



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

TUESDAY, 26 APRIL 2022

TOWN HALL BROADMEADOWS

CONFIRMED - 9 MAY 2022

THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK

HUME CITY COUNCIL

Minutes of the
ORDINARY COUNCIL (TOWN PLANNING) MEETING OF THE HUME CITY COUNCIL
held on Tuesday, 26 April 2022
at 7.03PM
at the Town Hall Broadmeadows

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

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

An apology was received from Cr. Jodi Jackson.

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.

Cr Karen Sherry declared a conflict of interest in *Report SU626 - 3 Milton Place Gladstone Park* by way of close association with someone associated with an objection to this application.

5. CONDOLENCE MOTIONS

Nil

6. PRESENTATIONS

Nil

7. OFFICER'S REPORTS

HEALTHY AND SAFE

Report No.	Report	Page in Agenda
HE130	Sports Aid Grants – April 2022	13

Moved Cr Jack Medcraft, **Seconded** Cr Jarrod Bell

2.1 That Council award 5 individuals Hume City Council Sports Aid Grants:

Name	Sport	Travel Category
Tara Murphy	Horse Riding	Regional
Luis Dixen	Soccer	Interstate
Vivaan Upadhahay	Tennis	Regional
Tyler Theodore	Swimming	Interstate
Marcus Chamberlain	Softball	Interstate

CARRIED

SUSTAINABILITY AND ENVIRONMENT

Report No.	Report	Page in Agenda
SU625	30 Sunset Boulevard, Jacana - development of four dwellings	17

The Chief Executive Officer read out a submitted statement to Council on behalf of Mr Peter Shine for item *SU625 - 30 Sunset Boulevard, Jacana - development of four dwellings*.

Moved Cr Karen Sherry, **Seconded** Cr Naim Kurt

ALTERNATE MOTION:

That Council, having considered the application on its merits, resolves to issue a Notice of Refusal to Grant a Planning Permit for the development of four dwellings at 30 Sunset Boulevard, Jacana, on the following grounds:

1. The proposal represents an overdevelopment of the site.
2. That the double-storey built form will be unacceptably dominant within the streetscape and is inconsistent with the existing neighbourhood character.
3. The proposal will cause material detriment to neighbouring residents, by way of noise, privacy and traffic related matters.
4. The proposal provides for limited open space which is inconsistent with the existing neighbourhood character and larger backyards.
5. The proposal is contrary to the orderly planning of the area.

CARRIED

A division was requested: The result of the division was as follows:

For	Against
Cr Trevor Dance	Cr Jarrod Bell
Cr Chris Hollow	Cr Joseph Haweil
Cr Naim Kurt	Cr Jack Medcraft
Cr Carly Moore	Cr Sam Misho
Cr Karen Sherry	Cr Jim Overend

Report No.	Report	Page in Agenda
SU626	3 Milton Place, Gladstone Park - Development of land for one dwelling to the rear of the existing dwelling	43

Cr Karen Sherry declared a conflict of interest in *item SU626 - 3 Milton Place Gladstone Park* by way of close association with someone associated with the objections to this application.

Councillor Karen Sherry left the meeting, the time being 7:41pm prior to a motion being moved on item *SU626 - 3 Milton Place Gladstone Park* and did not vote on the item.

A member of the gallery, Mr Ivon Tori, addressed the Council regarding item *SU626 - 3 Milton Place Gladstone Park*.

Moved Cr Naim Kurt, **Seconded** Cr Chris Hollow

That the item be deferred to a future meeting of Council.

Councillor Karen Sherry returned to the meeting after item *SU626 - 3 Milton Place Gladstone Park* was deferred, the time being 7:44 pm.

CARRIED

Report No.	Report	Page in Agenda
SU627	Statutory Planning Monthly Report - March 2022	69

Moved Cr Joseph Haweil, **Seconded** Cr Jack Medcraft

Councillor Joseph Haweil left the meeting after the motion was moved on item *SU627 Statutory Planning Monthly Report – March 2022*, the time being 7:46pm.

Councillor Joseph Haweil returned to the meeting after the motion was moved on item *SU627 Statutory Planning Monthly Report – March 2022*, the time being 7:48 pm.

