

7.9 Governance Rules Amendment

Executive Summary

Purpose

This report proposes options to change Rule 18A of the Governance Rules (the Rules) to remove reference to the Council prayer following community engagement.

Background

Rule 18A of the Rules allows Council meetings to commence with the Council prayer at the discretion of the Chair.

At a Council meeting on 27 February 2023, Council resolved to propose an amendment to Rule 18A to remove reference to the Council prayer and engage with the community about changing the Rules as required by section 60(4) of the *Local Government Act 2020*.

Key Issues

Community engagement

Community engagement occurred between 30 May 2023 and 20 June 2023. It was conducted through a survey on the Engage Boroondara website which sought a free text comment about the issue, but also accepted emails and calls. In summary:

- 933 unique visitors viewed the engagement page 1,457 times.
- 352 submissions were received including email and telephone submissions.
- 66 submitters (19%) suggested alternatives to the council prayer including a secular affirmation or moment of silence (41), a multi-faith rotation (12) and a voluntary gathering before the meeting to say a prayer (6).

Most submissions (about 86%) sought removal of the Council prayer from Rule 18A. About 13% supported keeping the prayer and about 1.5% did not provide an opinion.

Legal advice

Council received legal advice about how this change interacts with the Charter of Human Rights and Responsibilities. This information was circulated to relevant Councillors prior to the meeting.

As legally privileged information, this advice is considered confidential information under sections 125 and 3 of the *Local Government Act 2020*. If discussion of this information is required for Council to make a decision, Council may resolve to discuss the matter in a confidential session or to defer the matter to the confidential section of the agenda.

Officers' recommendation

Based on benchmarking and community engagement, officers recommend Council decide to proceed with one of the following three options:

1. Remove the Council Prayer from Rule 18A. No replacement as an alternative (**Attachment 1**).
2. Replace the Council Prayer in Rule 18A with a statement of commitment (**Attachment 2**).
3. Change Rule 18A to include a rotating multi-faith religious observance ***and*** a non-religious statement of commitment (**Attachment 3**).

Responsible director: Daniel Freer, Acting Chief Executive Officer

1. Purpose

This report proposes options to change Rule 18A of the Governance Rules (the Rules) to remove reference to the Council prayer following community engagement.

2. Policy implications and relevance to community plan and council plan

The Boroondara Community Plan is structured around the seven priority themes. Amending and adopting Governance Rules relates to Theme 7: Leadership and Governance in the Boroondara Community plan 2021-31.

The review of the Governance Rules is also consistent with Strategic Objective 7.1: Decision making is transparent and accountable through open governance processes with timely communication and reporting.

3. Background

Rule 18A states of Council's Governance Rules states:

"Council meetings may commence with the Council prayer and the Acknowledgement of Country. It will be at the discretion of the Chairperson at Council meetings to read the Council prayer and the Acknowledgement of Country, or to invite another councillor or a Council officer to read the Council prayer and/or the Acknowledgement of Country."

Neither the words of the Council Prayer nor the Acknowledgement of Country are prescribed in the Governance Rules. The form of the prayer has been in place since at least March 1996 and is based on the prayer read before proceedings in the Commonwealth Parliament commence.

Council resolution

At a Council meeting held on 27 February 2023, a matter of confidential urgent business was raised about the Rules and the practice of reading the Council prayer. The resulting resolution below was made public the following day:

- 1. Council propose an amendment to Rule 18A of the Governance Rules, so as to remove reference to the Council prayer;*
- 2. A process of community engagement be commenced pursuant to section 60(4) of the Local Government Act 2020, to enable a final decision to be made on whether Rule 18A will be so amended and the exact form of any amendment; and*
- 3. This Resolution be made public.*

Community engagement approach

Under the *Local Government Act 2020* (the LG Act 2020), any amendment to a Council's Governance rules must be subject to community engagement.

Section 60(4) of the LG Act 2020 sets the parameters for engagement. In this case engagement is required about proposed amendments. On this basis, proposed changes to Rule 18A were put to the community for comment.

The community engagement process commenced on 30 May 2023 and concluded on 20 June 2023. The primary method of engagement was by a survey hosted on the Engage Boroondara website. The survey was promoted on Council's homepage, social media channels and in the June Boroondara Bulletin (both print and digital). Written and telephone feedback received via email was also considered by officers. The website stated:

Our Councillors would like to inform the community of their plans to make a change to the City of Boroondara's Governance Rules, specifically Rule 18A.

Rule 18A in Council's Governance Rules gives the Mayor, as Chair of a Council meeting, the option to start a Council meeting with the Council prayer and an Acknowledgement of Country.

Council has read the Council prayer at Council meetings since the first election of Councillors in 1996. This practice is reflected in our Governance Rules adopted in 2022, and is consistent with practices applied by other councils, the state and Commonwealth governments.

Council has recently given consideration to the extent to which Rule 18A complies with the Charter of Human Rights and Responsibilities, as it relates to religious freedom. There is sufficient doubt about compliance with the charter for Council to have passed a resolution to amend Rule 18A of the Governance Rules by removing reference to the Council prayer.

Under the Local Government Act, Council is required to advertise its intention to make changes to the Governance Rules irrespective of the discretion available to Council in considering the feedback received.

The survey provided a free text field that allowed the community to provide feedback on the proposed update to Rule 18A. Council also collected some personal information such as name and property address.

Community engagement response

During the consultation period the Engage Boroondara page was viewed 1,457 times by 933 unique public or end-user visitors. A total of 326 submissions were received on this platform from a total of 310 submitters. A further 26 submissions were made by email or telephone taking the total number of submissions to 352.

