

# **Municipal Monitor's report for Casey City Council**

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**6 July – 16 August 2016**

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## **Introduction**

In accordance with Section 223CA of the *Local Government Act 1989*, I was appointed Municipal Monitor at the City of Casey for the period 6 July 2016 until 16 August 2016. Terms of Reference for the appointment were provided and are attached as Appendix A to this report.

The presentation of information in this report has generally followed the sequence, format and numbering of the Terms of Reference. I have not attached all the supporting documentation due to the large quantity of material accumulated during the project. Instead, this information has been given to representatives of Local Government Victoria for future reference if need be.

During my term as Monitor at Casey, I spent considerable time at the Civic Offices interviewing staff, the Mayor, a community group and a number of concerned community members. I also attended Council meetings, reviewed the Council website and perused relevant documentation. Through this research it was necessary for me to follow up on a number of issues with the people directly involved. In many instances I worked with people from across the organisation to make the necessary changes and improvements.

On all occasions I found the staff and Councillors to be cooperative and proactive in assisting me in my role. They demonstrated a strong willingness to properly address the various matters raised in a manner that would ensure, as far as possible, that such problems would not occur in the future.

In regard to my discussions with community members, a variety of issues and concerns were raised which were outside the Terms of Reference and I clearly explained this to the people involved. It appeared to me that these issues dated back over a number of years and had previously been addressed or referred to appropriate bodies at the time. Many of the matters related to personal differences of opinion and interpretation, and would be difficult to resolve. I endeavoured to explain this to the people who raised the issues.

This report outlines in detail how the Ombudsman's recommendations and concerns have been dealt with. It also describes a number of initiatives implemented to ensure that these changes were adhered to in the future. Based on the work undertaken in addressing the issues raised by the Ombudsman, and the willingness to embed them in the organisation, I came to the conclusion that the actions taken would be effective in improving governance at Casey and it was therefore not necessary to take any further action.

## **1. Monitor and review governance processes and practices**

In my role of monitoring and reviewing Casey City Council's governance processes and practices I endeavoured to satisfy myself that the Ombudsman's concerns and recommendations were adequately addressed and system improvements implemented to prevent recurrences. I also monitored legislative compliance where appropriate.

When I was appointed, the Council readily agreed to post my Terms of Reference on their website to assist the community in understanding the Monitor's role.

The methodology I followed was through initial interview of all relevant staff, then working with these people to ensure changes were made to address the issues raised. I also discussed the Ombudsman's Report with the Mayor and explained to him how I was going about my role. In addition I attended Council meetings and met with a community group and a number of individuals. In total I met with 16 people during my time at Casey, and it was necessary to meet with some people on a number of occasions.

Besides my attendance at the Council offices, I reviewed the website, particularly in relation to matters referred to in the Terms of Reference. I also obtained a range of relevant documents including agendas, minutes, policies, local laws, Council reports, draft forms and template letters, which I perused and reviewed.

The focus of my work at Casey centred on the following four areas of interest as specified in the Terms of Reference.

### **Special Charge Scheme for Market Lane**

My investigations into the Market Lane Special Charge Scheme led me to the conclusion that due process had not been followed because of the use of outdated template forms and standard letters, lack of current knowledge and specific training, a 'silo' approach across the organisation and a disconnect in communication between senior officers and those implementing the scheme.

During my Monitor role I worked with the people involved in addressing the inadequacies that had come to light. The staff involved demonstrated a willingness to learn from the mistakes made and implement new processes to prevent the problems arising again. In a number of instances staff had moved on and new people are now responsible for Charge Schemes.

The changes and improvements made are outlined in subsequent sections of this report.

### **Special Rates and Charge Schemes generally**

As a part of my investigations, I looked at Special Rates and Charge Schemes generally and I conducted a thorough review of the policy, procedures, work flows, template forms and standard letters used for all schemes. I did this in conjunction with the responsible officers. We then focused on one randomly selected scheme to use as an example. This was the Craig Road, Devon Meadows Special Charge Scheme that commenced in February 2015, and which reflected initial improvements from the lessons learned through the Market Lane Scheme.

Further changes were implemented and these are detailed in subsequent sections of this report.

At a meeting with a community member the Devon Road and Browns Road, Devon Meadows, Special Charge Schemes were raised. Concerns were expressed about the charges to residents and the costs charged to the Council by the contractor who constructed the roads.

