

Municipal Monitor appointed to South Gippsland Shire Council

Report to the Minister for Local Government

1. Background

1. Appointment

On 8 November 2021, the Minister for Local Government appointed me, Prue Digby, to be a municipal monitor at South Gippsland Shire Council under Section 179(1) of the *Local Government Act 2020* to monitor governance processes and practices at South Gippsland Shire Council. The appointment was for a period of twelve months.

The former South Gippsland Shire Council was dismissed in June 2019 after a Commission of Inquiry found a high level of discord, conflict and tension between the Councillors had negatively affected the council's performance, councillors' decision-making, councillor-staff relationships and council's reputation. A Panel of Administrators were subsequently appointed in July 2019 for a period of just over two years to oversee the functioning of the Council.

The Administrators in finalizing their Ministerial appointment provided advice to the Minister on actions that needed to be completed to strengthen good governance practices, re-build community respect, develop local leadership and broaden community engagement which were to inform the newly elected Council's decisions. Delivery on these matters would ensure that all recommendations from the Commission of Inquiry into the Council were implemented.

I was appointed to support South Gippsland Shire's transition back to elected councillors, encourage good governance and help prevent a recurrence of the behaviours that led to the council's dismissal in June 2019. My terms of reference covered four inter-related areas;

- Councillor's understanding and performance with respect to;
 - their roles and responsibilities,
 - their behaviour and adherence to the Code of Conduct
 - their compliance with the Council's Governance Rules
- Policies and practices relating to the interaction between councillors and council staff
- Policies and practices relating to community engagement and the development of key strategic plans.
- Delivery on matters identified by the Panel of Administrators and the recommendations of the Commission of Inquiry

The full terms of reference of my appointment are included as an appendix.

1.2 Context for the Shire of South Gippsland

South Gippsland Shire Council (SGSC) is located in coastal south eastern Victoria, approximately 100km southeast of Melbourne and has a population of just over 30,000. The Shire is both a rural and residential area, with diverse and thriving businesses and a significant visitor economy. Much of the rural area is used for forestry and agriculture with dairy, beef, sheep and snow pea farming being the main agriculture pursuits. Fishing, viticulture and tourism are also important industries that contribute economic diversity to the region. The Shire consists of major and smaller towns as well as many rural hamlets.

The Shire is a subdivided municipality consisting of three wards with nine Councillors elected in November 2021. Of those elected, only one person had previously been a Councillor and was not a Councillor on the Council that was dismissed in 2019. Councillors and their wards are;

Tarwin Valley Ward

Cr Adrian Darakai

Cr John Schelling

Cr Clare Williams

Prom Coast Ward

Cr Mohya Davies

Cr Sarah Gilligan

Cr Scott Rae

Strzelecki Ward

Cr Mick Felton

Cr Nathan Hersey

Cr Jenni Keerie

The Council has a workforce of approximately 270 effective full time employees with an executive leadership consisting of the Chief Executive Officer and 3 directors. The Chief Executive Officer was appointed during the Administrator's term in 2020. The Shire is responsible for delivering over 100 diverse services and has a wide range of responsibilities under various Victorian and Commonwealth legislation. The Council has continued to deliver its services and responsibilities through the changing environment presented by the COVID-19 pandemic. The Council is in a sound financial position.

3. Monitoring activities

At the beginning of my appointment I met with the CEO and then the Executive Leadership Team to discuss how I intended to undertake my role. I then attended the first informal meeting of the newly elected Councillors and on the first day of the Councillor Induction/Transition program discussed my approach to carrying out my Terms of Reference. I participated in the *Better Connections For Clearer Conversations and Considered Decisions* all day workshop which was held on day three of the Induction/Transition Program (see comments below). I attended most of the Induction/Transition program sessions for the newly elected Councillors.

I have regularly attended Ordinary Council meetings, Strategic Briefing meetings, Councillor only and Councillor and CEO meetings. I have also attended the Chief Executive Officer Performance Review Committee and the Audit and Risk Committee meetings.

