal Counsel and Integrity Officer  
(Manager Corporate Governance until appointment of this position)**

- Provide logistical support required with regards to room bookings for conduct matters (hearings, mediation).
- Provide support with access to the Employee Assistance Program or like support required to ensure the welfare and wellbeing for Councillors involved in or impacted by complaints, in liaison with the People and Culture department.

**Procurement**

The decision before Council is not the procurement decision, but rather the decision about whether the recommended person is suitably qualified to perform the functions of the Councillor Conduct Officer. Should Council endorse this recommendation, the CEO (or delegate) would make the necessary decisions, including in relation to procurement, and to formally appoint the organisation and individual to the role.

However, for transparency, the procurement approach used is detailed here. Officers approached two law firms in order to identify a suitable supplier who has the required skills and is available to meet Council’s needs. One of the two companies was able to offer this service and has provided a quote, the other was not able to offer this service. The quote has been assessed as reasonable for the nature of the services.

Given the importance and sensitivity of the nature of services required and the urgency to appoint, it is recommended that Council approve an exemption from this policy requirement and recommend appointment on the basis of one quote. Such an exemption is provided for within the policy which allows for exemptions from the need to tender on the following basis:

| Policy exemption   | Assessment  |
|--|---|
| <p>Extension of contracts while Council is at market. Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected. This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</p> | <p>The recommendation meets the objective of the policy exemption to enable Council to go to market, although it is different in the specific nature of it.</p> <p>In this case, the short-term appointment of a Council officer to this role is not considered in the public interest, and it is recommended that the appointment of this supplier, enables Council to complete its market testing process (recruitment in this case).</p> |
| <p>For legal services where issues based advice is needed and is unable to be quantified. Note that for other type of legal advice relating to planned services the normal quotation or tender process applies.</p>  | <p>The recommended supplier is a legal services firm and the nature of the work is that it is not easy to quantify, however if there was to be an ongoing need for this service beyond the recommended short term engagement, officers would recommend that a tender process should run.</p>  |

**CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES****Financial Management**

The total cost of this engagement is difficult to predict because it depends on the volume of work during this time. The quote provided is therefore on an hourly rate basis which is a common approach for legal services of this type.

The quoted hourly rates are included in confidential attachment A. The hourly rates have been assessed as reasonable for this type of service and therefore offering good value.

The cost of the engagement for 3 months is estimated to be in the range of \$50,000 to \$90,000. Depending on the final cost, this would be partly or fully offset by the current staff vacancy.

**Community Engagement**

No community engagement has been undertaken nor is proposed. This is a legislative function that Council is required to provide.

**Other Principles for consideration****Overarching Governance Principles and Supporting Principles**

(a) Council decisions are to be made and actions taken in accordance with the relevant law;

**Public Transparency Principles**

(a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

**COUNCIL POLICY CONSIDERATIONS****Environmental Sustainability Considerations (including Climate Emergency)**

This decision does not have particular environmental sustainability considerations nor impacts.

**Equity, Inclusion, Wellbeing and Human Rights Considerations:**

This specific decision does not have equity, inclusion, wellbeing or human rights considerations.

Broadly, the function of councillor conduct officer is important for good governance and the functioning of equitable, inclusive local government as an important democratic institution.

**Economic Development and Cultural Considerations**

This decision does not have Economic Development or Cultural considerations or impacts.

**Operational Impacts**

This decision is recommended to ensure that the function can be effectively delivered to support Councillors when conduct matters arise and ensure compliance with section 151 of the *Local Government Act 2020*.

Should council decide not to appoint the Councillor Conduct Officer as recommended, the function would be allocated as an additional responsibility to an existing staff member by the CEO. This would put at risk other critical work and may also result in this function not being delivered at the required standard.

**Legal and Risk Implications**

Section 150 of the *Local Government Act 2020 (the Act)* requires the CEO to appoint a Councillor Conduct Officer. A person may be appointed to be a Councillor Conduct Officer if the person is a member of staff or the Council resolves that the person is suitably qualified to perform the functions of the Councillor Conduct Officer. The function of the Councillor Conduct Officer is set out in section 151 of the *Act* and includes responsibility for assisting the Council to implement and conduct its Council's internal arbitration processes.

