



REPORT COMMITTEE OF THE WHOLE COUNCIL 26 JULY 2021

PRESENT: Councillors J Diffey, V Etheridge, D Grant, A Jones, S Lawrence, G Mohr, K Parker and J Ryan.

ALSO IN ATTENDANCE:

The Chief Executive Officer, the Executive Manager People, Culture and Safety, the Executive Manager Governance and Internal Control, the Governance Team Leader, the Administration Officer Governance, the Communications Partner, the Director Organisational Performance, the Director Culture and Economy, the Director Infrastructure, the Director Development and Environment, the Manager Building and Development Services, the Manager Growth Planning (N Allatt) and the Director Liveability (I McAlister).

Councillor S Lawrence assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 6.14 pm.

CW21/13 INDEPENDENT INVESTIGATION REPORT (ID21/1212)

The Committee had before it the report dated 12 July 2021 from the Chief Executive Officer regarding Independent Investigation Report.

Moved by Councillor A Jones and seconded by Councillor J Diffey

MOTION

That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned alleged contraventions of any code of conduct requirements applicable under Section 440 (Section 10A(2)(i)).

Moved by Councillor J Diffey and seconded by Councillor J Ryan

MOTION

1. That the information contained within the report of the Chief Executive Officer dated 26 July 2021, be noted.
2. That the Chief Executive Officer implement the following recommendations of the Independent Investigator, that:

- a) Council adopts a checklist for the initial triage of Code of Conduct complaints.
 - b) Council ensures Code of Conduct complaints are dealt with only by authorised persons.
 - c) The role of the Internal Ombudsman is limited to that permitted by the Procedures.
 - d) Council ensures that Preliminary Assessments and investigations are not carried out by any person directly employed by Council.
 - e) Council undertakes additional training of Council staff as to the recording, triage, preliminary assessment, investigation and resolution stages of handling of Code of Conduct complaints.
 - f) Council provides a structured process through which Council staff can make a Code of Conduct complaint, including anonymously.
 - g) Council reinforces the obligation of Councillors and Council staff not to engage in inappropriate interactions in relation to Council business (including complaint handling).
 - h) Where inappropriate interactions are reported, deal with those matters as alleged serious breaches of Council's Code of Conduct.
3. That it be noted that the Chief Executive Officer is obliged to refer any findings of alleged misconduct relating to former Councillors and former staff to the Office of Local Government and other relevant agencies for their consideration.

Moved by Councillor S Lawrence and seconded by Councillor J Ryan

AMENDMENT

- 1. That the information contained within the report of the Chief Executive Officer dated 26 July 2021, be noted.**
- 2. That the Chief Executive Officer implement the following recommendations of the Independent Investigator, that:**
 - a. Council adopts a checklist for the initial triage of Code of Conduct complaints.**
 - b. Council ensures Code of Conduct complaints are dealt with only by authorised persons.**
 - c. The role of the Internal Ombudsman is limited to that permitted by the Procedures.**
 - d. Council ensures that Preliminary Assessments and investigations are not carried out by any person directly employed by Council.**
 - e. Council undertakes additional training of Council staff as to the recording, triage, preliminary assessment, investigation and resolution stages of handling of Code of Conduct complaints.**
 - f. Council provides a structured process through which Council staff can make a Code of Conduct complaint, including anonymously.**
 - g. Council reinforces the obligation of Councillors and Council staff not to engage in inappropriate interactions in relation to Council business (including complaint handling).**
 - h. Where inappropriate interactions are reported, deal with those matters as alleged serious breaches of Council's Code of Conduct.**

3. That it be noted that the Chief Executive Officer is obliged to refer any findings of alleged misconduct relating to former Councillors and former staff to the Office of Local Government and other relevant agencies for their consideration.
4. That Council notes its desire to publicly release the full independent investigator report and notes the strong public interest in the community understanding the rationale for the recommendations and the findings made.
5. That Council request further specialist legal advice be obtained in regard to making available to the public the Independent investigation report ensuring Council meets its procedural fairness and legislative obligations.
6. That a workshop of councillors be held once the specialist legal advice is obtained.
7. That a report to be brought to the September meeting of council addressing the question of whether the report can be made public.