I have met almost weekly with the CEO and the Mayor, separately and together and on occasion with the Deputy Mayor. I have also met with the Executive Management Team group to provide observations and reflections.

I have participated in Councillor debriefing sessions on their performance following Ordinary meetings, provided observations and reflections on a regular basis and participated/observed Councillor Development Workshops.

I have provided advice to the Mayor and CEO on a range of issues including the management of complaints regarding Councillor behaviour. I have also provided advice to Councillors individually on issues of concern to them.

I have liaised with Local Government Victoria as appropriate.

2. Governance at the Council

My observations and findings in relation to my Terms of Reference are as follows.

Councillor understanding and performance with respect to their roles and responsibilities, behaviour and adherence to the Code of Conduct and compliance with the Council's Governance Rules.

The Councillors immediately upon being elected participated in an intensive induction/ transition program that had been designed by the senior management. The program ran initially over seven weeks and went far beyond the legislated mandatory modules. Additional induction sessions were provided over the coming months.

The program was designed so that the newly elected Councillors could spend facilitated and informal time relationship building amongst themselves and between the Councillors and the Chief Executive Officer and the Executive Team. This occurred at the very beginning of the program, with an additional facilitated session mid year and informal sessions throughout the twelve months.

The Council engaged a highly skilled external facilitator who lived in the region to work with the Council group to build connection and trust. The Councillors created their values and behaviours through this process and inserted them into the Code of Conduct so it truly reflected the way in which they wanted to work. Their Code also includes a Charter which articulates their commitments in tangible ways to demonstrate their values. This helps the Councillors to hold each other to account and to be accountable to others outside the Councillor group.

Council has experienced first-hand the impact of poor culture, conduct and behaviour on the community and the administration. The Council were determined to not replicate the conduct and behaviours of the past. Councillors have attended multiple professional development sessions, both at Council and externally. In August 2022 the Council adopted the Councillor Development Policy which demonstrates a commitment to continuous improvement, learning and development.

The Councillor only sessions that are held weekly have provided the Councillors with the opportunity to reflect on their performance and behaviours both as individuals and as a group. It is critically important that the Councillors maintain a discipline of reflection especially as circumstances arise which can generate tension and division in the group ie the upcoming Mayoral election.

The Council undertook a review of the Code of Conduct in August 2022 and the revised Code along with the revised Governance Rules were adopted in October 2022 following the required community consultation. There have been no breaches of the Code of Conduct during the past twelve months and there has been compliance with the Governance Rules.

My Key Finding in relation to setting Councils up for success is the development and implementation of a high quality Induction/ Transition Plan that has as its focus cultivating an environment of transparency, honesty, integrity and trust. There is value in considering engaging an external facilitator to work with a new Council to provide the foundation for developing good respectful relationships and agreeing the "what we will do" and "what we won't do" behaviours. Commencing this integral part of the Council induction process should be considered as one of the first steps in the mandatory process.

It would be of value to the sector if the South Gippsland Induction/Transition Program was shared with the sector along with the learnings.

Systemic Councillor reflection on their relationships with each other, with management and with the community should be undertaken regularly throughout a Council's term and at times be formalised through the use of an independent person. There is value in promoting, throughout the sector, Councillor development as a group and individually through their term of office.

Policies and practices relating to the interaction between councillors and council staff.

There has been genuine and strong investment in the area of Councillor, CEO and staff relationships. As mentioned above the investment in the Induction/Transition program in building strong, respectful relationships based upon trust included not only Councillors but also the CEO and the executive team. The relationships have been further enhanced by providing almost weekly Councillor and CEO only discussion sessions and regular Councillor, CEO and executive team discussion sessions. The partnership approach taken throughout the development of the integrated plans also enhanced these relationships.