Following the meeting I discussed the schemes with the responsible Council officer, who explained the formula for apportioning charges to residents, the Council policy on capping the amount payable and the details of the tender for the construction of the roads including the determination of the final cost. I was provided with all relevant documentation on the concerns raised by the community member and I was satisfied that all issues have been dealt with properly. It became evident that the

questions raised had all been previously reviewed and addressed by VCAT, the Ombudsman and the Human Rights Commission. In these instances the results were that the schemes were found to have been administered satisfactorily and legally.

### **Meetings of Council and Special Committee Meetings including closed meetings**

The Ombudsman's Report drew attention to the processes around closed meetings of Council. It questioned legal compliance and other aspects of the procedure followed.

My review of these processes clearly showed a lack of coordination between departments and a lack of oversight by senior officers. It appears that closing meetings to the public was followed as a matter of course without questioning the necessity for this, or reviewing if current legislative process was followed. In many instances commercially sensitive information could have been dealt with in other ways, without closing the meeting yet still maintaining a level of transparency.

The setting of interest charges for Special Charge Schemes in a closed meeting was not necessary. This issue was exacerbated by the fact that the open part of the same Council meeting had earlier adopted the Market Lane Scheme at a lower interest rate. This example demonstrates a lack of forward planning, coordination and oversight as well as non-compliance with legislation.

The formalities around closing meetings to the public were outmoded and lacked clarity as to the reason for such action. The information in the Council agenda and minutes was also inadequate.

By changing the review process for Council business and introducing improved planning of Council's agenda through Executive Management Team (EMT) oversight, a far more transparent system is now in place. This will mean a reduction in the number of closed meetings and improved compliant recording procedures. The improvements are outlined in detail in subsequent sections of this report.

### **Consultation arrangements**

At the time of the Ombudsman's investigations the Council did not have a community consultation or engagement strategy for the entire organisation and it appears that consultation was conducted by individual departments on an ad hoc basis. This resulted in inconsistent and sometimes incorrect information being given at public forums for Special Charge Schemes.

Through the introduction of a cohesive strategy for community engagement across the whole organisation and the conduct of specific training and cross-departmental forums, it is hoped that community consultation processes will significantly improve. The Community Engagement Strategy is detailed later in the report.

## **2. Support and assistance in reviewing governance**

The Ombudsman's Report detailed a range of recommendations and concerns, and the Council reacted positively and in a timely manner in addressing the issues raised.

Council staff demonstrated a strong commitment to implementing the improvements across the organisation in a manner that would significantly reduce the risk of those problems or similar issues

occurring again in the future. The Councillors provided support by readily adopting staff suggestions and recommendations made in response to the Ombudsman's Report.

### Ombudsman's recommendations

The recommendations contained in the Ombudsman's Report that apply to the Council were numbered 3, 4, 5, 6 and 7, and I have satisfied myself that action has been taken in complying with all these recommendations. These actions were reported to the Council at its meeting on 5 July 2016. Following the Council meeting, I can verify that the responses to the recommendations have been satisfactorily implemented as proposed.

The following table details the Ombudsman's recommendation numbers, the recommendations, the Council response and how I verified compliance.