Councillor Sam Misho left the meeting after the motion was moved on item *SU627 Statutory Planning Monthly Report – March 2022*, the time being 7:48pm, and did not return to vote on the item.

That the report be noted.

CARRIED

Report No.	Report	Page in Agenda
SU628	Council submission to the Draft 2022 Melbourne Airport Master Plan and Third Runway Major Development Plan	87

Councillor Sam Misho returned to the meeting prior to the vote on item *SU628 – Council Submission to the Draft 2022 Melbourne Airport Master Plan and Third Runway Major Development Plan.*, the time being 7:50pm.

Members of the gallery, Mr Frank Rivoli and Ms Jo Muldoon, addressed the Council regarding item *SU628 - Council submission to the Draft 2022 Melbourne Airport Master Plan and Third Runway Major Development Plan.*

Moved Cr Jack Medcraft, **Seconded** Cr Naim Kurt

Councillor Jim Overend left the meeting after the motion was moved on item *SU628 – Council Submission to the Draft 2022 Melbourne Airport Master Plan and Third Runway Major Development Plan.*, the time being 8:34pm.

Councillor Jim Overend returned to the meeting prior to the vote on item *SU628 – Council Submission to the Draft 2022 Melbourne Airport Master Plan and Third Runway Major Development Plan*, the time being 8:36pm, and voted on the item.

That Council:

- 2.1 forwards a submission to the Preliminary Draft Melbourne Airport Master Plan 2022 and the Preliminary Draft Third Runway Major Development Plan outlining the matters discussed in this report and consistent with Attachment 1.**
- 2.2 advocates for increased support for residents to mitigate the impact of aircraft noise.**

CARRIED

Report No.	Report	Page in Agenda
SU629	Graffiti Management Policy - Review	133

Moved Cr Jack Medcraft, **Seconded** Cr Karen Sherry

Councillor Chris Hollow left the meeting after the motion was moved on item *SU629 Graffiti Management Policy – Review*, the time being 8:46pm..

Councillor Chris Hollow returned to the meeting prior to the vote on item *SU629 Graffiti Management Policy - Review*, the time being 8:47pm, and voted on the item.

That Council:

- 2.1 **approves the minor review of the Graffiti Management Policy (Attachment 1)**
- 2.2 **noted that further, more comprehensive review of the Graffiti Management Policy will be conducted as part of the implementation of the Waste and Resource Recovery Strategy.**

CARRIED

GOVERNANCE AND ENGAGEMENT

Report No.	Report	Page in Agenda
GE608	Report to Council on Audit and Risk Committee Business Undertaken - 1 July 2021 - 31 December 2021	141

Moved Cr Jack Medcraft, **Seconded** Cr Jarrod Bell

That Council notes the report from the Audit and Risk Committee on the activities undertaken by the Committee for the period 1 July – 31 December 2021.

CARRIED

Report No.	Report	Page in Agenda
GE609	Correspondence received from or sent to Government Ministers or Members of Parliament - March 2022	153

Moved Cr Jack Medcraft, **Seconded** Cr Jarrod Bell

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
GE610	Proposed Annual Budget 2022/23	159

