

**COUNCILLOR CONDUCT PANEL**

In the matter of an Application by Councillors Darren Howe, Brad Law, Tracie Lund and Dan Clancey concerning Councillor Melissa Ferguson of Latrobe City Council

**HEARING PURSUANT TO DIVISION 7 OF THE LOCAL GOVERNMENT ACT (2020)**

Applicants: Councillors Darren Howe, Councillor Brad Law, Councillor Tracie Lund and Councillor Dan Clancey

Appointed representative: Councillor Darren Howe

Respondent: Councillor Melissa Ferguson

Date of Hearing: 8 and 9 February 2022

Panel Members: Mrs Jo-Anne Mazzeo (Chairperson)  
Mrs Helen Buckingham OAM

**DETERMINATION**

Pursuant to s167(1)(b) of the *Local Government Act 2020* the Panel makes a finding of misconduct against Cr Melissa Ferguson.

## STATEMENT OF REASONS FOR DECISION

### The Application

1. The Application dated 25 August 2021 was made by the applicants seeking a finding a serious misconduct against Cr Melissa Ferguson relating to multiple allegations which are summarised below.
2. Councillor Darren Howe was appointed as the applicants' appointed representative.
3. The Application alleged that Cr Ferguson had repeatedly behaved in an aggressive, intimidating, and disrespectful manner towards fellow councillors and members of Council staff which created a risk to their health and safety, and that these actions constituted bullying of these councillors and members of Council staff.
4. The Application related to conduct of the respondent at three meetings, namely:
  - (a) **Incident 1:** A Council Briefing Meeting held on 19 July 2021 where it was alleged that Cr Ferguson interjected in a loud and aggressive manner, reprimanding the then General Manager of the Latrobe City council who was attempting to answer a question;
  - (b) **Incident 2:** The Ordinary Council Meeting of 2 August 2021 where it was alleged that Cr Ferguson:
    - (i) made a number of defamatory statements about a community member, a former Councillor and the then General Manager of the Latrobe City Council;
    - (ii) spoke in a loud and aggressive manner, intimidating some of the councillors attending the meeting;
    - (iii) alluded that funds for bushfire recovery were secretly ear-marked for other projects;
    - (iv) accused two Latrobe City Councillors of interfering with the operation of the South Ward of Council;
    - (v) stated on more than one occasion that questions to Council Officers and the Chief Executive Officer had not been answered at all, or not answered to a satisfactory standard
    - (vi) spoke for over 20 minutes making accusations framed as questions not relevant to the Notices of Motion that were meant to be addressed at that point of the meeting;
    - (vii) threatened to refer the matters to the Independent Broad-based Anti-corruption Commission (IBAC).

- (c) **Incident 3:** The Yinnar Recovery Community Committee Meeting of 18 August 2021 where it was alleged that Cr Ferguson acted and spoke aggressively towards a Latrobe City Council Officer.
- (d) During the Councillor Conduct Panel Hearing, the applicants' appointed representative withdrew the allegation relating to Cr Ferguson's conduct at the Yinnar Recovery Community Committee Meeting of 18 August 2021. This allegation will not be considered in this Statement of Reasons and no findings were made regarding Cr Ferguson's conduct at this Meeting.

### **Evidence provided at hearing**

- 5. Written evidence was submitted by both the applicants' appointed representative and the respondent prior to the hearing, including witness statements made by witnesses who gave evidence at the hearing.
- 6. Oral evidence was given at the hearing by both the applicants' appointed representative and the respondent.
- 7. Oral evidence was also provided by the following individuals:
  - i. Councillor Darren Howe
  - ii. Councillor Brad Law
  - iii. Councillor Tracie Lund
  - iv. Councillor Dan Clancey
  - v. Mr Greg Drum - General Manager Organisational Performance - Latrobe City Council
  - vi. Ms Suzanne Miller - previous General Manager - Latrobe City Council
  - vii. Councillor Melissa Ferguson
  - viii. Councillor Sharon Gibson
  - ix. Councillor Dale Harriman
  - x. Ms Caroline Boothman
  - xi. Mr John Harris
  - xii. Ms Annette Demplar

### **The jurisdiction of the Panel in relation to this Application**

- 8. Section 154 of the *Local Government Act 2020* (the Act) provides that a Councillor Conduct Panel may hear an Application that alleges serious misconduct by a Councillor.
- 9. Pursuant to s167 of the Act a Panel may determine whether a Councillor has engaged in misconduct (by way of breaching one or more of the prescribed standards of conduct) or serious misconduct.

