



**ORDINARY COUNCIL (TOWN PLANNING) MEETING OF
THE HUME CITY COUNCIL**

MONDAY, 28 FEBRUARY 2022

7.00PM

HUME GLOBAL LEARNING CENTRE, CRAIGIEBURN

CONFIRMED - 15 MARCH 2022

HUME CITY COUNCIL

Minutes of the

ORDINARY COUNCIL (TOWN PLANNING) MEETING OF THE HUME CITY COUNCIL

held on Monday, 28 February 2022

at 7.00PM

at the Hume Global Learning Centre, Craigieburn

To:	a: Council	Cr Carly Moore Cr Sam Misho Cr Joseph Haweil Cr Jack Medcraft Cr Jarrod Bell Cr Trevor Dance Cr Chris Hollow Cr Jodi Jackson Cr Naim Kurt Cr Jim Overend Cr Karen Sherry	Mayor Deputy Mayor
	b: Officers	Ms Sheena Frost Mr Hector Gaston Mr Michael Sharp Ms Fiona Shanks Mr Peter Waite Mr Daryl Whitfort Mr James McNulty Ms Megan Kruger Ms Joanne Grindrod	Chief Executive Officer Director Community Services Director Planning and Development Acting Director Communications, Engagement and Advocacy Director Sustainable Infrastructure and Services Director Corporate Services Manager Statutory Planning and Building Control Services Manager Governance Acting Team Leader, Governance

Proceedings to be Recorded

The Mayor reminded Councillors and members of the Gallery that an audio recording of the Council meeting will be made and published to Council's website within 2 working days of the meeting.

Gallery Behaviour

The Mayor reminded the gallery that Council's Code of Meeting Procedures requires the gallery to be silent at all times, and that members of the gallery must not interject or take part in the debate. Any person who is called to order, may be asked to leave the Chamber. The Mayor advised that notwithstanding this, he will invite members of the gallery to speak, for up to three minutes either in support of or against an officer's recommendation.

ORDER OF BUSINESS**1. ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THIS LAND**

The Mayor read the following:

"Hume City Council recognises the rich Aboriginal heritage within the municipality and acknowledges the Wurundjeri Woi Wurrung, which includes the Gunung Willam Balluk clan, as the Traditional Custodians of this land.

Council embraces Aboriginal and Torres Strait Islander living cultures as a vital part of Australia's identity and recognises, celebrates and pays respect to the existing family members of the Wurundjeri Woi Wurrung and to Elders past, present and future."

2. PRAYER

The Mayor read the following:

"Almighty God, we humbly beseech Thee to vouchsafe Thy blessing upon this Council. Direct and prosper its deliberations to the advancement of Thy glory and the true welfare of the people of the Hume City."

Amen

3. APOLOGIES

NIL

4. DISCLOSURE OF INTEREST

Councillors' attention is drawn to the provisions of the Local Government Act 2020 and Council's Governance Rules in relation to the disclosure of conflicts of interests. Councillors are required to disclose any conflict of interest immediately before consideration or discussion of the relevant item. Councillors are then required to leave the Chamber during discussion and not vote on the relevant item.

NIL

5. CONDOLENCE MOTIONS

NIL

6. PRESENTATION OF AWARDS

NIL

SUSPENSION OF STANDING ORDERS

7:07pm Moved Cr Joseph Haweil, **Seconded** Cr Jarrod Bell

That standing orders be suspended.

The following Councillors spoke on the humanitarian crisis in Ukraine, support for the Ukrainian community and their hope for a negotiated and peaceful resolution to this conflict.

Cr Joseph Haweil, Cr Jarrod Bell, Cr Naim Kurt, Cr Sam Misho.

CARRIED

RESUMPTION OF STANDING ORDERS

7:24pm Moved Cr Joseph Haweil, **Seconded** Cr Jodi Jackson
That standing orders be resumed.

CARRIED**7. OFFICER'S REPORTS****Reports Identified as Requiring Individual Discussion****SUSTAINABILITY AND ENVIRONMENT**

Report No.	Report	Page in Agenda
SU618	Statutory Planning Monthly Report - December 2021	11

Moved Cr Jack Medcraft, **Seconded** Cr Trevor Dance
That the report be noted.

CARRIED**GOVERNANCE AND ENGAGEMENT**

Report No.	Report	Page in Agenda
GE599	Correspondence received from or sent to Government Ministers or Members of Parliament - December 2021 and January 2022	27

Moved Cr Karen Sherry, **Seconded** Cr Jodi Jackson

That Council notes this report on correspondence received from or sent to Government Ministers or Members of Parliament.