Moved Cr Karen Sherry, **Seconded** Cr Jack Medcraft

- 2.1 That having considered the details of the 2022/23 recurrent and capital budget appended to this report, which includes:
- 2.1.1 Section 1 – Link to the Integrated Planning and Reporting Framework
 - 2.1.2 Section 2 – Services and service performance indicators
 - 2.1.3 Section 3 – Financial statements
 - 2.1.4 Section 4 – Notes to the financial statements
 - 2.1.5 Section 5 – Financial performance indicators
 - 2.1.6 Section 6 – Schedule of fees and charges
- That the proposed recurrent and capital budget for 2022/23 be the Proposed Annual Budget 2022/23 (Budget) prepared for the purposes of Section 94 of the Act.
- 2.2 That, in relation to the capital works program, the expenditure provided for in each line item is the forecast or projected amount that Council will expend. On occasions the actual amount expended could be greater or lesser than the expenditure provided for. Because each line item is part of a class of expenditure being forecast or projected, Council intends that the expenditure authorised through the adoption of the Budget will be the totality of expenditure by class (regardless of whether, in respect of any particular project, the actual amount expended exceeds or is less than the expenditure that is shown).
- 2.3 That in accordance with Section 158 of the 1989 Act, Council proposes to declare a General Rate of 0.29506 cents in the dollar of the Capital Improved Value within the municipal district for all rateable land for the rating period commencing 1 July 2022 and ending 30 June 2023.
- 2.4 That Council notes that the General Rate of 0.29506 cents in the dollar of the Capital Improved Value as noted in 2.3 is subject to confirmation from the Valuer General of Victoria of the valuations within Hume and the issuance of a Certificate 7A. Should valuations change, there will be a requirement to amend the General Rate in the dollar. However, this will have no impact on total rates revenue raised.
- 2.5 That in accordance with Section 169 of the 1989 Act, Council proposes to grant an Agricultural Land Use Rebate of 23% of the General Rate to those owners who undertake works that address land degradation issues including weed and pest animal control. To be eligible, landowners must be using their land primarily for agricultural land use activities and implement satisfactory land management work. For the 2022/23 financial year, the Agricultural Land Use Rebate will be offered to landholders who already receive the rebate within the urban growth zone for the next two years only (after which, such properties will no longer be eligible for any rebate).

- 2.6 That for the 2022/23 financial year, the Primary Producer Rate Rebate will continue to be offered to landholders outside the urban growth zone which will be calculated at 30% of the General Rate. The eligibility criteria for the Primary Producer Rate Rebate is similar to that under the Agricultural Land Use Rebate however there is a requirement on landholders to prove to Council that they are trying to operate an agricultural business from their agricultural activity.
- 2.7 That Council grants an additional pensioner rate rebate of \$40.00 per rateable property to those applicants who qualify for a rate rebate within the meaning of the *State Concessions Act 2004* over and above that provided by the State Government. This rebate is to be granted on the same terms and conditions that provides for the State Government funded rebate without separate application in accordance with Section 171 of the 1989 Act.
- 2.8 That Council proposes that all rates for rateable land be determined by multiplying the Capital Improved Value of the rateable land by the relevant General Rate indicated at 2.3 above.
- 2.9 That in accordance Section 167 (1) of the 1989 Act, the general rates and service charges be payable by four instalments. The gazetted instalment dates as fixed by the Minister are as follows: 30 September 2022, 30 November 2022, 28 February 2023 and 31 May 2023.
- 2.10 That in accordance with Section 167 (2A) of the 1989 Act, Council will not be offering the lump sum payment option.
- 2.11 That in accordance with Section 172 of the 1989 Act, Council proposes that a person pay interest at the rate specified in the *Penalty Interest Rates Act 1983* on any general rates or charges which that person is liable to pay and have not been paid from 1 July 2022.
- 2.12 That in accordance with Section 159 of the 1989 Act, Council proposes to declare that a municipal charge will not be levied against any rateable land on which a municipal charge may be levied for the rating period commencing on 1 July 2022 and ending on 30 June 2023.
- 2.13 That in accordance with Section 162 of the 1989 Act, Council proposes to declare annual service charges for the disposal of refuse per collection services for rateable and non-rateable properties for the period commencing 1 July 2022 and ending 30 June 2023; where each occupied serviced rateable property is entitled to one 140L garbage service and one 240L recycle service without charge; as follows:

Waste Service Option	Per Service
Optional Garbage Charges	
Garbage (upgrade from 140L to 240L)	117.00
Garbage (additional service 240L)	270.10
Garbage (additional service 140L)	156.00
Garbage (additional 80L)	89.90
Garbage discount (80L first service)	20.90 discount
Optional Recycling Charges	
Recycle (additional 140L or 240L)	71.10
Recycle (upgrade from 140L to 360L)	34.70
Recycle (additional 360L)	106.40
Optional Organics Charges	
Organics 140L service	86.60
Organics 240L service	110.20
Organics 140L additional service	86.60
Organics 240L additional service	110.20

