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## **MINISTERIAL RESPONSE TO THE HUON VALLEY COUNCIL BOARD OF INQUIRY REPORT JUNE 2016**

### **Introduction**

In early September 2015, I established a Board of Inquiry into the Huon Valley Council (the Board) under section 215(1) of the *Local Government Act 1993* (the Act) after I received a number of serious complaints from the Mayor and a majority of councillors of the Huon Valley Council (the Council). Complaints were also received by the Director of Local Government.

These complaints contained allegations regarding breaches of the Act and claims that certain behaviours were having a detrimental effect on the Council's ability to carry out its roles and functions under the Act. Under its Terms of Reference, the Board was asked to investigate these complaints and provide me with a report containing findings and recommendations in accordance with the process set out in Part 13 Division 1 of the Act.

### **Inquiry process**

Consistent with the requirements of section 218(1)(a) of the Act, the Board conducted its Inquiry with as little formality and technicality as proper consideration of the matters before it permitted. The Board invited those directly affected by the Inquiry to make submissions, in accordance with section 219 of the Act. Pursuant to section 218(1)(c) the Board also observed the rules of natural justice when carrying out its functions.

There are significant powers available to a Minister under the Act. These have the potential to affect the rights and interests of the Council and its councillors, and it is vital that they are exercised in the best interests of the community. While I appreciate the community's concerns regarding the time that the Inquiry has taken, it was imperative that proper process was followed. I would like to acknowledge the efforts of all involved in the Inquiry process including the Mayor, councillors, General Manager, Council staff and residents of the Huon Valley for their cooperation shown throughout the Inquiry process. I also acknowledge the thorough work of the Board in its inquiry and given the breadth of issues brought before it, some of which were highly sensitive and complex in nature.

I note that the Board considered all of the issues raised through the public submission process. I also note that some of the issues brought forward were beyond the scope of the Board's Terms of Reference, including some historical complaints or individual

grievances that the Board considered were not, in themselves, indicative of systemic issues. I have not taken account of these matters in making my decision however, as noted in the report, some of those matters have been referred to other bodies for consideration.

### **Huon Valley Council Board of Inquiry Report**

The final report of the Board, the *Huon Valley Council Board of Inquiry Report to the Minister June 2016* (the Board's report) is provided in full at Attachment 1. The report contains 60 findings and 55 recommendations, and details the Board's assessment of the range of issues that it considered. These assessments are laid out under the following four themes:

- *Key relationships* – between the Mayor and the General Manager, the Mayor and councillors, amongst a group of like-minded councillors; and councillors and staff.
- *Cultural and behavioural concerns* – including conduct, transparency and accountability.
- *Policy and process issues* – both internal to the Council and in dealings with third parties.
- *Specific issues* – the management of Council projects, initiatives or community assets.

Based on its findings, the Board made two key recommendations, one for the immediate dismissal of the Council and the second, as an alternative to that recommendation, to give the Council six months to undertake certain actions to rectify the situation and, if the council fails to comply, the Council be dismissed.

The Board's first key recommendation is that I should recommend that the Governor by order dismiss the councillors under section 226(1)(b) of the Act; appoint a Commissioner under section 231 of the Act to perform the functions of the councillors for a period of 12 months; and not call a new election for a minimum period of 12 months.

The Board's alternative recommendation is that, should I not decide to immediately dismiss the councillors, then pursuant to section 225(2) of the Act, I should direct the Council to take certain actions which are detailed in the Board's report. Should the Council fail to comply with these directions within a period of six months, the Board further recommended that, pursuant to section 226(2) of the Act, I recommend that the Governor by order dismiss the councillors and appoint a Commissioner under section 231 of the Act to perform the functions of the Council until the next scheduled elections in October 2018.

The Board also recommends that, where appropriate, the additional recommendations contained within the report should be implemented.

## **Ministerial decision**

Following detailed consideration of the Board's report, along with submissions received from the Council, councillors (including the Mayor) and the General Manager on the contents of the Board's report, and various events surrounding the Board of Inquiry process, I accept the Board's view that the current unworkable relationship between the Mayor and General Manager is irregular, and that, to a lesser degree, the relationships between the Mayor and some councillors, and between some councillors, are also irregular. Further to this, I acknowledge that all parties agree that the current situation is untenable and requires intervention.

I note the Board's view regarding the effect of this irregular conduct on the operations of the Council. I also accept that the dysfunctional behaviour has adversely affected good governance at the Council, which has led to public perceptions of a divided and dysfunctional organisation.

However, having considered the Board's report and the related submissions, it is my view that the irregularities identified in the report do not warrant dismissal of the Council as a whole at this point in time.

It is clear that there are poor governance practices and dysfunctional relationships between the Mayor and General Manager, the Mayor and some councillors and between some councillors. It is also clear that without intervention these dysfunctional relationships and poor practices will inevitably lead to poor decision making right across Council services, policy development, and operations.

However, it is my view that, with appropriate guidance and support, these issues are capable of being addressed by the Council itself without the need to immediately move to dismiss the councillors. It is in the best interests of the community to first give the Council the opportunity to rectify the current situation before considering more significant intervention.