**IMPLEMENTATION ACTIONS**

Should Council appoint the supplier, the CEO will confirm the appointment in writing and notify the Principal Councillor Conduct Registrar in writing of the appointment. The engagement would commence from 19 July 2022.

**RELATED DOCUMENTS**

Councillor Code of Conduct

*Local Government Act 2020*

Social and Sustainable Procurement Policy

**Attachments**

- Resume - proposed Councillor Conduct Officer (**Appendix A**) Confidential - enclosed under separate cover
- Councillor Conduct Officer quotation (**Appendix B**) Confidential - enclosed under separate cover

**DISCLOSURE OF INTEREST**

Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

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## 4.2 APPOINTMENT OF COUNCILLOR TO RECYCLING VICTORIA LOCAL GOVERNMENT ADVISORY COMMITTEE

**Author:** Acting General Manager City Sustainability and Strategy

**Reviewed By:** Interim Chief Executive Officer

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### EXECUTIVE SUMMARY

On 28 June 2022 the Minister for Energy, Environment and Climate Change wrote to Mayor Messina, inviting Council to nominate an appropriate councillor for consideration as a member of the Recycling Victoria Local Government Advisory Committee.

On 1 July 2022, Machinery-of-Government changes were enacted that established [Recycling Victoria](#), and wound up Regional Waste and Resource Recovery Groups.

Recycling Victoria's purpose is to strengthen Victoria's waste and recycling system. It forms a key part of implementing the Victorian Government's recycling reforms.

|                               |
|-------------------------------|
| <b>Officer Recommendation</b> |
|-------------------------------|

**That** Council puts forward Councillor \_\_\_\_\_ to be considered by the Minister for Energy, Environment and Climate Change for appointment to the Recycling Victoria Local Government Advisory Committee.

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### BACKGROUND / KEY INFORMATION

The former Metropolitan Local Government Waste Forum had a key role in supporting State and local Governments to collaborate and deliver waste and resource recovery priorities for greater Melbourne. Councillor Messina was Darebin's nominated representative, and was also the elected Chair of the Forum.

On 1 July the Forum concluded, as key State Government waste and recycling reforms were enacted. Regional Waste and Resource Recovery Groups were wound up, and Recycling Victoria was established. Recycling Victoria is a central part of the State Government's recycling reforms, designed to strengthen Victoria's waste and recycling system, and to drive a circular economy for Victoria.

On 28 June 2022 the Minister for Energy, Environment and Climate Change wrote to Mayor Messina:

- Advising that a Recycling Victoria Local Government Advisory Committee was to be established, and
- inviting the Mayor to put forward a Darebin Councillor by 22 July 2022, to be considered for membership.

The letter and terms of reference are included at [Attachments 1 and 2](#).

**Previous Council Resolution**

At its meeting held on 15 December 2021, Council resolved:

*'That Council appoints Councillor representatives to the State-wide, Metropolitan, Regional and Darebin-based Organisations and entities as listed in the report at Table A below as amended as amended to include Cr Dimitriadis on the Darebin Ethnic Communities Council (DECC) for a period of 12 months, or until such time as Council makes a further resolution on the matter.'*

*(Where Table A appointed Cr Messina to the Metropolitan Local Government Waste Forum.)*

**ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION**

Strategic Direction 3: Climate, Green and Sustainable

**ALIGNMENT TO 2021-25 COUNCIL PLAN**

Strategic Direction 3: Climate, Green and Sustainable

**ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES**

3.5 We will reduce waste and stimulate a local circular economy, where waste resources are re-used rather than discarded

**DISCUSSION**

The new Recycling Victoria Local Government Advisory Committee will be an important forum that facilitates a strong State and local government partnership needed to drive a circular economy, and strengthen our recycling system. Darebin, led by Cr Messina, has advocated for a new local government forum.

Darebin has committed to strong circular economy leadership in its Council Plan. Nominating a Councillor for consideration promotes our leadership commitment and supports Council to partner with the State Government and the Local Government sector to progressively implement Recycling Victoria, ensuring that reform leverages Local Government strengths, as well as responding to needs.

**CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES****Financial Management**

Participating in the Recycling Victoria Local Government Forum can be accommodated within existing resources.

**Community Engagement**

Participating in the Recycling Victoria Local Government Forum will help elevate the important role communities play in recycling, and can provide advice to inform State Government community consultations that may occur.

Consulting with the Darebin community is not required to nominate a Councillor for consideration.

**Overarching Governance Principles and Supporting Principles**

- (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;

**Public Transparency Principles**

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

**Strategic Planning Principles**

- (b) strategic planning must address the Community Vision;

**Service Performance Principles**

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

**COUNCIL POLICY CONSIDERATIONS****Environmental Sustainability Considerations (including Climate Emergency)**

Driving a circular economy will reduce pollution, greenhouse gas emissions and the need to mine raw materials, which in turn protects Country.

Being a member of the Advisory Committee continues Darebin's commitment to achieving a circular economy.

**Equity, Inclusion, Wellbeing and Human Rights Considerations:**

An Equity and Gender Impact Assessment is not required to put a Councillor forward for nomination.

**Economic Development and Cultural Considerations**

Driving a Circular Economy opens up both local and State opportunities for new industries, jobs and growth.

**Operational Impacts**

There are minimal operational impacts – if successful, the nominated Councillor can be supported within existing resources.

**Legal and Risk Implications**

There are no legal implications.

**IMPLEMENTATION ACTIONS**

Officers will advise the Department of Environment, Land, Water and Planning of Council's nominee by the required date (22 July 2022).

**Attachments**

- Ministerial Letter - Invitation to Nominate RV LG AC (**Appendix A**) [↓](#)
- RV LG Advisory Committee TOR (**Appendix B**) [↓](#)

## DISCLOSURE OF INTEREST

Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.



Hon Lily D'Ambrosio MP

Minister for Energy, Environment and Climate Change  
Minister for Solar Homes

8 Nicholson Street  
East Melbourne, Victoria 3002  
Telephone: 03 9637 9504  
DX210098

Dear Mayor

### **LOCAL GOVERNMENT ADVISORY COMMITTEE – RECYCLING VICTORIA**

As you may be aware, on 14 December 2021, the Circular Economy (Waste Reduction and Recycling) Act 2021 (the Act) was gazetted. The Act takes effect on 1 July 2022, and this will result in the establishment of Recycling Victoria, whose Head will oversee the waste, recycling and resource recovery sector, and support the development of a circular economy.

Recycling Victoria will bring strong state-wide oversight to Victoria's waste management and recycling system, setting minimum standards and clearer responsibilities, stabilising the market and providing better information and data to plan and deliver the right infrastructure and services for a growing Victoria.

Victoria's circular economy will create jobs and economic growth while reducing waste, cutting pollution and establishing a strong recycling system. Businesses, governments and individuals will all benefit from working together to realise the benefits of a circular economy.

I remain committed to local government involvement in this important reform, and have asked the Department of Environment, Land, Water and Planning (DELWP) to assist me to establish a Local Government Advisory Committee. The Committee will provide advice to me on the early functions and priorities of Recycling Victoria, including engagement with local governments, and regional and rural communities.

You are invited to put forward a nomination of an appropriate councillor for consideration as a member of the Local Government Advisory Committee, if you wish.

The Victorian Government is committed to ensuring the diversity of our boards and committees represents the diversity of our communities. We encourage you to consider women, Aboriginal and Torres Strait Islander people, people with a disability, young people, people from culturally and linguistically diverse backgrounds and LGBTIQ+ people in putting your nomination forward for the Local Government Advisory Committee.

The Local Government Advisory Committee will be established for a period of up to 12 months as a formal advisory committee comprising of no more than 10 members, including one councillors from each of the seven former Waste and Resource Recovery Group regions, a Municipal Association Victoria representative, and a Victorian Local Governance Association representative. Membership composition will ensure a broad geographic spread across Victoria.