## **Evidence of the Applicants**

10. The applicants' appointed representative provided the Panel with an overview of the events that led to the Application being made. In his opening statement, the applicants' representative submitted that:
  - (a) it was the respondent's behaviour at the Ordinary Council Meeting of 2 August 2021 (listed above at paragraph 4 as incident 2) that triggered the lodging of the Application seeking a finding of serious misconduct against Cr Ferguson;
  - (b) the respondent's behaviour at the Council Briefing Meeting held on 19 July 2021 (listed above at paragraph 4 as incident 1) in and of itself would not have triggered an Application for a finding of either misconduct or serious misconduct, but when examined in the context of her behaviour at the Ordinary Council Meeting of 2 August 2021 it was relevant; and
  - (c) the applicants' did not have anyone who was in attendance at the Yinnar Recovery Community Committee Meeting of 18 August 2021 (listed above as paragraph 4 as incident 3) willing to be a witness in the Councillor Conduct Panel proceeding to give evidence as to the behaviour that took place.

### **Incident 1:**

11. The applicants' appointed representative did not provide detailed evidence in relation to this incident, instead relying on the evidence of the then General Manager, Ms Suzanne Miller. As stated above at paragraph 10(b), the applicants' appointed representative conceded that the respondent's behaviour at the Council Briefing Meeting on 19 July 2021 did not constitute bullying behaviour.
12. In support of the Application, Ms Suzanne Miller spoke at length about incidents 1 and 2 and the impact they on her. Ms Miller explained that at the time of both the Council Briefing Meeting and the Ordinary Council Meeting she was the General Manager at Latrobe City Council. Ms Miller told the Panel that she resigned from her role at Latrobe City Council as a direct result of these events, specifically because she could "...no longer ensure the safety of relevant Council staff in performing their roles."
13. Regarding the Council Briefing Meeting, Ms Miller told the Panel she had been the victim of a "...tirade of abuse initiated by the Mayor..." that was subsequently supported by Cr Harriman and to a lesser extent the respondent. Ms Miller explained that she was called a liar and she was accused of not completing the tasks she was assigned to do in her role as General Manager. Ms Miller told the Panel she interjected whilst the

respondent was talking, effectively speaking out of turn to try and answer the questions and allegations that were being made about her.

14. In her evidence to the Panel, Ms Miller conceded that the behaviour of the respondent (in relation to incident 1) was not bullying as defined in the Act but was more appropriately defined as speaking in an abusive manner.
15. In response to questions from the respondent, Ms Miller confirmed that she had spoken to the respondent on less than 5 occasions since she commenced her role as a Councillor in October 2020, and that she did not attempt to speak to the respondent after the Briefing Meeting to resolve any issues that resulted from the exchange.
16. Councillor Dan Clancey also gave evidence in support of the Application, and when speaking in relation to incident 1, confirmed that the altercation in question "came out of left field and was totally unexpected" and that it was an exchange predominantly between the then Mayor (Cr Gibson) and the then General Manager (Ms Miller). Councillor Clancey told the Panel the respondent said no more than two sentences and that those two sentences did not amount to bullying and did not leave him feeling any negative impact in terms of his safety. Councillor Clancey did submit that the way in which the respondent spoke was disrespectful towards Ms Miller, but that it did not amount to bullying as defined in the Act.
17. Councillor Tracey Lund gave evidence in support of the Application and at the outset told the Panel of the struggle she continues to face talking about the Briefing Meeting. Throughout her oral evidence Cr Lund was teary and visibly distressed, needing to pause to collect her thoughts. When questioned about incident 1, Cr Lund agreed with the remaining witnesses regarding the specific words spoken by the respondent, but said the exchange left her feeling unsafe and vulnerable, so much so that she requested all Briefing Meetings be recorded moving forward.
18. Councillor Lund told the Panel it was the role of the Mayor/Meeting Chair to ensure the safety of the meeting participants, and that the Mayor had failed to do this. As a result, Cr Lund felt "...unsafe and reluctant to speak up or participate in any meaningful way for fear of being attacked or shut down".
19. When asked by the Panel whether she had discussed incident 1 with the respondent, Cr Lund said that she had not, and that she had not spoken to the respondent much since being elected to Council in October 2020.
20. In response to questions from the respondent, Cr Lund agreed that the respondent was seeking clarification as to whether a tenant that provides services to victims of domestic violence was being evicted.