The amendment on being put to the meeting was carried.

CARRIED

The amendment then became the motion and on being put to the meeting was carried.

CARRIED

CW21/14 LAND-LOCKED PARCEL AT 8A MONTEFIORES STREET, MONTEFIORES (ID21/1148)

The Committee had before it the report dated 2 July 2021 from the Manager Property and Land Development regarding Land-Locked Parcel at 8A Montefiores Street, Montefiores.

Moved by Councillor A Jones and seconded by Councillor J Diffey

MOTION

That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business (Section 10A(2)(c)).

Moved by Councillor A Jones and seconded by Councillor K Parker

MOTION

1. That the report of the Manager Property and Land Development, dated 2 July 2021, be noted.
2. That Council agree to purchase 10 Montefiores Street, Montefiores on the following key terms:
 - a. Purchase price - \$240,000 (including GST, if applicable);
 - b. Deposit - \$10,000;
 - c. Settlement Date – 30 days from contract date; and
 - d. Legal costs – Each party to pay their own legal costs.

3. That upon acquisition of 10 Montefiores Street, Montefiores, Council:
 - a. classifies the property as operational land pursuant to s31 of the *Local Government Act 1993* (NSW);
 - b. at its own cost:
 - i. establish an easement for right of access and an easement for services over 10 Montefiores Street, Montefiores in favour of 8A Montefiores Street, Montefiores;
 - ii. facilitate the removal of the easement for right of carriageway over the title to 8 Montefiores Street, Montefiores; and
 - iii. facilitate the amendment of the easement for services over the title to 8 Montefiores Street, Montefiores.
4. That the Chief Executive Officer be authorised to negotiate and finalise all matters relating to this report.
5. That all documentation in relation to this matter be executed under Power of Attorney.
6. That the documents and considerations in relation to this matter remain confidential to Council.

CARRIED

Councillor D Grant declared a non-pecuniary, less than significant interest in the matter now before the Committee and remained in the room during the Committee's consideration of this matter. The reason for such interest is that Councillor D Grant owns a house in the Montefiores estate, which is a significant distance from the main thoroughfare being discussed resulting in no foreseeable benefit, and that such interest will not influence his decision.

CW21/15 TENDER FOR CONSTRUCTION OF CULVERTS - STAGE 3 - OLD MENDOORAN ROAD DUBBO (ID21/1219)

The Committee had before it the report dated 13 July 2021 from the Project Engineer regarding Tender for Construction of Culverts - Stage 3 - Old Mendooran Road Dubbo.

Moved by Councillor A Jones and seconded by Councillor J Diffey

MOTION

That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business (Section 10A(2)(c)).

Moved by Councillor G Mohr and seconded by Councillor J Diffey

MOTION

1. That, in accordance with Clause 178 (1)(b) of the Local Government (General) Regulation 2005, Council decline to accept any tenders received for T21-023 Construction of Culvert for Old Mendooran Road - Stage 3, as the tenders received are non-conforming.
2. That in accordance with Clause 178 (3)(e) of the Local Government (General) Regulation 2005, Council enter into negotiations with DC Civil Enterprises Pty Ltd.
3. That Council not invite fresh tenders for the Construction of Culverts on Old Mendooran Road - Stage 3, as a new tender process is unlikely to provide a better result for Council.
4. That in accordance with Clause 178(4)(b) of the Local Government (General) Regulation 2005, DC Civil Enterprises Pty Ltd provided the lowest competitive price and demonstrated delivery of the project in accordance to the Scope of Works within the scheduled time.
5. That the documents and considerations in relation to this matter remain confidential to Council.

CARRIED

The meeting closed at 6.44 pm.

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CHAIRMAN