

MINISTERIAL STATEMENT

Dorset Council Board of Inquiry Response

Hon Kerry Vincent MLC
Minister for Local Government

In July 2023, the former Minister for Local Government, Nic Street MP, established a Board of Inquiry into the Dorset Council under section 215(1) of the *Local Government Act 1993* to investigate allegations of systematic and widespread statutory non-compliance and failings of good governance at Dorset Council.

The decision to establish a Board of Inquiry followed an investigation by the Director of Local Government into a series of complaints about the actions, decisions and behaviours of Council, councillors, and senior council employees. The complaints were received from within and external to Council.

The Director's report revealed evidence of improper use of statutory power; systematic failure to comply with statutory obligations; mismanagement of conflicts of interest; decision-making compromised by poor governance and disrespect for councillors, community members and businesses by Council.

Under its Terms of Reference, the Board was asked to investigate these and other matters and provide the Minister for Local Government with a report containing findings and recommendations in accordance with the Board of Inquiry process set out in the Act.

Board's report

The Board provided its revised report to the Government on 18 October 2024. The report contains 70 findings and 22 recommendations, and details the Board's consideration of a broad range of issues that were brought to its attention. These issues can be grouped into five main themes.

Firstly, the Board examined non-compliance with statutory obligations by Council and council officers.

Secondly, the Board looked at conflicts of interest involving councillors and former council staff members.

Thirdly, the Board considered the governance and decision-making processes of Council.

Fourthly, the Board investigated allegations of bias and improper use of legislative authority against councillors and former council staff members.

Finally, the Board considered inappropriate behaviour and communications by the Mayor and the former General Manager.

The advice of the Board identifies serious failings in governance within Council over many years and misuse of positions of authority by senior staff. It identifies that senior staff of the council:

- Undertook works without lawful permits;
- Failed to cease works when directed to do so;
- Recommended to Council that work continue whether it was lawful or not;
- Failed to declare their shareholding in profit seeking operations associated with Council;
- Issued infringement notices unlawfully and in a manner intended to punish members of the community; and
- Used language that was often combative, inappropriate and offensive in nature and content.

The Board also advised that the Mayor and Councillors:

- Did not monitor the performance of the General Manager;
- Did not pursue legal advice when it should have;
- Did not have process in place to ensure that it complied with the obligations under land use planning laws; and
- Did not ensure that appropriate governance was in place to manage a range of statutory obligations.

Finally, it has advised that the Mayor commonly used offensive and inappropriate language in communications.

These findings are highly concerning. They reflect poorly on the reputation and standing of Council in the community and reinforce the instigation of a Board of Inquiry.

Based on its findings, the Board made a suite of recommendations regarding Council and the local government sector more broadly.

The Board has recommended that I exercise my powers under the Act and give a series of Ministerial Directions to Council. These Directions are intended to address a range of material issues identified by the Board, including:

- Conflicts of interest in planning decisions where Council is the developer or applicant and the planning authority;
- Monitoring and enforcement of compliance with permit conditions issued by Council;
- Compliance with procurement and tender process requirements in relation to construction of the Blue Derby Mountain Bike trail network; and
- Ensuring that Council undertakes its functions and exercises its powers under the *Building Act 2016* and the *Local Government (Building and Miscellaneous Provisions) Act 1993* according to law.

The Board has also recommended that I issue a Direction to the Mayor in relation to its finding that he engaged in aggressive, inappropriate and offensive communications.

Ministerial decision

Following detailed consideration of the Board's report, along with submissions received from Council and the councillors, I have decided to give a series of formal Directions to Council to address the issues that the Board has identified. Further to the Board's recommendations, I have also issued additional Directions to Council and the councillors to take other steps to

remedy the concerns identified by the Board. I have also issued a specific Direction to the Mayor in respect of the Board's findings regarding his aggressive, inappropriate and offensive communications.

The issuing of Ministerial Directions is a significant matter, and recognises the seriousness of the issues identified by the Board. Under the Local Government Act, compliance with Ministerial Directions is compulsory and failure to do so can result in dismissal of any or all councillors.

The Report indicates that there are likely to be some members of the community, and indeed some councillors, who are disappointed with this outcome and who consider that some or all of the councillors should be dismissed.

It should be recognised that the Board of Inquiry is necessarily constrained in making recommendations by the provisions of the Local Government Act and the evidence before it. However, in view of community concerns, I believe it would be appropriate to review the adequacy and appropriateness of the Board of Inquiry provisions contained in the Act to ensure that they are in line with, and responsive to, community expectations. Accordingly, I have referred this matter to the Director of Local Government for consideration of potential amendments to the Act.

Ministerial Directions

I note the Board's view that many of the failings of governance and decision-making by Council and the councillors can be addressed through compulsory ongoing training and development, and through other measures.

