

Local Government Act 2020

Section 179

APPOINTMENT OF MUNICIPAL MONITOR

I, **Shaun Leane**, Minister for Local Government—

- (a) under section 179(1) of the *Local Government Act 2020* (the Act), APPOINT Mr Yehudi Blacher to be the Municipal Monitor to Yarra City Council (Council); and
- (b) under section 179(2) of the Act—
 - (i) FIX the amount Mr Yehudi Blacher the Municipal Monitor to the Council is entitled to be paid redacted; and
 - (ii) DETERMINE that the terms of appointment on which Mr Yehudi Blacher the Municipal Monitor to the Council holds office to be the terms specified in Schedule 1 and Schedule 2 to this instrument of appointment.

Dated: 14 / 12 / 2021



The Hon Shaun Leane MP
Minister for Local Government

SCHEDULE 1

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

Period of appointment

1. This appointment is effective for a period of six months commencing on Monday, 20 December 2021.

Powers of the Municipal Monitor

2. The powers of the Municipal Monitor are set out in section 181 of the Act.

Functions and powers of the Municipal Monitor

3. The functions of the Municipal Monitor are set out in section 180 of the Act.
4. The Municipal Monitor must perform the functions and powers under sections 180 and 181 of the Act in accordance with the Terms of Reference contained in Schedule 2 to this instrument of appointment.
5. The Municipal Monitor must provide a final report, in accordance with clause 1 of the Terms of Reference contained in Schedule 2 to this instrument of appointment, to the Minister within 7 days after the end of the period of appointment.
6. The Municipal Monitor's final report must, with respect to the matters in clause 1 of the Terms of Reference contained in Schedule 2 to this instrument of appointment, outline the following:
 - 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.
7. In the making of any report to the Minister, the Municipal Monitor must comply with the requirements of natural justice, including in the making of reports which may adversely affect the reputation of a person.

Termination and cessation of appointment

8. The Minister, without cause or notice, may terminate the appointment of the Municipal Monitor at any time and for any reason or no reason at all.
9. The appointment of the Municipal Monitor ceases if -
 - (a) the Municipal Monitor resigns in writing addressed to the Minister;
 - (b) the appointment is terminated in accordance with clause 8;
 - (c) the Municipal Monitor in the opinion of the Minister, becomes incapable of performing their duties; or
 - (d) the Municipal Monitor becomes a bankrupt or a person disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* (Cth).

Payment provisions

10. The Council must pay the Municipal Monitor the amount specified in the instrument of appointment, in accordance with section 179(3) of the Act.

11. The appointment will require approximately 1 to 2 days of work per week for the duration of the period of appointment, on work directly related to acquitting the terms of reference. A day of work is 7.6 hours.
12. The amount specified in the instrument of appointment does not include any superannuation obligations that may be payable under the *Superannuation Guarantee (Administration) Act 1992* (Cth).

Reimbursements: travel and personal expenses

13. The Municipal Monitor is eligible to be reimbursed by the Council for reasonable out-of-pocket expenses such as travelling, accommodation, meals and other incidental expenses in connection with performing the functions and exercising the powers of Municipal Monitor. Such reimbursement is not to exceed the reasonable allowance expense amounts determined by the Commissioner of Taxation for the income year in which the expense is claimed.

Leave arrangements

14. There are no leave arrangements for this statutory appointment.

Application of the Public Administration Act 2004

15. The Municipal Monitor must, at all times, act -
 - (a) in accordance with the Codes of Conduct issued under section 61 the *Public Administration Act 2004*; and
 - (b) in a manner that is consistent with the public sector values in section 7(1) of the *Public Administration Act 2004*.

Confidential Information

16. The Municipal Monitor must hold all confidential information of the Council in confidence other than for the purpose of informing or reporting to the Minister or officers of the Department of Jobs, Precincts and Regions or otherwise agreed with the Council.

Misuse of position

17. The Municipal Monitor must not misuse the position of Municipal Monitor to—
 - a. gain or attempt to gain, directly or indirectly, an advantage for themselves or any other person; or
 - b. cause, or attempt to cause, detriment to the Council or another person.

Compliance with Council policies

18. The Municipal Monitor must comply with any policies and procedures of the Council when performing the functions of Municipal Monitor including occupational health and safety policies, unless it is not reasonable to do so.

SCHEDULE 2

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 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 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 the appointment of the Chief Executive Officer;
 - 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 monitor the governance processes and practices of the Council, 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.