Accordingly, I have made the decision to adopt the Board's alternative recommendation and, pursuant to section 225(2) of the Act, to direct the Council to take a number of actions, as laid out in my Ministerial Directions (attached), to rebuild key relationships and address some important issues relating to transparency, accountability and consultation.

By making this determination as recommended by the Board, I am providing an opportunity for the Council to accept responsibility and contribute to a workable solution and to bring these relationships and governance arrangements to an acceptable level in the interests of the community it serves.

The Council will be monitored closely over the next six months, effective immediately. During that time, by complying with my Directions, it will be provided with the opportunity to prove that it can properly perform its functions and obligations under the Act. Further selective monitoring will occur beyond the six month period up until the local government elections in October 2018. Should the Council fail to comply with my Directions, then, pursuant to section 226(2) of the Act, I will consider recommending that the Governor by order dismiss the councillors and appoint a Commissioner under section 231 of the Act to perform the functions of the Council.

The Huon Valley community elected the Mayor and councillors in good faith, to govern the municipality in accordance with its relevant powers under the Act and to make decisions in the best interests of the community which it serves.

While the Board found that every councillor, including the Mayor, felt the situation was untenable, subsequent to the confidential provision of the Board's report to the Mayor, councillors and the General Manager for their comment, a shift in the view of the majority of councillors shows a willingness to move forward with a mediated process.

The Mayor and the General Manager will be provided with a mediated opportunity to establish an effective professional relationship. There is much merit in the Board's recommendation that a Statement of Expectations be developed between the two parties to remove uncertainty and establish clear agreement on their respective roles, functions and obligations to one other. A mediated process will enable each party to contribute to the development of this Statement, which will be made public following the Council's endorsement of the Statement.

I also accept that the balance of councillors must individually take some responsibility for their contribution to the current problems within the Council. Accordingly, councillors have been directed to undertake mediation and further training that is expected to lead to more professional behaviour both within Council meetings and outside in the broader community.

In recent months we have seen the release of the *Good Governance Guide for Local Government in Tasmania* together with a *Local Government Model Code of Conduct*. The *Good Governance Guide* highlights the importance and characteristics of good governance and the new *Model Code of Conduct* provides a legislative framework that clearly sets out the standards of behaviour expected of councillors with respect to all aspects of their role. It has a clear process, including sanctions, to deal with complaints about councillor conduct.

In line with the characteristics of good governance, and in accordance with the legislative framework, my Directions set out a number of additional actions that I deem necessary for the Council to improve its governance.

Among other things, my Directions include the replacement of the portfolio system with a committee system pursuant to the provisions of sections 23 and 24 of the Act, and improvements to the Audit Panel Charter. The Council has been directed to develop a process for determining and monitoring the implementation of all human resources plans and programs, and to ensure that staff are provided with a supportive environment to bring their concerns forward.

Furthermore, in consultation with the community, the Council has been directed to develop a comprehensive communication and consultation plan to cover all internal and external communications and an inclusive consultation process, in accordance with the eight characteristics of good governance. The Council has also been directed to develop a transparent process to regularly review and communicate progress against issues raised by the community.

The Local Government Division in the Department of Premier and Cabinet will closely monitor the Council's performance in implementing my Directions over the next six months and then on an ongoing basis until the next election in 2018. The Division will regularly report to me on the Council's progress.

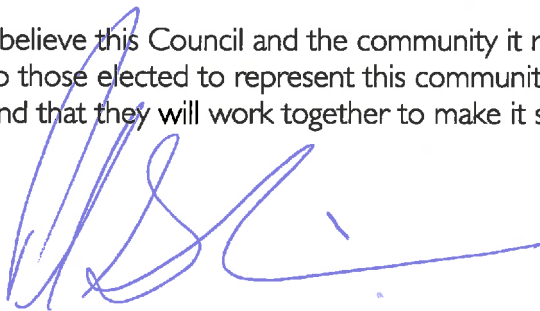
By committing to the actions set out in my Directions, the Council has an opportunity to demonstrate the leadership that the community expects and demands.

In addition to my Directions, I encourage the Council to consider and implement the additional recommendations contained in the Board's report, where appropriate, noting that since the initial report was provided to me on 19 February 2016 some of those recommendations may have been implemented in whole or in part.

A copy of my Ministerial Directions and the *Huon Valley Council Board of Inquiry Report to the Minister June 2016* are attached in full. I will make public the Board's report and this Ministerial Response, including the Ministerial Directions, in order to provide the community with an overview of the circumstances and context in which I have made my decision.

This is the first and most important step in restoring the leadership, goodwill and good governance that the Huon Valley community so richly deserves. The future of this Council now rests as it should in a democracy with the elected members.

I believe this Council and the community it represents have a bright future. It is now up to those elected to represent this community to demonstrate that they also believe this and that they will work together to make it so.



Peter Gutwein MP  
**Minister for Planning and Local Government**

Date: **15 JUN 2016**

Attachments

- 1 Ministerial Directions
- 2 *Huon Valley Council Board of Inquiry Report to the Minister June 2016*