The Local Government Act 2020 clearly outlines the responsibilities of the CEO for the administration of the Council. This includes both the staff of the organisation and support to the Councillors in their representative role. The newly elected Council, whilst respectful of the role differentiation in some areas, struggled to practice this on a day to day basis.

This was most evident when Councillors were approached by individual community members with issues/requests they wanted Council to action ie a road needing fixing. Noting that the community had been without a democratically elected Council, or effective Council for some years, the Councillors found themselves often inundated by individual requests. Despite having in place a formalised Councillor Request system, where Councillors could lodge a request for action on behalf of a community member, the situation turned quite quickly into one where Councillors became frustrated by the organisation's apparent lack of responsiveness and the organisation became overwhelmed by the sheer volume of requests and responding diverted resources away from the actions approved in the Council Plan.

The situation has generated numerous discussions regarding improvements to the Councillor Request system and the way management responds to those requests. The heart of this issue though goes to the Councillor's role as one of 'working on the business' not 'in the business'. In addition how Councillors undertake their strategic role, as opposed to their representative role, (sometimes played out as community advocacy roles) has been the focus of much discussion between myself, the Chief Executive Officer and the Councillors. It is an area that the Councillors continually need to reflect on so that they continue to ensure that they are collectively and appropriately focused on strategy and good governance for the whole of the Shire.

The organisation has a Councillor and Officer Interaction Policy.

Finally the impact that the skills and capability of the Chief Executive Officer has on the quality of the interaction between Councillors and the organisation cannot be underestimated. The ability to listen, be responsive and flexible in the context of providing strong professional advice on issues before the Council, governance matters and roles and responsibilities has been a feature of the Chief Executive Officer's leadership at South Gippsland and has significantly contributed to the Council's achievements and success to date.

Policies and practices relating to community engagement and the development of key strategic plans.

Shortly after their induction the Councillors immersed themselves in the Shaping South Gippsland community engagement program to inform the development of the suite of integrated plans including the Community Vision. This was the largest community

engagement program ever undertaken by the Shire and although some of the planning for the engagement had commenced just prior to the Councillors being elected they sought to shape the engagement activities to reflect their approach to connecting with their community. A number of engagement and communication approaches were utilised in order to maximise the number of community members who could contribute to shaping the Shire's future.

These approaches included;

- Community Panel
- Facebook Q and A
- Regional Project Profile Survey
- Stakeholder breakfast
- YourSay on-line surveys
- Pop-ups at junior football clubs and local markets
- Coffee with a Councillor

All Councillors took part in the community engagement program.

On 29th June 2022 Council adopted a suite of integrated plans which included;

Community Vision 2040

Council Plan 2022-2026

Long-Term Financial Plan 2022-2023

Rating and Revenue Plan 2022-2026

Budget 2022/23-25/26

Asset Plan 2022-2032

Advocacy Strategy and 2022 Priority Projects

Great Southern Trail Visitation and Marketing Plan

An Arts, Culture and Creative Industries Strategy 2022-2026 and a Domestic Waste Water Management Plan 2022-2026 were later adopted in July 2022. A Municipal Health and Wellbeing Plan was adopted in October 2022 and a review of the Planning Scheme has commenced.

These strategies and plans were shaped from the community feedback collected from the extensive community engagement program described above. The delivery, and quality, of eight of these strategies and plans in just over seven months into the term of this newly elected Council is a credit to both the Council, the Chief Executive Officer, executive team and staff.

The strategies and plans provide a clear direction for the Council's term of office and a strong foundation for the future.

Council's 2022 Customer Satisfaction Survey results displayed a marked improvement in most of the results in comparison to the low scores of 2019. The highest results the Council has received since the survey commenced were in the areas of 'Making Community Decisions', 'Overall Council Direction' and 'Value for Money'.

Significant effort has been made to rebuild the community's trust in the Council and the Council is working to improve these results further next year by building on the community connections and engagement they have undertaken over the last twelve months.

Delivery on matters identified by the Panel of Administrators and the recommendations of the Commission of Inquiry.