2.14 That Council proposes that an amount of \$219.65m be declared as the amount Council intends to raise from the general rates and charges for the period from 1 July 2022 to 30 June 2023 as follows:

2.14.1	General rates	\$ 196,634,332
	Less agricultural land use rebate	(\$ 600,000)
	Less Council pension rebate	<u>(\$ 540,000)</u>
	Total rates	\$ 195,494,332
2.14.2	Service charge – recycling and garbage	\$ 384,000
	Special rates and charges	\$ 4,635
	Service charge – organics	\$ 4,000,000
	Projected supplementary rate income	\$ 4,250,000
	Rates interest	\$ 845,000
	Total rates and service charges	\$ 204,977,967
	Rates in lieu - Commonwealth properties	<u>\$ 14,673,500</u>
		<u>\$ 219,651,467</u>

2.15 That Council notes that in accordance with Section 158 of the 1989 Act and Regulation 8 of the Regulations, detailed information concerning General Rates and Charges is appended to this report.

2.16 That in accordance with Section 96(1)(b) of the Act, consultation on the Budget will be undertaken in accordance with Council's Community Engagement Policy.

- 2.16.1 The Proposed Budget will be made available for download via Council's website (<https://participate.hume.vic.gov.au/proposed-budget-2022-23>), and physical copies will be available for inspection at Council's Customer Service Centres, and Libraries.
- 2.16.2 The Proposed Budget will be promoted for community feedback via Council's websites, and social media. Submissions, and feedback will be received from the 27 April 2022 until 16 May 2022.
- 2.16.3 Feedback on the Proposed Budget can be provided via email, by speaking to a Council Officer, written submissions or by speaking at the Council Meeting that will hear submissions on the Proposed Budget on Tuesday 24 May 2022. Further information on how to provide feedback will be published online at <https://participate.hume.vic.gov.au/proposed-budget-2022-23>.
- 2.17 Feedback and submissions on the budget will be heard at the Council meeting on Tuesday 24 May 2022 at 6.30pm at the Town Hall Broadmeadows, if required. Members of the public may register to speak to the Proposed Budget with or without a written submission, by registering at <https://participate.hume.vic.gov.au/proposed-budget-2022-23>.
- 2.18 Following consideration of budget submissions, it is intended that Council will consider the budget for adoption on Monday 27 June 2022, at a meeting of Council to be held at 7:00pm at the Town Hall Broadmeadows.

CARRIED

A division was requested: The result of the division was as follows:

For	Against
Cr Jarrod Bell	Cr Sam Misho
Cr Trevor Dance	Cr Jim Overend
Cr Joseph Haweil	
Cr Chris Hollow	
Cr Naim Kurt	
Cr Jack Medcraft	
Cr Carly Moore	
Cr Karen Sherry	

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 Jarrod Bell (attached) is tabled and will be recorded in the minutes of the meeting.

ARBITRATION PURSUANT TO DIVISION 5 OF PART 6 OF THE
LOCAL GOVERNMENT ACT (2020)

Internal Arbitration Process – Hume City Council, IAP 2021-31

Applicant: Councillor Trevor Dance

Respondent: Councillor Jarrod Bell

DETERMINATION

The Arbiter has determined that there is no breach of the relevant prescribed standards of conduct, and that therefore no findings of misconduct can be made.

The Application is dismissed.

REASONS FOR DECISION

The Application and Hearing

1. The Application dated 30 September 2021 by the Applicant, Councillor Trevor Dance, alleges that the Respondent, Councillor Jarrod Bell, breached several clauses of the Standards of Conduct as contained in Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020* ('Standards of Conduct'). The Application seeks a finding of misconduct to be made against Councillor Bell.

2. The allegation contained in the Application relates to comments made by Councillor Bell during a Facebook Live stream on Councillor Bell's Facebook page (titled 'Cr Jarrod Bell – Hume City Council') immediately following a 13 September 2021 Hume City Council Meeting. I will refer to this as the 'Facebook Live video'. These comments are summarised below. This Facebook Live video was subsequently reposted by another Facebook page titled 'The antics of Cr Dance'.