To fulfil the requirements of the Committee's purpose, I require members to have a keen interest in the efficient operation and regulation of the waste and resource recovery sector, have a sound understanding of the environment in which Recycling Victoria will operate, the broader trends which impact on that environment, and a proactive approach to sharing information and constructive advice. A selection panel comprising DELWP senior leadership will shortlist suitable nominees for my approval.



OFFICIAL Sensitive



The first Committee meeting is expected to be scheduled in August 2022, most likely virtually, where you will be introduced to Recycling Victoria's Interim Head.

Please advise the Department of Environment, Land, Water and Planning of your nominated representative by COB Friday, 22 July 2022 by email to [climate.change.governance@delwp.vic.gov.au](mailto:climate.change.governance@delwp.vic.gov.au).

I look forward to hearing from you and working with all members of the Committee.

Yours sincerely



**Hon Lily D'Ambrosio MP**  
**Minister for Energy, Environment and Climate Change**  
**Minister for Solar Homes**

28/06/2022

Cc MAV CEO

# Recycling Victoria Local Government Advisory Committee Terms of Reference

The Minister may establish advisory committees from time to time to inform and advise the Minister and the Head of Recycling Victoria on any matters relating to the operation in accordance with Section 37 (1) of the Circular Economy (Waste Reduction and Recycling) Act 2021.

## Purpose

1. The Recycling Victoria Local Government Advisory Committee has been established to advise the Minister and Head of Recycling Victoria (RV) on RV's early functions and priorities as they are established.

## Definitions

2. In these Terms of Reference-
  - Committee** means the Recycling Victoria Local Government Advisory Committee, established by the Minister by these Terms of Reference
  - Code of Conduct** means the *Directors' Code of Conduct and Guidance Notes* issued by the Victorian Public Sector Commission<sup>1</sup>;
  - Department** means the Department of Environment, Water, Land and Planning or its successor.
  - Appointment and Remuneration Guidelines** means the Government's *Appointment and Remuneration Guidelines*, as updated from time to time<sup>2</sup>.
  - Member** means a member of the Committee and includes a reference to the Chairperson unless the contrary intention is expressed.
  - Minister** means the Minister for Environment and Climate Action;
  - PAA** means the *Public Administration Act 2004*;
  - Public sector employee** has the meaning given in section 4(1) of the PAA.
  - Secretary** means the Secretary to the Department.

## Establishment of Committee

3. The Minister establishes the Recycling Victoria Local Government Advisory Committee as a departmental advisory committee from the date of these Terms of Reference.
4. The Committee is classified as a Group C Band 3 advisory committee under the Appointment and Remuneration Guidelines (the Guidelines)

## Functions

5. The function of the Committee is to provide advice to the Minister in consideration of RV's early functions and priorities as they are established, how these arrangements support local government and ensure effective strategic relationships across the state.

## Accountabilities

6. The Committee is subject to the general direction of the Minister in the performance of its functions.<sup>3</sup>

<sup>1</sup> published at: <http://vpssc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/>

<sup>2</sup> available at: <http://www.dpc.vic.gov.au/index.php/policies/governance/appointment-and-remuneration-guidelines>

<sup>3</sup> Note section 85(1) of the PAA



## Recycling Victoria Local Government Advisory Committee Terms of Reference

7. The Committee must provide its advice as directed by the Minister or required by these Terms of Reference to the Head RV within 10 working days following each meeting, or following adoption of the minutes whichever is the earlier.
8. Where the Minister has requested advice, the Head RV may provide a response to the Committee's advice where required. The consolidated response will be provided to the Minister as soon as practicable (or within 15 working days whichever is the shortest time period) after each meeting by the Head RV.
9. Each member of the Committee is required to comply with these Terms of Reference, and each member's ongoing participation in the Committee represents their implied acceptance of these Terms of Reference.
10. Each member must at all times act in a manner that is consistent with the public sector values set out in section 7(1) of the *Public Administration Act* 2004. These are: Responsiveness, Integrity, Impartiality, Accountability, Respect, Leadership, and Human Rights,
11. Each member is required to act in the best interests of the Committee and to conduct themselves in a manner that is consistent with their standing as an appointed member.
12. The Code of Conduct for Victorian Public Entities applies to the Committee and its members as though a member is a director of a public entity.