On the 30 June 2022 the Council provided a report to the Minister for Local Government regarding the actions that they had undertaken to finalise the matters identified by the panel of administrators and the 2019 Commission of Inquiry Report. While all of the matters have been completed or significantly progressed a number of them require ongoing work and have been transitioned into the Council's regular cycle of review. Some of these matters are outlined below;

- The Community Leadership Program has been captured as a 'strategy' and 'major initiative' in the Council Plan and Budget and ongoing work on the program will continue
- Other matters such as understanding the values of policies and processes to manage conflicts of interest, meeting procedures and decision making and investing in relationships have been discussed in the sections above.
- The suite of governance policies has been reviewed and updated. Policy reform continues with a regular programmed review of all policies. The framework is now informing all Council reports. A major initiative for 2022/23 is the next step in development of the Framework.
- Allowing the fullness and diversity of community voices to be considered in the development of key strategic plans is discussed in the sections above and is on-going.

3. Recommendations for the Minister for Local Government

Council has worked very hard on forming a strong team that is based on professional relationships, values and behaviours. The Councillors have committed to systemically review the way in which they are working together, with management and the organisation and with the community in adhering to the agreed values and behaviours. Delivering on this commitment will be critical to their on-going success.

The Council has made a significant effort to rebuild the community's trust that the Council can provide good democratic leadership.

Council has demonstrated that they are not only capable, but determined to, perform their statutory role effectively and provide good governance for the community of South Gippsland.

I do not have any recommendations for the Minister with respect to the future governance of South Gippsland Shire.

I would like to acknowledge the South Gippsland Shire Councillors, Chief Executive Officer and the staff for their co-operation and openness with me during my period as Municipal Monitor and wish them well for the future.

Prue Digby

Municipal Monitor

16 November 2022

APPENDIX

TERMS OF REFERENCE OF THE MUNICIPAL MONITOR APPOINTED UNDER SECTION 179 OF THE LOCAL GOVERNMENT ACT 2020

TO MONITOR GOVERNANCE PROCESSES AND PRACTICES

AT SOUTH GIPPSLAND SHIRE COUNCIL

Without limiting the municipal monitor's functions and powers under sections 180 and 181, respectively, of the *Local Government Act 2020* (the Act), the municipal monitor is:

1. To monitor the governance processes and practices of South Gippsland Shire Council (Council), with specific regard to the matters identified in the final report from the panel of administrators, including -
 - a. The findings and recommendations of the 2019 Commission of Inquiry into the Council, the Good Governance Framework identified by the panel of administrators, continued implementation of legislative requirements, and ongoing policy reform
 - b. Councillor understanding of, and compliance with, the Council's policies in relation to conflicts of interest, meeting procedures and decision making
 - c. Councillor understanding and performance of their statutory roles and responsibilities, including the differentiation of roles between councillors and council staff, the adequacy of the Council's councillor induction training program, and participation in ongoing training and professional development opportunities
 - d. The relationships between councillors, including the adequacy of the Council's Councillor Code of Conduct, councillor behaviour with respect to the Councillor Code of Conduct and processes for resolving disputes between councillors
 - e. The relationships between councillors and staff, including the Chief Executive Officer's policies and practices for managing interactions between councillors and council staff and contractors, and compliance with those policies and practices
 - f. The Council's community engagement policy and practices, including efforts to ensure a diversity of views in the development of key strategic plans
 - g. Further development and delivery of the Council's Community Leadership Program, focusing on ensuring the diversity of participants
 - h. Any other Council governance policies, processes and practices.
2. To advise on, and provide assistance and support to, the Council in relation to the Council's governance processes and practices, with specific regard to the matters raised in clause 1; and
3. To report to the Minister for Local Government, with respect to the matters in clause 1, on:
 - a. any steps or actions taken by the Council to improve its governance and the effectiveness of those steps or actions; and
 - b. any recommendations in relation to the exercise of any Ministerial power under the Act.