The majority of submissions supported the proposed removal of reference to the Council prayer from Rule 18A. Officers note 74 submissions were submitted by individuals who reside outside of the municipality. For clarity, officers include statistics removing these submissions as set out in the table below:

	Within Municipality	Outside Municipality	Total	%age	%age within Municipality
For prayer removal	232	71	303	86.08%	83.45%
Against prayer Removal	42	3	45	12.78%	15.11%
No opinion	4	none	4	1.14%	1.44%
Total	278	74	352		

In the free text field, 66 (19%) submitters offered suggestions on a preferred way forward. These included:

- rotating prayer from multiple faiths
- non-religious commitment/ moment of contemplation
- saying the prayer at an informal gathering of Councillors before the meeting

Submitters were not prompted or asked to provide alternate options as part of the survey. Of submissions that provided an alternative, the majority preferred a secular statement of commitment or moment of silent reflection. Details of alternate responses are in the table below:

	Within Municipality	Outside Municipality	Total	%age	%age within Municipality
Secular affirmation or moment of silence	34	7	41	11.65%	12.23%
Multifaith rotation	12	1	13	3.69%	4.32%
Individual or group prayer before meeting	6	6	12	3.41%	2.16%
Other	1	none	1	0.28%	0.36%
No opinion provided	225	60	285	80.97%	80.94%
Total	278	74	352		

4. Outline of key issues/options

There are broadly three options for Council to consider:

1. Remove the Council Prayer from Rule 18A with no replacement.
2. Remove the Council Prayer from Rule 18A and include a statement of commitment.
3. Remove the Council Prayer from Rule 18A and include a rotating multi-faith religious observance and a non-religious statement of commitment.

The fourth option of individual prayers or a group prayer before the meeting does not require any inclusion in the Governance Rules. It can be incorporated as option 1 and thus is not included as a separate option.

Option 1 - Remove Council Prayer with no replacement

This option accords with the majority response in the community engagement of 86%. This removes the opportunity for Councillors to reflect as a group before a Council meeting.

Option 2 - Replace Council Prayer with a statement of commitment

On benchmarking other Councils, this was the approach most commonly taken.

Option 3 - Replace Council Prayer with a rotating multi-faith observance and non-religious statement of commitment

Collectively, this option was suggested in 54 (15%) community responses in circumstances where the survey did not ask the community to provide an alternate approach. This suggests support in the community as an alternative to removing the Council Prayer.

With this option, rule 18A would be amended to refer “a prayer” not the council prayer, and that prayer would have to be not “exclusively Christian”. Prayers of different faith would be rotated. The amended Rule will also require a non-religious statement of commitment at each meeting rather than being part of the rotation.

5. Consultation/communication

Community consultation was conducted as described above.

6. Financial and resource implications

The cost to amend the Rules and publish new Rules will be captured by the Governance and Legal operational budget. There is no significant resource required to implement each of the four options outlined above which will also be within operational budget.

7. Governance issues

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

Council received legal advice about how the current Governance Rules, and suggested changes interact with the Charter of Human Rights and Responsibilities. This information was circulated to relevant Councillors prior to the meeting.

8. Social and environmental issues

No environmental issues were identified in preparing this report. Social issues are recognised as part of the foregoing report.

**Manager &
report officer:**

Bryan Wee, Manager Governance and Legal

Option 1

That Council resolved to amended Rule 18A of the Governance Rules to remove all reference to the Council prayer

18A. Council Prayer and Acknowledgement of Country

Council meetings may commence with ~~the Council prayer and~~ the Acknowledgement of Country. It will be at the discretion of the Chairperson at Council meetings to read ~~the Council prayer and~~ the Acknowledgement of Country, or to invite another councillor or a Council officer to read ~~the Council prayer and/or~~ the Acknowledgement of Country.

Option 2

That Council resolved to amended Rule 18A of the Governance Rules to:

1. Remove all reference to the Council prayer; and
2. Enable Council meetings to commence with a statement of commitment.

18A. Council Prayer and Acknowledgement of Country

Council meetings may commence with ~~the Council prayer and~~ the Acknowledgement of Country ~~and a statement of commitment~~. It will be at the discretion of the Chairperson at Council meetings to read ~~the Council prayer and~~ the Acknowledgement of Country ~~and the statement of commitment~~, or to invite another councillor or a Council officer to read ~~the Council prayer and/or~~ the Acknowledgement of Country ~~and/or the statement of commitment~~.

Option 3

That Council resolved to amended Rule 18A of the Governance Rules to:

1. Remove all reference to the Council prayer; and
2. Enable Council meetings to commence with a rotating multi-faith religious observance and a non-religious statement of commitment.

18A. Council Prayer and Acknowledgement of Country

Council meetings may commence with ~~the Council prayer and~~ the Acknowledgement of Country ~~and a religious observance on a monthly rotation.~~

It will be at the discretion of the Chairperson at Council meetings to read ~~the Council prayer and~~ the Acknowledgement of Country ~~and the rotating multi-faith religious observance~~, or to invite another councillor or a Council officer to read ~~the Council prayer and/or~~ the Acknowledgement of Country ~~and/or the rotating multi-faith religious observance.~~

~~The Chairperson may also invite a representative from the applicable faith to present the religious observance.~~

~~All Council meetings which commence with a rotating multi-faith religious observance must also commence with a non-religious statement of commitment.~~