21. Councillor Brad Law also gave evidence in support of the Application and his evidence was consistent with that of the other witnesses in support of the Application, in that he too believed incident 1 involved what he described as "...personal attacks on the conduct of Council Officers which amounted to criticism that goes way beyond what is required of a Councillor, which is to provide governance."
22. As did each of the other witnesses in support of the Application, Cr Law confirmed that it was in fact Ms Miller who interjected when the respondent was speaking, rather than the respondent interjecting when Ms Miller spoke.
23. Council Officer Greg Drum also appeared before the Panel and gave evidence regarding this allegation. Mr Drum said the topic of discussion was a contentious one where the then Mayor had "just launched into her view, which was supported by Cr Harriman and followed up with a general question from the respondent." Mr Drum said that the respondent had "spoken sharply" and her statement had contributed to the lack of opportunity for Ms Miller to respond to the views being put regarding the adequacy of the work of the Officers in relation to the management of the leasing issue.

### **Incident 2:**

24. The applicants' appointed representative submitted that it was the conduct of the respondent at the Ordinary Council Meeting of 2 August 2021 that was the main trigger for lodging the Application for a finding of serious misconduct.
25. In giving context to the interaction, the applicants' appointed representative explained that the respondent had submitted two Notices of Motion to be discussed and voted on at the Meeting. Instead of speaking to her respective Notices of Motion, the respondent opened the discussion with a barrage of questions regarding issues that did not relate specifically to the Notices of Motion she had submitted. The meeting was originally meant to be live streamed but due to technical issues just before the meeting commenced, it was not live streamed. Instead, the meeting was recorded and after obtaining legal advice, Council released a redacted version of the meeting for public viewing with the respondent's speaking time largely redacted for concern that it may lead to a defamation claim if broadcast in its original form.
26. In his submissions to the Panel, the applicants' appointed representative submitted that the respondent:
  - (a) "...went outside fair and reasonable debate, mentioned staff by title, spoke of a community member by name and made allegations of

- misappropriation of funds and walls being put up preventing her from finding out where the money had gone.”;
- (b) did not follow due process in making her inquiries regarding the Yinnar Community Recovery Committee funds;
  - (c) did requested a Report regarding her concerns, but failed to use other available processes to address her concerns further;
  - (d) asked unreasonable questions at the Meeting, embarrassed the General Manager and a volunteer community member and cast aspersions over unnamed councillors who she alleged were interfering in her ward.
27. The applicants’ appointed representative told the Panel he had never seen behaviour like this in the 5 years he had been on Council and that whilst he himself did not speak directly to the respondent after the Meeting regarding her behaviour, he and his fellow applicants thought the matter was so serious that they had no option but to lodge an Application for a Panel hearing.
28. Ms Miller provided her account of the Meeting and told the Panel that in relation to incident 2, there has been a culmination of events over a long period of time. Ms Miller acknowledged she tried to speak out of time to answer the questions the respondent was asking. When asked by the Panel what the respondent did that constituted unreasonable behaviour, Ms Miller told the Panel the respondent had:
- (a) accused Ms Miller of “...trying to keep her away from the Community Recovery Committee”;
  - (b) talked to community members without any regard for the role of Council Officers;
  - (c) abused Ms Miller and made comments that bordered on defamation;
  - (d) hampered Ms Miller from being able to effectively do her job; and
  - (e) was a part of the ongoing bullying felt by Council Officers and staff.
29. Ms Miller told the Panel her staff were fearful of councillors, and that this fear was indicative of an unsafe work environment. Furthermore, Ms Miller said she did not feel safe enough to talk to the respondent after the Ordinary Council Meeting.
30. Ms Miller conceded there was no clear idea of the Community Recovery Committee’s role in using their power to spend the money they were allocated, and that the COVID-19 pandemic environment had complicated communication to the point that it impacted on the effective running of the Committee, but that this did not justify the behaviour of the respondent at the Ordinary Council Meeting.

