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AGENDA

UNSCHEDULED MEETING OF COUNCIL **FOR** **THURSDAY 2 FEBRUARY 2023** **TO BE HELD AT COUNCILLOR BRIEFING ROOM** **44 STATION STREET COBRAM VIC 3644** **COMMENCING AT 9:30 AM**

RECORDING

Consistent with section 13.3 of our Governance Rules, Council officers have been authorised to record the public session of this meeting using an audio recording device.

LIVE STREAMING

Council meetings will now be lived streamed to allow those interested in viewing proceedings greater access to Council decisions and debate, without attending the meeting in person.

1. WELCOME CALLING TO ORDER - CEO

2. PRAYER

Almighty God we humbly ask you to guide our deliberations for the welfare and benefit of the Moira Shire and its people whom we serve.

Amen

3. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

We, the Moira Shire Council, would like to acknowledge the traditional owners of the land upon which we meet and pay our respects to their Elders both past and present.

4. APOLOGIES / LEAVE OF ABSENCE

5. DECLARATION UNDER ACTS, REGULATIONS, CODES OR LOCAL LAWS

6. DISCLOSURE OF CONFLICTS OF INTEREST

7. OFFICER REPORTS FOR DETERMINATION

7 CORPORATE GOVERNANCE AND PERFORMANCE

7.1 SUBMISSION TO THE COMMISSION OF INQUIRY

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8. CLOSE OF MEETING

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 7.1
(MANAGER GOVERNANCE AND
PERFORMANCE, AMANDA CHADWICK)
(CHIEF EXECUTIVE OFFICER, CLARE
KEENAN)

SUBMISSION TO THE COMMISSION OF INQUIRY

Recommendation

That Council endorse the final submission to the Commission of Inquiry prepared by Hunt & Hunt Lawyers on behalf of the Councillors.

1. Executive Summary

A submission to the Commission of Inquiry has been prepared by Hunt & Hunt Lawyers in consultation with the Councillors following the Council resolution on 23 January 2023.

2. Conflict of interest declaration

There are no conflict of interest considerations in relation to this report.

3. Background & Context

On 28 October 2022, a Commission of Inquiry into Moira Shire Council was appointed under section 200 of the *Local Government Act 2020*.

At an Unscheduled Meeting on 23 January 2023 Council resolved to engage Hunt & Hunt Lawyers to prepare a draft submission to the Commission of Inquiry.

The final submission enables the Commission of Inquiry to understand the context of the Councils working environment and the effectiveness of the functional group of Councillors.

4. Issues

The Commission was established to conduct an inquiry into the affairs of the Council.

The Terms of Reference include an inquiry into the matter relating to the affairs of Moira Shire Council through the examination of:

- The confidential advice provided to the Minister for Local Government by the municipal monitor dated 7 October 2022 and the confidential letter provided by the Australian Services Union dated 5 October 2022;
- Any matters affecting the Councillors' performance of their roles;
- Any matters affecting the Council administration's performance, including human resource practices;
- The efficiency and effectiveness of the Council's governance arrangements in delivering services to its constituents, including financial management and community engagement practices; and
- Any other matters identified by the Commission of Inquiry that have an impact on the Council's ability to function.

The Commission is required to report to the Minister for Local Government by 28 February 2023.

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SUBMISSION TO THE COMMISSION OF INQUIRY (cont'd)

5. Strategic Alignment

This report aligns with the Council Plan objection of Transparent and Accountable Governance.

6. Internal & External Engagement

The Councillors met as a group with the Managing Principal from Hunt & Hunt Lawyers to discuss and finalise the submission.

No external engagement was conducted.

7. Budget / Financial Considerations

There are no budget considerations in relation to this report.

8. Risk & Mitigation

The lodgment of a submission to the Commission of Inquiry will provide the Councillors with an opportunity to provide context to the working environment and their effectiveness as a functioning group.

9. Conclusion

A submission has been prepared by Hunt & Hunt Lawyers in consultation with the Councillors to the Commission of Inquiry, which is ready for consideration by the Councillors as a group.

Attachments

- 1 Submission to the Moira Shire Council Commission of Inquiry

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SUBMISSION TO THE COMMISSION OF INQUIRY (cont'd)

ATTACHMENT No [1] - Submission to the Moira Shire Council Commission of Inquiry

**SUBMISSION TO MOIRA SHIRE COUNCIL
COMMISSION OF INQUIRY
FROM MOIRA SHIRE COUNCILLORS**



We, the current Councillors of Moira Shire Council make this formal joint submission to the Moira Shire Commission of Inquiry.

HISTORIC CONTEXT

Councillors consider that it is important that the Commission has some understanding of the unusual and difficult circumstances faced by newly elected Moira Shire Councillors shortly after the 24 October 2020 Council election with the tragic deaths of an elected Councillor and a Council staff member in two separate incidents.

It is possible that these two tragic events and the drawn-out grieving and healing process that followed caused some focusing of Councillor and Officer attention at times away from operational matters towards the community healing process.