No.	Ombudsman's recommendation	Council's response	Monitor's verification
3	Council should develop a special rate and charge scheme section on its website to ensure all relevant information about schemes is available to the community.	Completed. This section of Council's website has been developed and is now live – see <a href="http://www.casey.vic.gov.au/roads-drains/scs">www.casey.vic.gov.au/roads-drains/scs</a> .	Viewed on website and downloaded information.
4	Council should consider refunding residents for the interest charged over and above 4.25 per cent per annum – the rate as at February 2014 that was notified to residents – until 1 September 2015.	Completed with the consideration of this report. Eight of the 37 residents in the Special Charge Scheme are paying by instalments. Interest was not actually charged until January 2015, so the period affected is nine months. The proposed refund as recommended by the Ombudsman is equivalent to \$2204.50 in total, which is an average of \$276 for each of the eight properties.	Obtained copies of the eight letters providing refunds equivalent to \$2204.50.
5	In the light of its view that it erroneously decided to enter a closed meeting on 17 June 2014, Council should consider releasing on its website all minutes and documentation associated with this closed session regarding the Market Lane Special Charge Scheme interest rate.	Completed with the consideration of this report. Two documents falling within this category were identified. These are the agenda items and minutes relating to Council's consideration of the Special Charge Scheme interest rate at its 17 June 2014 meeting.	Viewed on website and downloaded information.
6	Council should institute a process of revising its Special Charge Scheme interest rate annually as part of its budget process.	Completed. The Special Charge Scheme Interest Rate for 2016-2017 was adopted along with the overall 2016-2017 Budget at a Special Council meeting on 28 June 2016.	Obtained minutes of Special Council Meeting 28 June 2016, refer item 6 setting interest rates for Special Rates and Charge Schemes.
7	Council should review the provisions of section 89(2)-(3) of the Local Government Act and, in the future, ensure it fulfils its obligations to record the reason(s) for a decision to close a Council meeting.	Completed. It is the Ombudsman's expectation that more detailed reasons should be provided for Council considering an item in Closed Council. Arrangements are now in place to provide more detailed reasons. It is noted the Ombudsman is also conducting an investigation more broadly into closed Council reporting across the local government sector, which officers anticipate will further assist the sector to develop more consistent approaches.	Obtained copy of the meeting agenda and minutes for 19 July 2016, which included more detailed information about the reasons for closing the meeting.

## **Ombudsman's concerns**

Throughout the Ombudsman's Report a number of concerns were raised that were not fully reflected in the recommendations made in the report, yet highlighted a range of governance issues that needed to be addressed. By analysing these concerns, which number approximately 30, I was able to work with Council officers in assembling them under a limited number of key focus areas.

This work with the officers addressed the main areas of concern and developed actions and initiatives that would improve governance and work processes and practices for the future. It should also be acknowledged that in some of the areas, work was already underway in the Council administration to institute improvements.

The seven key initiatives undertaken to address the Ombudsman's concerns are:

- Forms Audit
- Privacy Act training
- Charge Scheme forum and other matters
- Closed meeting initiatives
- Governance Charter – budget processes and decision follow-ups
- Website Contents Policy
- Community Engagement Strategy.

Following is more detail on these initiatives, including actions taken and the respective decisions made to ensure they continue.

### ***Forms Audit***

The Governance Unit is currently undertaking a Forms Audit to reduce the number and complexity of forms and standard letters across the organisation.

Following the initial process, a further review of the forms, templates and standard letters will be undertaken to ensure legislative compliances. This audit will become a biennial rolling program and will take place across the whole organisation, but will commence with Special Charge Schemes.

The Terms of Reference for the Forms Audit are included in the Council's Governance Charter adopted by the EMT on 26 July 2016 and the Council on 2 August 2016. The EMT will monitor the program through six-monthly reports from the Governance Unit.

### ***Privacy Act training***

The Council's Human Resources Department conducts an Annual Training Calendar for all staff to access. An important component of the program is Privacy Act training to ensure that people across the organisation are aware of their responsibilities in this area.

Often people in more technical areas of work do not participate in Privacy Act training, as they are not aware that the Act relates to them. However, it is often very relevant and for this reason Directors will ensure all staff impacted by the Privacy Act will participate in training so that they have a good understanding of their responsibilities.

The Human Resources Department will monitor the program and report to Directors if participation levels are not satisfactory.

### ***Charge Scheme Forum and other matters***

To ensure best practice and legal compliance is achieved and maintained, an Annual Special Charge Scheme Forum will be conducted. The arrangements for the Forum are set out in the Special Charge Scheme Policy, which was adopted by the EMT on 26 July 2016 and the Council on 2 August 2016.

In addition, the policy reinforces that the appropriate people are made aware of their rights to lodge objections, submissions and appeals during the process of considering the Special Charge Scheme.

The Annual Special Charge Scheme Forum is to include representatives from the Engineering and Assets, Governance, Legal Services, Communications, Customer Services, Finance and Property, and Valuations areas. It will cover current legislation, interest charges, public meetings and consultations, Council meeting processes and customer service issues.

### ***Closed meeting initiatives***

A range of initiatives have been introduced around reducing the number and improving the processes for closed Council meetings.