31. Councillor Lund also spoke about this incident, having been in attendance and a direct witness to the events that took place. Councillor Lund told the Panel:
  - (a) she felt intimidated by the respondent, with the intimidation building over time and culminating with the behaviour at the Ordinary Council Meeting of 2 August 2021;
  - (b) she believes the respondent made a speech that was "...a planned attack, with a barrage of planned accusations that were unwarranted."
32. In response to questions from the respondent, Cr Lund said whilst she had barely had any direct communication with the respondent, she was fearful of her due to her behaviour at meetings, her approach at the Council Briefing Meeting and at the Ordinary Council Meeting.
33. When asked why she herself did not call a point of order if she was so concerned about the respondent's behaviour, Cr Lund said she did not have the confidence or ability to call a point of order, nor did she understand as a relatively new councillor, what would trigger a point of order or the mechanism to make it work.
34. Councillor Lund acknowledged the respondent was granted several extensions of time to speak, but to this day remains unclear as to why the respondent was permitted to ask questions rather than speak to her respective Notices of Motion.
35. Councillor Law also gave evidence regarding this incident and confirmed that he did not call a point of order. He also confirmed that he did not object to the multiple extensions of time that were granted to the respondent during the meeting.
36. In response to questions from the respondent regarding an alternative approach to having her questions answered, Cr Law said the respondent should have used the pathway system to seek clarification but did concede there is no written step by step process to follow.
37. In his evidence, Cr Clancey said the respondent's questions were rhetorical rather than fact finding in nature and that he saw the approach of the respondent as poor practice and quite defamatory. In response to questions from the Panel, Cr Clancey said if he had been chairing the meeting he would not have permitted questions from the person who placed the Notice of Motion as this was not proper process.



38. Councillor Clancey acknowledged that the questions the respondent was asking were in principle valid questions, but the manner in which she asked these questions was entirely inappropriate and aggressive. The abrupt tone and the accusatorial way the questions were asked in fact gave no time for answers to be provided.
39. Councillor Clancey reiterated the views of Cr Lund in that he too believed the "attack" was premeditated. Councillor Clancey believed having the meeting via zoom exacerbated the issue as that forum "...does not allow the subtleties to see how someone is feeling and does not always allow people the opportunity to respond."
40. In response to questions from the respondent, Cr Clancey:
  - (a) confirmed he did not call a point of order because he was interested in hearing the answers to the questions but did not agree with the manner in which they were being asked;
  - (b) confirmed that Cr Middlemiss had called a point of order, but that the then Mayor did not provide a ruling on it;
  - (c) agreed with the respondent that it takes new councillors time to learn the relevant processes but confirmed there had been an extensive induction process at Council which covers both the Code of Conduct and also meeting procedures.
41. In response to questions from the Panel, Cr Clancey said he himself did not feel unsafe at the meeting and it was not what the respondent said that made others feel unsafe, it was the approach and nature of the words she used that were the issue.

## **Evidence of the Respondent**

### **Incident 1:**

42. The respondent submitted that at the Council Briefing Meeting (incident 1) she was interrupted by Ms Miller when she was seeking to clarify the leasing arrangements of a Council run building that had previously been leased to an organisation that supported victims of domestic violence.
43. The respondent acknowledged that she gestured sideways whilst speaking as the meeting was being conducted virtually over zoom and she was indicating that she was talking to the Mayor in her gesture.
44. When asked about the tone and manner in which she spoke, the respondent told the Panel that meeting procedures call for questions to come via the Mayor as Chair and potentially through the Chief Executive Officer to an

Officer. Given Ms Miller interrupted the respondent when she had been given permission to speak by the Mayor, the respondent did not feel she said anything inappropriate by either asking the question she initially asked, or by subsequently stating to Ms Miller "Excuse me I am speaking" when Ms Miller interjected.