### Timeframe

13. The Committee operates from 1 July 2022 or the date of signature of this document for a period of up to 12 months.

### Membership

14. The Committee consists of a Chairperson and a maximum of ten (10) other members, appointed by the Minister.
15. The Committee is to be constituted by:
  - a. One Councillor representative from each of the former seven Waste and Resource Recovery Group regions to be nominated by mayors.
  - b. An employee of the Municipal Association Victoria appointed by the Minister.
  - c. An employee of the Victorian Local Governance Association appointed by the Minister.
  - d. An employee of the Australian Services Union appointed by the Minister.
  - e. the Chairperson appointed by the Minister. The chairperson will be selected from amongst the Councillor nominees.
16. To fulfil the requirements of the committee's purpose, and scope, members are expected to:
  - a. Have sufficient expertise and authority to consider matters and provide views on behalf of local government.
  - b. Represent local government with interests in the efficient operation and regulation of the waste and resource recovery sector.
  - c. Have a sound understanding of the environment in which Recycling Victoria will operate and broader trends that could impact on that environment.
  - d. Provide sound advice, insights and leadership.
  - e. Proactively share information relevant to the scope of the committee's remit.
  - f. Commit to providing honest, constructive and timely feedback.

### Chairperson

17. The role of the Chairperson includes: provision of leadership and oversight of the performance of the Committee's functions and delivery of its accountabilities.
  - b. approval of the agenda and minutes of meeting prior to circulation to members.

# Recycling Victoria Local Government Advisory Committee Terms of Reference

## Term of appointment

18. A Member is appointed for the term of office specified in his or her instrument of appointment.

## Remuneration and expenses

19. A member of the committee as a nominated employer representative is not eligible for remuneration, as the work as a member of the committee forms a requirement of their substantive position.

20. A Member is entitled to the reimbursement of reasonable travelling and personal expenses directly related to their service on the Committee at the rates, and on the terms, that apply to employees of the Department.

21. To claim for remuneration and expenses, Members must:

- a. complete the Department's Commencement Form and other required forms, on appointment.
- b. submit Claim Forms to the Secretariat as required, together with supporting evidence.

## Removal from office and resignation

22. The Minister, without cause or notice, may remove a member from office at any time.

23. The office of a member becomes vacant if:

- a. a member resigns in writing addressed to the Minister.
- b. a member is removed from office.
- c. a member dies or in the opinion of the Minister, becomes incapable of performing his/her duties.
- d. a member becomes a bankrupt or a person disqualified from acting.

24. Upon a vacancy occurring in the office of a member, the vacancy may be filled by the Minister in accordance with these Terms of Reference.

## Meeting Procedure

25. Meetings of the Committee may be conducted in a manner determined by the Chairperson subject to these Terms of Reference and any direction given by the Minister.

26. The quorum of a meeting consists of a majority of members presently appointed to the Committee.

27. If the Chairperson is absent, or the office of Chairperson is vacant, the members present at a meeting may elect from the members present a member to preside at that meeting.

28. The Chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.

## Minutes

29. The Chairperson must:

- a. ensure that minutes of each meeting are kept.
- b. circulate the minutes for comment by members before being formally adopted at the next meeting.
- c. through the Head RV, keep the Minister informed of any significant matters resulting from the meeting. Or alternatively, provide the adopted minutes to the Minister within 14 days of being adopted.

## Conflicts of Interest<sup>4</sup>

30. In these Terms of Reference:

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<sup>4</sup> Refer to the Guidance on these terms of reference for alternative Conflict of Interest clauses.