With this in mind, I have directed all councillors to complete the online learning modules that are available under the Councillor Learning and Development Framework.

I also note the significant findings against the former General Manager and another former Council employee. While these individuals are no longer employed by Council, in my view the Board's report suggests that under the former General Manager there was a culture of disregard for public authorities and lawful process at senior levels within the operational arm of Council. Based on the Board's findings with regard to several matters, including the Bridport Foreshore the Federal Tavern, Emma Street Bridport and the treatment of former councillor Lawrence Archer, I consider that it is appropriate to issue a series of Directions to Council to ensure that Council and its officers act lawfully and in accordance with their obligations and responsibilities under relevant legislation. I note that Council opposes these Directions, however in my view it is crucial that

Council ensures that these instances are not repeated in the future.

With regard to the conduct of the former General Manager and the former Director of Works and Infrastructure, the Board found evidence that they had committed offences under the Local Government Act by failing to declare their pecuniary interests in a company seeking to operate on the Derby Mountain Bike Trails. These matters have been referred to the Director of Public Prosecutions for consideration of prosecution, as recommended by the Board.

I note the Board's findings in relation to the pattern of inappropriate and offensive communications by the Mayor. These communications were found to be clearly unacceptable and unbecoming of a community leader. The findings further indicate that these communications fall well below the standard of behaviour reasonably expected of an elected member, especially a Mayor.

While I acknowledge the right of elected members to disagree and engage in robust debate, councillor behaviour is constrained by the Code of Conduct which makes clear there is simply no place for personal attacks and insults of the kind identified by the Board in its report. Consistent with the Board's recommendations, I have therefore issued a Direction to the

Mayor in relation to his communications, including a requirement to undertake training in conflict management and interpersonal communication.

Other Directions

In addition to the Directions already noted, I have issues further Directions to Council in response to the Board's recommendations. These include Directions in relation to managing conflicts in the statutory planning process and reviewing service rates and charges.

Recommendations regarding the sector

The Board has also made recommendations regarding the local government sector more broadly.

With regard to the conflict of interest in planning decisions, where Council is planning authority and the applicant and/or developer in a development application, the Government will continue to advocate for legislative reforms to enable the referral of these matters to independent Development Assessment Panels.

The issue of ongoing training and development for councillors is a priority for the Government and the sector. The Government will continue to work with the sector to progress the roll-out of

the Local Government Learning and Development Framework to build councillor capability across the State, including embedding a compulsory learning and development model.

The Board has recommended several amendments to the Local Government Act, including in relation to workshops, service charge provisions and Council enterprise powers. These will be considered in future amendments to the Act and Regulations.

With regard to improving awareness within the sector of councils' obligations when performing works on Crown Land, while I understand that there is limited evidence that this is a sector wide issue, the matter will be raised with the sector this year. Similarly, with regard to the obligations and functions of mayors with respect to General Managers and the participation of mayors as advocates in Code of Conduct proceedings, I am advised that the Director of Local Government will be raising these matters with mayors and deputy mayors in the coming months.

The Board's recommendation regarding the issue and use of credit cards will be considered further in collaboration with the Tasmanian Audit Office and the sector.

There are some additional matters that have been raised by individual councillors in their submissions on the Board's report. The Office of Local Government will be in contact with those

councillors to provide advice on avenues to address their concerns.

Reporting

All of the Directions have specified timeframes in which they must be completed or within which they apply.

I have directed Council to report to me every three months for the first 12 months and six monthly thereafter for the remainder of the term of the council on the progress of actions taken to comply with the Directions. The Office of Local Government will also monitor the implementation of my Directions to the councillors.

I have made public the Board's report and the Ministerial Response, including the Ministerial Directions, so the community can understand the context with which I have made my decisions.

Conclusion

Building on the improvements to governance processes and procedures that have put in place under the Commissioner, and with the implementation of the Ministerial Directions, Council is now well placed to deliver good governance, transparency and accountability at all levels. With the commitment of Council and

the councillors to implement the Directions, I am confident that community confidence can be restored and Council can move forward and deliver positive outcomes for its community.

Acknowledgements

I would like to acknowledge and thank those members of the community that came forward to raise their concerns during the Director's investigation and during the Board of Inquiry. I would also like to acknowledge the cooperation of current and former councillors and Council staff during the Board of Inquiry process.

I extend my gratitude to the Commissioner for overseeing Council while the councillors have been suspended. Under the Commissioner, the business of council has continued, there have been improvements in Council's governance processes and practices, and I am pleased to echo the positive feedback I have received from members of the community.

I also acknowledge the extensive work of the Board in its inquiry. A significant number of issues were raised, some of which were complex and highly sensitive in nature, and I am grateful for its professionalism and diligence in executing its duties.