45. The respondent provided the Panel with the exact wording of the statement she made during the Council Briefing Meeting – with the statement being in relation to leasing arrangements for two buildings within the municipality. In their oral evidence, Cr Clancey and Cr Harriman both confirmed the accuracy of the respondent's submission regarding the content of the statement she made.
46. Regarding the allegations of bullying the respondent submitted that she did not believe her conduct at the Briefing Meeting constituted bullying. Instead, the respondent believed she was simply exercising her right to ask questions and be heard without interruption.
47. The respondent called two fellow councillors as witnesses in support of her defence to the bullying allegation. Councillor Gibson told the Panel the respondent was passionate and animated in her approach at the Briefing Meeting, but not to the extent that the then General Manager (Ms Miller) was in her involvement in the incident. Councillor Gibson confirmed the respondent's account of what was said, also stating that "...if anyone should be pinged for bullying, it should be her..." referring to Ms Miller. Councillor Gibson went on to say that the respondent had called her after the Council briefing meeting distraught by the exchange, feeling bullied because she tried to do her job and ask questions and was then subject to the interjection of Ms Miller.
48. In response to questions from the Panel, Cr Gibson confirmed that to the best of her knowledge, no councillors spoke to the respondent regarding her behaviour after the Council Briefing Meeting and no action was taken until the Application for a Councillor Conduct Panel had been made.
49. Councillor Harriman also spoke in support of the respondent, confirming his attendance at the Council Briefing Meeting, and also confirming the respondent's version of events that took place. When asked about the incident at the Briefing Meeting, Cr Harriman told the Panel that the debate regarding the leasing issue was nowhere near as robust as other debates that had taken place and that he himself was equally as frustrated as the respondent with the way that the Council Officers had dealt with the leasing issue.

50. When asked by the Panel about the relationships between the councillors, Cr Harriman said the COVID-19 pandemic environment had made a huge difference to relationships among the councillor group. There had been no opportunity to “sort out issues over dinner and a chat before a meeting” and there had been no real opportunity for bonding among the new councillor group which has resulted in a group of councillors with no real connection.

### **Incident 2:**

51. The respondent spoke of her frustration regarding Council involvement in the Community Recovery Committee and the lack of clarity regarding the Committees ability to use funds appropriately. Both the Chair and Deputy Chair of the Committee had sought a meeting regarding funding arrangements for the Committee and had sought the assistance of the respondent to gain further understanding. In response to this request, the respondent had asked many questions of the Latrobe City Council Chief Executive Officer, and the responses given through Council Officers were different to the information the Committee had before it.
52. The respondent submitted that it was a result of the continued lack of responsiveness of Council Officers that led to her asking the questions she did at the Ordinary Council Meeting. The respondent further submitted that the questions she asked at the meeting were the same questions she had sent to the Chief Executive Officer.
53. When asked about the various allegations she made at the meeting, the respondent said she did not believe she had brought the Council into disrepute, does not feel she gets appropriate support from Council in response to the questions she asks, and had no option but to use the public forum of an Ordinary Council Meeting to get the answers she needed as she had been asking them for over twelve months.

### **Findings of the Panel**

54. Pursuant to s167(1)(b) of the Act the Panel makes a finding of misconduct against Cr Ferguson.

### **Penalty**

55. Pursuant to s167(4)(a) of the Act the Panel directs Cr Ferguson to make a verbal apology for her conduct at the Council meeting of 2 August 2021, which is to be provided at the next Council meeting after the Council meeting at which this decision (including the statement of reasons) is tabled in accordance with s168.

56. Pursuant to s167(6)(b) of the Act the Panel directs Cr Ferguson to attend further training to strengthen her understanding of the role and responsibilities of being a Councillor. Council (through the Chief Executive Officer) is to organise for Council Officers to provide training whereby they explain the process for gaining information about community issues. This process should be communicated both in written and verbal form. In addition, the Panel recommends Council create a New Councillor handbook (if there is not already one in existence) and a mentoring system be established to ensure new councillors are supported in their transition into the role.

### **Reasons for the Panel's Decision**

57. The applicants' appointed representative submitted that the conduct of the respondent in relation to incident 1 did not amount to bullying. Ms Miller, who was the recipient of the respondent's actions, also conceded that this conduct did not amount to bullying.