## Recycling Victoria Local Government Advisory Committee Terms of Reference

- a. a '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the Committee and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the Committee and their duty to another organisation (e.g., due to their role as a board member or employee of that organisation).
  - b. A private interest:
    - may be **direct** or **indirect**; and
    - can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.
  - c. A conflict of interest exists whether it is:
    - **real** (ie. it currently exists);
    - **potential** (ie. it may arise, given the circumstances); or
    - **perceived** (ie. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the Committee, now or in the future).
31. At the commencement of each meeting, the Chairperson must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.
32. A member who has a conflict of interest in a matter being discussed at a meeting of the Committee must declare the nature of the interest:
- a. at the commencement of a meeting; or
  - b. if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.
- A declaration must be made even if the interest is already recorded in the Committee's Register of Interests.
33. A member who has made a declaration of a conflict of interest:
- a. must leave the room during the agenda item.
  - b. must not take part in any discussion of the issue with other members, either during or outside of the meeting.
  - c. must not vote on the matter to which the declaration relates.
- The only exception is if the Committee agrees that it would be in the **public interest** for the member to take part in some or all of the discussion and/or voting on the issue. If the conflict is material it will not usually be in the public interest for the Committee to make an exception. If an exception is made, the minutes must record clear reasons why it is in the public interest to do so and what lesser measures will be put in place to manage the conflict. Careful monitoring must occur to ensure that the lesser measures remain in the public interest.
34. The Chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting.
35. The Chairperson must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.
36. If a Committee member has breached their conflict of interest obligations in these Terms of Reference, the Chairperson must notify in writing the Ministers as soon as practicable after becoming aware of such a breach, including whether the breach is material.<sup>5</sup>

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<sup>5</sup> For further information, please refer to the Conflict of Interest support module on DELWP's OnBoard website.

# Recycling Victoria Local Government Advisory Committee Terms of Reference

## Gifts Benefits & Hospitality

37. A member must never make or accept offers of gifts, benefits and hospitality in their role as a member unless it is in the public interest to do so.
38. As part of this requirement, members:
- must never solicit gifts for themselves or anyone else.
  - must refuse and report any attempt to bribe them.
  - must refuse prohibited gifts (e.g. money or similar, gifts that raise a conflict of interest, inconsistent with community expectations, bring the Panel into disrepute, etc.).
  - must declare gift offers to the DELWP Relationship Manager, Executive Director, Waste and Recycling Division.
39. Members must disclose to the Chairperson any offers of gifts, benefits and hospitality. The Chairperson must keep a register of declared offers, which any member may access.

## Dispute Resolution

40. For the purposes of this dispute resolution procedure, a '**dispute**' exists if:
- two or more Committee members have difficulty working together (e.g., due to a conflict of personalities or ideological differences); and
  - the situation is unduly affecting the ability of a member, or the Committee collectively, to perform their duties in an effective and efficient manner.<sup>6</sup>
41. All Committee members will avoid disputes, where possible. If a dispute arises:
- the Committee members in dispute (the **parties**) will, **acting in good faith, make a reasonable, thorough and conscientious effort** to resolve the dispute on an **informal** basis, as soon as possible, and in the public interest (the **best interests of the Committee**); and
  - the Chairperson will actively guide the parties towards resolution of the dispute.
42. It is preferable for disputes to be resolved on an **informal** basis. If a dispute cannot be resolved on an informal basis, then the Chairperson will place the matter on the agenda of the next Committee meeting.
43. At that meeting, if the Committee is satisfied that: (i) a dispute exists which cannot be resolved on an informal basis; and (ii) it is in the public interest to do so, then the Committee will notify the DELWP Relationship Manager in writing of the dispute, the parties and steps taken to resolve the dispute informally.
44. The DELWP Relationship Manager will notify the Chairperson within 21 business days of the options available to resolve the dispute.

## Observers

45. A person who is not a member of the Committee, such as a presenter or an observer ('Observer'), may attend all or part of a Committee meeting on the Chairperson's written invitation.
46. An Observer may, at the invitation of the Chairperson, make a presentation to the Committee or participate in discussions in a Committee meeting and is required to step out of a meeting on the Chairperson's request.
47. An Observer who is not a public sector employee will be required to sign a Deed of Confidentiality.
48. An Observer must either destroy or return all copies of documents provided to them for the purposes of that meeting at the end of that meeting.