CARRIED

Report No.	Report	Page in Agenda
GE600	Council Plan 2021-2025 (2021/22 Actions) Second Quarter Progress Report	49

Moved Cr Karen Sherry, **Seconded** Cr Jarrod Bell

That Council notes the progress of:

- actions and indicators of the *Council Plan 2021-2025 (2021/22 Actions)* [refer Attachments One and Two],
- actions of the *COVID-19 Recovery and Reactivation Plan* [refer Attachment Three].

CARRIED

Report No.	Report	Page in Agenda
GE601	Local Government Performance Reporting Framework - Six Monthly Report 2021/22	151
	Moved Cr Karen Sherry, Seconded Cr Sam Misho	
	That the Council notes the 2020/21 financial year LGPRF results across Council type (Attachment One), the last six financial years comparative graphs (Attachment Two) and the 2020/21 LGPRF data (Attachment Three) provided for the six months to 31 December 2021.	
		CARRIED

8. ITEMS TO BE TABLED

The Mayor advised Council that there was one item to be tabled at this meeting, being that in accordance with section 147(4) of the *Local Government Act 2020*, the arbiter's decision and statement of reasons on the matter of an Application by Councillor Trevor Dance concerning Councillor Jack Medcraft (attached) is tabled and recorded in the minutes of the meeting.

INTERNAL ARBITRATION PROCESS - HUME CITY COUNCIL IAP 2021-8

In the matter of an Application by Councillor Trevor Dance concerning Councillor Jack Medcraft

HEARING PURSUANT TO DIVISION 5 OF PART 6 OF THE *LOCAL GOVERNMENT ACT 2020*

Applicant: Councillor Trevor Dance

Respondent: Councillor Jack Medcraft

Date of hearing: Wednesday, 8 December 2021

Place of hearing: Hume Global Learning Centre, 44 Macedon Street, Sunbury.
(Applicant attended via Council's Zoom platform).

Arbiter: Simon Heath

DETERMINATION:

The Arbiter determines that there has been no breach of the prescribed standards of conduct by Cr Medcraft and, as such, no finding of misconduct is made.

The Arbiter therefore dismisses the Application.

STATEMENT OF REASONS FOR DECISION**The Application**

1. The 'Application for an Internal Arbitration Process' is dated 9 May 2021 (**Application**).
2. The Application was completed and signed by Cr Dance. It is clear however from paragraph 3 of the Application, from the material annexed to the Application and from the evidence at the hearing, that Cr Dance was conducting the internal arbitration process for and on behalf of Mr Bobby Koroneos.
3. Although the Application named three Respondents, the applications against two of them were rejected by the Principal Councillor Conduct Registrar under section 144 of the *Local Government Act 2020* (**Act**). Accordingly, the internal arbitration process proceeded only against Cr Medcraft.
4. In the Application, the Applicant seeks a finding of misconduct against the Respondent in relation to alleged breaches of the prescribed standards of conduct during a meeting of the Hume City Council held on Friday 26 April 2021 (**meeting**).
5. It is alleged that during the meeting the Respondent attempted to coerce other councillors to vote against the Applicant's motion by gesturing, and that the Respondent not only improperly named Mr Koroneos but also was abusive to him.

Arbiter's jurisdiction

6. Section 143 of Act provides that an Arbiter may hear an Application that alleges misconduct by a Councillor.
7. The Arbiter was appointed pursuant to section 144 of the Act following the withdrawal of the previously appointed Arbiter for personal reasons.
8. Pursuant to section 147 of the Act, an Arbiter may determine whether a Councillor has engaged in misconduct.
9. "Misconduct" is defined in section 3 of the Act as:
"...any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct" (**Code**)
10. The "prescribed standards of conduct" are set out in Schedule I to *Local Government (Governance and Integrity) Regulations 2020* (**Standards**). A copy of the Standards is attached as 'Annexure A'.
11. The relevant Standards in the Code which the Applicant alleges the Respondent breached are:
Clause 1 Treatment of others
Clause 2 Performing the role of Councillor
Clause 3 Compliance with good governance measures

Clause 4 Councillor must not discredit or mislead Councilor public

12. The Applicant also alleges the Respondent breached the Council's Code of Conduct (**COC**) and the Council's Privacy Policy (**Policy**).

Hearings

13. The internal arbitration process comprised a Directions hearing on 19 November 2021, further Directions were given on 22 November 2021, and the hearing was held on 8 December 2021.
14. The Applicant was permitted to attend the hearing via the Council's Zoom platform. The Respondent appeared in person.