58. The Panel accepted the evidence of all the witnesses, both for the applicant and the respondent, that whilst the respondent was direct and assertive in her statement at the Council Briefing Meeting, she played a very minor role in the interaction and that her conduct at that meeting did not amount to bullying.

59. In relation to incident 2, the Panel examined the conduct of the respondent in the context of the definition of bullying as outlined in the Act. Based on the definition of bullying in the Act, the Panel was not satisfied that the applicants provided evidence of *repeated* unreasonable conduct and behaviour towards another Councillor or member of Council staff that creates a risk to the health and safety of that other Councillor or member of Council staff.

60. There was however substantial evidence before the Panel supporting a finding of misconduct. The Panel had the benefit of being able to watch the unredacted version of the Ordinary Council Meeting of 2 August 2021 and the Panel observed in the respondent's actions:

- (a) a failure to treat her fellow councillors with respect (in her unfounded accusations regarding interference in her ward);
- (b) a failure to treat Council Officers with respect, particularly the then General Manager in her accusations regarding misappropriation of funds, fraud and missing money;
- (c) abusive and threatening statements towards Council Officers (regarding the statement she made threatening a notification to IBAC) and members of the general public.

61. The Panel also noted upon viewing the recording of incident 2 that Cr Middlemiss did call a point of order during the respondent's inappropriate questioning for failing to speak to the two parts of the Notice of Motion. The Chair of the meeting, the then Mayor (Cr Gibson) did not acknowledge the point of order, nor did she put the point of order to a vote. This was a missed opportunity as normal meeting procedures were not being followed by the respondent in relation to Notices of Motion, and if the respondent had of been directed back to speaking to the Motion, then the accusatory level of questioning may not have escalated.
62. It was clear to the Panel that the lack of answers about funding for the Community Recovery Committee exacerbated the respondent's frustration and that the complexities of working in a COVID-19 pandemic environment had hampered effective communication between the Committee and Council. However, this does not permit her or any councillor to make accusations and speak in the manner that she did at the Ordinary Council Meeting in question.
63. The Panel was also cognisant of the impact COVID had had on councillor interaction and bonding and observed firsthand an unwillingness among councillors to engage in difficult conversations. In addition, the Panel accepted the evidence of the respondent who conceded towards the end of the hearing that her inexperience in public office had impacted on her judgment and approach regarding the handling of this matter.
64. During the hearing, the respondent demonstrated a lack of awareness of her actions and a lack of insight into her behaviour and the impact it has on those around her, but in her closing submission to the Panel stated that:
  - (a) she was unaware of the impact of her actions, style, and approach until hearing the evidence presented during the Panel hearing;
  - (b) if she has done wrong, she was glad that it has been brought to her attention but was disappointed that no one raised it with her before (and informally) so she could have had an opportunity to change her behaviour without the need for a Panel hearing process;
  - (c) she herself feels unsure and unsafe and believes her fellow councillors and Council Officers do not want to get to know her as a person; and finally
  - (d) she will try her best to move forward and develop good relationships with people.
65. The Panel was impressed with the respondent's willingness to hear the feedback she had received regarding her behaviour for the first time during the Panel hearing and took this into account when considering appropriate remedial action.

66. The Panel was concerned with the respondent's lack of awareness of various key components of the role of a councillor, particularly around meeting procedures and operational policies and procedures and as such directed the respondent to attend training to bridge the gap in her skill base regarding these areas.

**Jo-Anne Mazzeo**

Legal Member

**Helen Buckingham OAM**

Panel Member

Date: 31 March 2022

## APPENDIX: Definitions

### **Misconduct is defined in s 3 of the Act as:**

“misconduct by a Councillor means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct”

**Serious misconduct** by a Councillor is defined in the Act and means any of the following—

- “(a) the failure by a Councillor to comply with the Council's internal arbitration process;
- (b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147;
- (c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor;
- (d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;
- (e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);
- (f) bullying by a Councillor of another Councillor or a member of Council staff;
- (g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;
- (h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;
- (i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;
- (j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with this Act”

### **Bullying is defined in s 3 of the Act as:**

“Bullying by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff.”

**The Standards of conduct are defined in Schedule 1 of *the Local Government (Governance and Integrity) Regulations 2020* as:**

**“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.”