3. In summary, the comments made by Councillor Bell that are at issue in this matter are that Councillor Dance failed to turn up to several previous council arbitrations in person despite being required to do so by the Arbiter in these matters. In the subsequent hearing, Councillor Bell acknowledged that his statements were not correct, that Councillor Dance had not been required to attend these council arbitrations in person.

4. The Application alleges that these comments breached several clauses of the Standards of Conduct, being:

- Clause 2 – Performing the role of Councillor;
- Clause 3 – Compliance with good governance methods;
- Clause 4 – Councillor must not discredit or mislead Council or the public.

During the hearing, the Applicant also made a further allegation that the Respondent's comments amounted to bullying and harassment and were in breach of Hume City Council Councillor Code of Conduct 2021. While these allegations were not included in the Application, I have considered them in this Decision in order that all allegations relating to the Facebook Live video are finalised.

5. In a Directions Hearing on 22 February 2022, I set this matter down for a full hearing on 17 March 2022, to be heard online. Neither Applicant nor Respondent called any witnesses. The hearing was transcribed.

Applicant's Evidence

6. The Applicant submitted evidence prior to the hearing in relation to his application. The evidence of relevance to this hearing is:

- a) An MP4 file showing the 13 September 2021 Facebook Live video of Councillor Bell;
- b) Email dated 18 June 2021 from Jo-Anne Mazzeo, Arbiter, to Councillors Dance and Haweil, in relation to a council arbitration set down for 23 July 2021;
- c) Email dated 18 June 2021 from Jo-Anne Mazzeo, Arbiter, to Councillors Dance and Medcraft in relation to a council arbitration set down for 13 July 2021;
- d) Email dated 18 June 2021 from Jo-Anne Mazzeo, Arbiter, to Councillors Dance and Sherry in relation to a council arbitration set down for 13 July 2021;
- e) Email dated 18 June 2021 from Jo-Anne Mazzeo, Arbiter, to Councillors Dance and Moore in relation to a council arbitration set down for 12 July 2021, as well as two duplicates of this email forwarded to Councillor Dance dated 14 September 2021.
- f) An undated document titled 'All directions hearing extracts and Coronavirus timelines'.
- g) Email dated 11 August 2021 from Jo-Anne Mazzeo, Arbiter, to Councillors Dance and Haweil, making further arrangements in relation their council arbitration.
- h) Letter dated 28 February 2022 from Lisa Kelly to Councillor Dance, in relation to her concerns about Councillor Bell's Facebook Live video of 13 September 2021.

7. At the hearing, Councillor Dance's relevant evidence can be summarised as follows: the Facebook Live video had received 457 views over two days, several people had called him to ask him about it, and that he viewed the comments as "online bullying and harassment". He spoke of the hurt, harm and public humiliation he said that the comments had caused him, and said that Councillor Bell should have been more diligent to check the veracity of his statements before making them.

Respondent's Evidence

8. The Respondent, Councillor Bell, did not submit any evidence prior to the hearing.

9. At the hearing, Councillor Bell's relevant evidence can be summarised as follows: his statements were incorrect, having been made late at night, after a long and stressful council meeting. He apologised to Councillor Dance for his error. He noted that matters relating to Councillor Dance and previous arbitrations were numerous and complex. He offered to take the post down from the internet.

Arbiter's Findings and Reasoning

10. During the hearing, both Applicant and Respondent agreed to the following:

- a) The Facebook Live video records Councillor Bell saying that Councillor Dance had failed to attend several council arbitrations in person despite being required to do so by an Arbiter; and
- b) These statements were not correct.

11. I have watched the entirety of the MP4 file showing the Facebook Live video. I accept that this video, and subsequent reaction from sections of the public, caused Councillor Dance distress.

12. The Application lists Clause 2, 3 and 4 of the Standard of Conduct as being at issue, without further specificity. I therefore turn to each of these clauses in turn, noting that Clause 4(2) is most relevant to the allegation alleged by the Application.

13. Clause 2 reads:

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.