Evidence

15. The Arbiter advised the parties that he had viewed the video recording of the meeting and had read the 'Transcript of Proceedings' therefrom.

Applicant's evidence

16. The Applicant's written evidence comprised the Application, with copy emails attached, a Statutory Declaration of Bobby Koroneos declared on 19 July 2021, the Policy, and the Code.
17. The Applicant also gave oral evidence at the hearing. The Applicant's evidence summarised the matters and the allegations set out in the Application, namely that the Respondent had breached Mr. Koroneos' right to privacy, had used abusive language towards him, had failed to declare a conflict of interest and had coerced other councillors how to vote.
18. The Applicant submitted that the Respondent had breached clauses 3.1, 3.2, 5.1.1, 5.2.1, 5.2.2, 6 and 7 of the Policy, and clauses 4, 5 and Schedule 1 of the COC.
19. The Applicant also submitted that the Respondent had breached the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**) by naming Mr. Koroneos.

Respondent's evidence

20. The Respondent gave oral evidence at the hearing. The Respondent denied that he breached the Standards.
21. The Respondent said the comments he made in the meeting were in response to the emails from Mr. Koroneos in relation to long-standing issues with the 'Sinclair Landfill' site (**site**). The Respondent described those emails as abusive not only to himself but also to Council staff.

22. The Respondent noted that Mr. Koroneos had advised that a complaint against him and Council staff would be submitted to the Local Government Inspectorate.
23. The Respondent noted that, as is evidence by Mr. Koroneos' email to the Applicant dated 3 May 2021 set out in the Application, Mr. Koroneos did not see or hear the meeting and that the Applicant brought it to his attention afterwards.

Arbiter's findings

24. The Arbiter finds that the Respondent has not breached the Standards and, as such, no finding of misconduct is made.
25. As there has been no breach, the Arbiter dismisses the Application.

Arbiter's Reasons

26. Having had the benefit of being able to view the video recording of the meeting, the Arbiter does not find that the Respondent attempted to coerce other Councillors to vote against the motion by shaking his head and waving his hands. The Arbiter notes that the motion was lost 9 votes to 2.
27. The Arbiter also finds that there was nothing improper about the Respondent having a conversation with the Council Officer at the meeting.
28. Putting aside the fact that it was well known that Mr. Koroneos has issues with the site, the Arbiter finds that it was unnecessary and inappropriate for the Respondent to have named Mr. Koroneos in the meeting.
29. While the Applicant alleges that that Mr Koroneos was only mentioned in "private and confidential emails" the Arbiter notes that Mr. Koroneos' emails attached to the Application however were not only sent to Councillors but also to Council staff.
30. The Arbiter finds that the Respondent's comments in in the meeting were triggered by the tone and content of Mr. Koroneos' emails, many of which challenged the integrity of the Respondent, the Council and its staff.
31. While the Respondent's comments show a lack of judgement, considering the circumstances involved, the Arbiter is not satisfied that they amount to a breach of the prescribed Standards.
32. Importantly, the Respondent emailed a written apology to Mr Koroneos dated 17 May 2021. The Respondent admitted that his "behaviour and comments" in a "public forum" were "inappropriate" and apologised for any "distress" caused. The Respondent said he looked forward to working with Mr. Koroneos to resolve issues in relation to the site.

33. While Mr. Koroneos was not prepared to accept it, the Arbiter finds that the apology was appropriate and genuine.
34. The Arbiter does not find that the Respondent failed to declare a conflict of interest in the meeting. Indeed, the Respondent openly indicated a pre-existing relationship with the Respondent.
35. The Arbiter does not find that the Respondent failed in performing his role as a Councillor.
36. The Applicant also does not find that the Respondent brought discredit upon the Council or that he misled the Council or the public in any way.
37. The Applicant's submission that the Respondent had breached clauses of the Policy is misguided. The Policy relates to compliance with the Privacy and Data Protection Act 2014 which is irrelevant to the matters outlined in the Application.
38. Similarly, the Applicant's submission that the Respondent breached the Charter is misguided. As the Respondent is not a "public authority", the Charter does not apply to him.

Simon Heath

Arbiter

Dated: 22 December 2021

Appendix A

Schedule 1—Standards of conduct

1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

- (a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the **Equal Opportunity Act 2010**; and
- (b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

- (a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- (d) any directions of the Minister issued under section 175 of the Act.

4 Councillor must not discredit or mislead Council or public

- (1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- (2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

5 Standards do not limit robust political debate

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

9. CLOSURE OF MEETING

The meeting closed at 8:13PM

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COUNCILLOR CARLY MOORE
MAYOR