These initiatives include the following:

- The EMT has adopted a Forward Planner for Council meeting agenda items. The Planner will extend out for six months and detail items for Council meetings in that period, naming responsible officers and clearly showing items that are proposed as confidential and the reason for this. The Planner is reviewed by the EMT on a fortnightly basis.
- The EMT reviews a draft Council agenda prior to it being forwarded to Councillors. This ensures a final check of the appropriateness of items, sequencing and confidential items.
- All items for closed meetings in the agenda and minutes are identified by item number, subject, title and the reason for closed meeting consideration. This is done in accordance with the provisions of the Local Government Act.
- If necessary, confidential reports will be identified in the agenda and in the minutes so that the matter can be dealt with in the 'open' Council meeting.

The closed meeting initiatives outlined in these points are embedded in the Council's Governance Charter, which was adopted by the EMT on 26 July 2016 and 2 August 2016, and the Council on 2 August 2016.

### ***Governance Charter – budget processes and decision follow-up***

To ensure that interest rate charges for Special Charge Schemes and other relevant Council activities are reviewed annually as part of the budget process, an appropriate amendment was made to the Council's Governance Charter.

In addition, the Charter has been amended to ensure that all Council decisions are implemented in a timely manner. Periodically, Councillors will be provided with a report outlining the number and the timeliness of Council resolutions actioned.



The revised Governance Charter including these amendments was adopted by the EMT on 26 July 2016 and the Council on 2 August 2016.

### ***Website Content Policy***

A policy for website management, including a governance structure for the development and maintenance of online content, has been adopted.

The policy specifies that the City's corporate website business objectives are to:

- inform
- transact
- engage.

Its primary services and activities include:

- animal management
- building services
- community services
- emergency management
- health services
- local laws
- planning
- roads and parking
- operations and culture
- Special Charge Schemes
- waste management.

The Website Content Policy is operational in nature and was adopted by the EMT on 26 July 2016.

### ***Community Engagement Strategy***

A strategy for community engagement has been adopted. It provides a framework for Council to guide the delivery of community engagement processes across the organisation to better inform decisions in planning services, setting budgets and developing policy and strategy.

In reference to the Council's legal responsibilities for consultation, the policy states that the City of Casey will treat the legally required level of community engagement as the minimum standard. The organisation will endeavour to meet the interest of the community to be involved in specific decisions and projects.

Delivery of community engagement beyond legally required levels will depend on the decision to be made (or project/service to be delivered), the community's interest to participate, the need to understand the community's views, and the opportunity for the community to influence the decision.

The Community Engagement Strategy was adopted by the EMT on 26 July 2016 and by the Council on 2 August 2016.

### **3. Future good governance and compliance**

The work undertaken by the City of Casey in respect to governance and compliance issues since the release of the Ombudsman's Report has been quite significant.

A number of comprehensive Council reports were presented, considered and adopted by the Council on 5 July and 2 August 2016. These reports addressed all recommendations and most of the concerns raised by the Ombudsman. The areas of concern not reported to Council were considered operational issues and were satisfactorily resolved by the EMT.

To ensure improvements to governance processes and practices and compliance with legislative requirements are properly implemented in the organisation, a variety of effective systems have been utilised. These include revisions to charters, training programs and policies, together with a number of new initiatives and strategies.

The organisation has embraced these changes and improvements in a very proactive, positive manner and has demonstrated a strong willingness to ensure they are followed in the future. Preparing reports detailing the changes and having the reports formally adopted at EMT meetings and Council meetings provides a high level of comfort that they will be embedded in the organisation and followed in the future.

### **4. Conclusion – assessment, effectiveness and further action**

In carrying out the Municipal Monitor role at the City of Casey, I have followed the Terms of Reference accompanying my letter of appointment and I have presented the information in this report in accordance with those requirements.

The Terms of Reference requested me to make an assessment of the steps and actions taken by the Council in response to the Ombudsman's Report and in this regard I am of the opinion that the various changes made, and outlined in this report, will result in very positive improvements to governance processes and practices. By working with the staff in developing and implementing the changes, and having many of the matters formally adopted by the Council, I believe that they will be effective in greatly reducing the risk of the problems recurring. The staff and Councillors were willing to embrace the improvements and ensure that they were embedded within the organisation.

In view of the proactive and positive action taken by the Council in improving governance process, practices and associated policies in respect to the Ombudsman's recommendations and concerns, I do not consider it necessary for the Minister to take any action, at this time, under Section 218A of the Local Government Act.



Bill Jaboor

11 August 2016