14. I note that the only evidence that Councillor Dance provided in relation to Clause 2 was an assertion that Councillor Bell's incorrect statements could not be excused by having been made late at night, for which Clause 2(b) appears most appropriate. Councillor Dance said "The excuse has been laid for whatever. It's not an excuse. You should show that the policy is very clear on that. You know, do due diligence. Check things out. I never say anything unless I have got proof...".

15. I do not think that Councillor Dance's assertions are sufficient evidence to find that Councillor Bell contravened any aspect of Clause 2. I find that Councillor Bell did not breach this standard.

16. Clause 3 reads:

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.

17. I note that Councillor Dance did not provide any evidence that Councillor Bell breached any of the relevant standards in relation to any aspect of Clause 3. I find that Councillor Bell did not breach this standard.

18. Clause 4 reads:

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.

19. I agree with both the Applicant and Respondent that the comments likely did mislead those watching the Facebook Live video. However, I am satisfied that Councillor Bell's error was not deliberate and that he did not breach the relevant standards, particularly that of Clause 4(2). I note that Councillor Dance did not provide any evidence that these comments were deliberately misleading.

20. As noted, during the hearing, Councillor Bell apologised to Councillor Dance for his error. I appreciated Councillor Bell's candour and contrition and believed him when he said that it was a genuine mistake, made late at night after a stressful meeting. I was assisted coming to this conclusion both from hearing Councillor Bell's evidence (and reviewing the transcript of the hearing) as well as viewing the entirety of the Facebook Live post.

21. I now turn to the allegation made by Councillor Dance during the hearing that the Facebook Live video comments amounted to "bullying and harassment" and were in breach of Hume City Council Councillor Code of Conduct 2021, Chapter 1 – Treatment of Others (which copies the Clause 1 of the Standard of Conduct contained in Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020*).

22. I note that while I am not empowered under the Act to hear allegations of bullying in an Internal Arbitration process – these must be heard by a Councillor Conduct Panel – I can consider breaches of the 'Treatment of Others' standard.

23. I further note that this allegation was not included in the Application. However, using the discretion I am afforded under regulation 11(2)(a) of the *Local Government (Governance and Integrity) Regulations 2020* to 'conduct the hearing with as little formality and technicality as the proper consideration of the matter permits', and given the Facebook Live video comments are still online, I think it proper that this allegation is dealt with in this Decision.

24. The relevant standard reads:

1 STANDARD OF CONDUCT – 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.

25. As stated above, having viewed the entirety of the Facebook Live video, and having heard from Councillor Bell, I am satisfied that Councillor Bell made a genuine error, and that error was made without malice. I therefore am satisfied that Councillor Bell did not behave unreasonably towards Councillor Dance in this Facebook Live video, and he did not breach the 'Treatment of Others' standard of conduct.

26. During the hearing, Councillor Dance referred to the Facebook page 'The antics of Cr Dance' which had re-posted the Facebook Live video. Councillor Dance referred to it as a "hate page". I asked Councillor Dance whether he alleged that Councillor Bell was involved in the page 'The antics of Cr Dance', Councillor Dance replied " ... I think its best for this hearing we maybe not go down that road." I therefore make no findings in relation to this matter.

27. I note the Councillor Bell offered to take the offending post off his Facebook page. While I have no powers under the relevant legislation or regulations to order this to happen, I thank Councillor Bell for his offer and suggest he follow through with it.

Lily O'Neill

Arbiter

11 April 2022

9. CONFIDENTIAL MATTERS

The Meeting may be closed to members of the public to consider confidential matters.

Moved Cr Sam Misho, **Seconded** Cr Jack Medcraft

THAT Council close the meeting to the public pursuant to section 66(2) of the *Local Government Act 2020* to consider the following items:

Report No.	Title	Reason for Confidential
COSU200	Contract - Construction of the Merrifield Pavilion	Item COSU200 is confidential in accordance with Section 3(1)(g(ii)) of the Local Government Act 2020 because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. The specified grounds apply because the report contains commercial in confidence information.

CARRIED

The meeting was closed to the public at 9.27pm.

The meeting was reopened to the public at 9:38pm

6. CLOSURE OF MEETING

The meeting closed at 9:38pm

.....
COUNCILLOR CARLY MOORE
MAYOR