The current Councillors are by no means proposing that these events would be a valid excuse were any failure to observe requirements under the Local Government Act to be identified. However, Councillors simply ask the Commission to acknowledge and consider that Council has operated under very difficult and unique circumstances as a result of and since these tragic events.

CAPITAL WORKS BACKLOG

Councillors acknowledge that there is a significant backlog in capital works projects at Moira Shire.

Moira Shire's experience with capital works project delays occasioned by cost blowouts and contractor shortages is typical for local governments across Australia presently. Global fuel and supply shortages, soaring prices, worker availability constraints and a third consecutive La Nina wet weather system have had an unprecedented impact on municipal capital works programs across Australia.

Council has endured a significant flood event which not only prevented many capital works projects from progressing due to the climactic conditions, but also required Council's resources to be redirected to responding to the resulting needs of the community. It is estimated that the recent flood event has resulted in a \$70 million repair bill.

Council's two largest projects, the Yarrowonga Library and the Yarrowonga Multi-Sports Pavilion have been plagued by issues concerning completion of architectural design and compiling of associated technical information and specifications for construction. It should also be noted that the time taken to formalise the federal government's contribution to the multi-sports pavilion necessarily delayed this project, with funding being uncertain for quite some time after the most recent federal election.

Progression of Stage 1 of the Numurkah Levee Project continues, with planning and design well underway and actual construction planned to commence in October 2023. It is important that Council takes the necessary time to ensure all modelling and design is correct in order to provide the required safety and assurance to the community. Strong relationships have been re-formed with community representatives and, while such a project will almost always create community conjecture and debate (as it is very difficult to afford the same level of flood protection to all) there is proven overall community benefit from the project.

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High level planning for subsequent stages of the project are also in progress, noting they must be considered so that ultimate levee heights, including freeboard requirements, cater for the worst case scenario for the design flood being a 1 in 100 year flood event.

Councillors continue to work closely with the organisation in considering measures to prevent continued carry over of capital funding including through refinement of existing capital works programs, redesign of project submissions, fully embedding Council's project management framework and supporting processes and systems and ensuring projects are not considered for construction until thorough project scope and estimates are defined and certainty obtained in relation to associated permits and approvals.

Whilst Council's 21/22 adopted budget did not disclose carried forward capital works, this omission was rectified in the 2022/2023 adopted budget.

Council is committed to developing a Carry Forward Capital Works Policy in accordance with the recommendations of both the Victorian Auditor General's Office and the Moira Municipal Monitor.

The CEO's performance plan for 2022/2023 includes a key performance indicator to have a 10 year capital works plan in place by 30 June 2023. This plan will further assist in the proper planning of capital works projects.

The Chair of Council's Audit and Risk Committee requested in September 2022 a report for the February 2023 Audit and Risk Committee meeting that details the projects in the Carried Forward Reserve, providing another level of oversight of Council capital works projects.

Council continues to engage with community stakeholders to encourage them to undertake fundraising to contribute towards the Yarrowonga Multi-Sports Stadium Project with a current proposed fundraising target of \$1 million.

Council is well-placed now to rectify the current issues with its capital program and expects these to be reduced to less than 10% by the conclusion of the 2023/2024 financial year.

Moira Shire Councillors remain committed to seeing all these worthy projects commenced and completed at the earliest opportune time.

AN EFFECTIVE AND FUNCTIONAL GROUP OF CURRENT COUNCILLORS

The resignation of the then longstanding Mayor Councillor Libro Mustica from Moira Shire Council on 3 November 2022 led to a reset of Councillor relationships. The new Mayor Councillor Peter Lawless has adopted his own inclusive approach to Councillor discussions. This has eliminated the previous concerns of some Councillors who had felt excluded under the previous Mayor. The current Councillor group has advocated for more regular Council meetings, required improved financial reporting to Councillors, actioned comprehensive reporting on Council's capital works program and is focused on improving consultation and communication with ratepayers.

The four new Councillors appointed this Council term through a countback process conducted by the Victorian Electoral Commission have each brought valuable skills and abilities to Council.

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Councillor Wendy Buck is a graduate of the Australian Institute of Company Directors and brings coveted governance expertise including having served previously for over 10 years on Council and twice as Deputy Mayor. Councillor Buck also has tertiary qualifications in sustainability and event management and is a graduate of the Fairley Leadership Program. Councillor Buck's particular skills and experience will continue to have a key positive influence.

Councillor Scott Olson has extensive knowledge of the local grains marketing industry and brings substantial networks and connections with local business and industry to the current Councillor group to assist in our consultative processes and understanding of community wishes and needs.

Councillors respectfully submit that it would only unfairly punish the Moira Shire Council community and detract from the delivery of local democracy and representation were the current Councillors not be allowed to continue in their present roles. In this regard, it is noteworthy that Councillors also sit on numerous external bodies across the Shire and therefore are kept well-informed of community concerns.

It is critical to the successful completion of the key capital works projects that a strong Councillor team with extensive knowledge of community expectations and an ability to marshal necessary volunteer contributions and efforts from community is maintained.

In this regard the current Councillors are committed to acknowledging the upcoming Commissioners' report when released and carefully considering and adopting any recommendations.