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<sup>6</sup> A difference of opinion between Committee members in relation to a proposed decision (e.g. strategic, business, policy, etc.) is not a 'dispute'. It is the normal difference of views that the Committee talks through together in a considered, courteous and constructive manner before voting to make its decision, in accordance with the Committee's meetings and decisions procedures.



## Recycling Victoria Local Government Advisory Committee Terms of Reference

### Confidentiality

49. Members of the Committee must not give to any other person, whether directly or indirectly, any information acquired by reason of being a Committee member, except to the extent necessary to exercise the Committee's functions or provide information in accordance with these Terms of Reference.
50. Members of the Committee must not improperly use their position or any information acquired by reason of their position to gain an advantage to themselves or other people or cause detriment to the Committee.
51. The Minister may authorise the Committee to release specified information to third parties
52. On the termination or expiry of a member's appointment, the member must return all documents relating to the Committee to the Chairperson.

### Privacy

53. The Committee must have processes in place to ensure that its members, in the course of their duties on the Committee, comply with the requirements imposed by or under the Privacy and Data Protection Act 2014 as if the Committee is a public sector agency for the purposes of that Act.

### Freedom of Information

54. Members of the Committee should be aware that all documents of the Committee (such as meeting agendas, board papers, minutes) will be held by the department and will be subject to the *Freedom of Information Act* 1982.

### Intellectual Property

55. The rights to Intellectual property created by the members of the Committee in the course of their duties on the committee, including any reports required under these Terms of Reference, is the property of the State of Victoria. However, the Minister on behalf of the State grants the Committee a licence to use this property as authorised under these Terms of Reference.
56. In this clause, Intellectual property includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include moral rights.

### Time Commitment

57. The Committee is expected to meet at least 6 times a year.
58. The location of meetings will be held either in the Melbourne CBD, by remote video conferencing, or another location as advised.
59. Members are expected to attend a minimum of 75% of meetings.

### Secretariat support to the Committee

60. Administrative support to the Committee will be provided by Recycling Victoria.
61. Day to day liaison for the Committee will be through Recycling Victoria.
62. Support provided by the Secretariat includes:
  - a. organising meeting rooms/video conferencing arrangements;
  - b. taking minutes;
  - c. preparing and distributing agendas for Committee meetings, in consultation with the Chair, including any meeting papers;

The header graphic features a teal background with a dark purple triangle on the left side. The text 'Recycling Victoria Local Government Advisory Committee Terms of Reference' is written in white, bold, sans-serif font on the right side.

## Recycling Victoria Local Government Advisory Committee Terms of Reference

- d. other administrative support (e.g. processing claims for reimbursement of remuneration and expenses); and
- e. assisting in drafting reports.

63. The Secretariat will disseminate information and papers to members in an efficient and effective manner.

64. The costs of the Committee will be met by Recycling Victoria.

### Entity review, sunset date & amendments

65. The Committee operates until 31 July 2023 or for a period of up to 12 months from the date of signature of this document (whichever is sooner).

66. The Minister may amend these Terms of Reference in writing at any time.

67. The Minister may revoke these Terms of Reference in writing at any time and upon revocation of these Terms of Reference the Committee ceases to exist.

**Dated** 27 / 06 / 2022

A handwritten signature in blue ink, appearing to read 'Lily D'Ambrosio', is positioned above the printed name.

**The Hon. Lily D'Ambrosio**  
**Minister for Environment and Climate Action**



**4. CONSIDERATION OF REPORTS CONSIDERED CONFIDENTIAL**


**5. CLOSE OF MEETING**

**CITY OF  
DAREBIN**

274 Gower Street, Preston  
PO Box 91, Preston, Vic 3072  
T 8470 8888 F 8470 8877  
E [mailbox@darebin.vic.gov.au](mailto:mailbox@darebin.vic.gov.au)  
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 **National Relay Service**  
[relayservice.gov.au](http://relayservice.gov.au)

If you are deaf, or have a hearing or speech impairment, contact us through the National Relay Service.

 **Speak your language**  
T 8470 8470

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| 繁體中文     | Македонски | Español    |
| Ελληνικά | नेपाली     | اردو       |
| हिंदी    | ਪੰਜਾਬੀ     | Tiếng Việt |