MINUTES OF THE SPECIAL GENERAL COUNCIL MEETING
HELD AT ADMINISTRATION CENTRE
245 STURT ROAD, STURT
ON MONDAY 28 JULY 2014
AND ADJOURNED TO TUESDAY, 29 JULY 2014

PRESENT

Her Worship the Mayor Felicity-ann Lewis

Councillors

Coastal Ward
Cheryl Connor

Mullawirra Ward
Jerome Appleby

Southern Hills
Frank Verrall

Warracowie Ward
Bruce Hull (until 7.02pm)

Warriparinga Ward
Carol Bouwens

Woodlands Ward
Tim Pfeiffer

In Attendance
Mr Mark Searle
Chief Executive Officer
Ms Kathy Jarrett
Director
Ms Heather Montgomerie
Director
Mr Vincent Mifsud
Director
Ms Kate McKenzie
Manager Governance
Ms Kaye Smith
EMA Legal

COMMENCEMENT

The meeting commenced at 7.00pm.

KAURNA ACKNOWLEDGEMENT

We would like to begin by acknowledging the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

MEMBERS DECLARATION OF INTEREST

The Chair asked if any Member wished to disclose an interest in relation to any item being considered at the meeting.

Councillor Hull declared an interest in the matter listed on the agenda as the matter refers to him.

These Minutes are subject to confirmation at the General Council Meeting to be held on the 12 August 2014
CORPORATE REPORTS FOR DECISION

Ombudsman Final Report - Misconduct
SGC280714R01

Councillor Hull sought leave of the meeting to make a personal explanation.

The meeting agreed and Councillor Hull made the following personal explanation:

“I am deeply concerned for the costs associated with this matter to the ratepayers of the City of Marion. The original matter has now been overshadowed by other costs. The point I wish to make is to seek some natural justice, to afford me the process put forward by the Ombudsman to allow me two full council meetings. 24 hours is unacceptable in terms of natural justice to afford me the fullness of time to respond.”

The Mayor sought clarification from Councillor Hull as to whether he would give an undertaking that he will make no further tweets or send correspondence about the matter in a public manner.

Councillor Hull responded “I will not be lead down any path and I have no further comment to make”.

7.02 pm  Councillor Hull declared a conflict of interest on the basis he was the subject of the Acting Ombudsman’s report and left the meeting and did not return.

7.02 pm  The meeting lapsed due to lack of quorum.

7.03 pm  The Mayor adjourned the meeting for 30 minutes to see if quorum could be achieved.

7.33 pm  The Mayor adjourned the meeting until 6pm, Tuesday 29 July 2014 due to lack of a quorum.
MEETING RESUMED

6.00pm  Tuesday 29 July 2014

PRESENT

Her Worship the Mayor Felicity-ann Lewis

Councillors

Coastal Ward  Mullawirra Ward
Cheryl Connor  Jerome Appleby

Mullawirra Ward
Jerome Appleby
Jason Veliskou (from 6.07 pm)

Southern Hills  Warracowie Ward
Frank Verrall  Carolyn Habib

Warracowie Ward
Carolyn Habib

Warriparinga Ward  Woodlands Ward
Carol Bouwens  Alice Campbell (from 6.07 pm)
Luke Huthcinson (from 6.07 pm)

In Attendance
Mr Mark Searle  Chief Executive Officer
Ms Kathy Jarrett  Director
Ms Heather Montgomery  Director
Mr Vincent Mifsud  Director
Ms Kate McKenzie  Manager Governance
Ms Kaye Smith  EMA Legal

6.03 pm  The meeting could not commence due to lack of quorum.

6.07 pm  Councillors Campbell, Hutchinson and Veliskou entered the meeting.

6.07 pm  Quorum was achieved and the meeting resumed.

Ombudsman Final Report - Misconduct
SGC280714R01

Moved Councillor Campbell, Seconded Councillor Verall that Council:

1. Receives and notes the Acting Ombudsman’s Report dated 21 July 2014 detailing the outcomes of the investigation into whether Councillor Hull engaged in repeated or sustained inappropriate behaviour such as to constitute misconduct under Part 3 of the Code of Conduct.

2. Notes the Acting Ombudsman found that Councillor Allen’s use of a hired driver (at Council’s cost) was in accordance with the Local Government Act, Council’s Expenses Policy and was otherwise reasonable taking into account the Council administration’s work, health and safety obligations to Councillor Allen.
3. Acknowledges and supports the Acting Ombudsman’s view that, despite Councillor Hull’s interest as an Elected Member in ensuring council resources are used fairly, effectively and efficiently, his comments to the media, disrespectful tweets and email correspondence demonstrates repeated and/or sustained breaches of Part 2 of the Code of Conduct, including his bullying or harassment of Councillor Allen.

4. Resolves to reprimand Councillor Hull for a breach of part 2 of the Code of Conduct which has amounted to misconduct in breach of Part 3 of that Code.

5. Requires Councillor Hull to provide an apology to Councillor Allen, both verbally and in writing at a Council meeting prior to the 29th August 2014.

6. Reports back to the Acting Ombudsman on 30 July 2014 detailing the outcomes of the Special Council meeting held on 29 July 2014.

7. Council acknowledges that if Councillor Hull fails to act on these requests he will fail to comply with Chapter 5, part 4 of the Local Government Act 1999 and the matter will be dealt with according to law.

AMENDMENT

Moved Councillor Habib, Seconded Councillor that Council:

6.25 pm Councillors Hutchinson, Campbell and Veliskou left the meeting

6.25 pm The meeting lapsed for want of a quorum

6.26 pm Councillor Veliskou re-entered the meeting

6.26pm Quorum achieved and meeting resumed

Moved Councillor Habib, Seconded Councillor Connor that Council:

1. Receives and notes the Acting Ombudsman’s Report dated 21 July 2014 detailing the outcomes of the investigation into whether Councillor Hull engaged in repeated or sustained inappropriate behaviour such as to constitute misconduct under Part 3 of the Code of Conduct.

2. Notes the Acting Ombudsman found that Councillor Allen’s use of a hired driver (at Council’s cost) was in accordance with the Local Government Act, Council’s Expenses Policy and was otherwise reasonable taking into account the Council administration’s work, health and safety obligations to Councillor Allen.

3. Acknowledges and supports the Acting Ombudsman’s view that, despite Councillor Hull’s interest as an Elected Member in ensuring council resources are used fairly, effectively and efficiently, his comments to the media, disrespectful tweets and email correspondence demonstrates repeated and/or sustained breaches of Part 2 of the Code of Conduct, including his bullying or harassment of Councillor Allen.

4. In light of the findings of the Acting Ombudsman, resolves to reprimand Councillor Hull as documented in Appendix 2 to this Report in respect of his repeated and/or sustained breach of Part 2 of the Code of Conduct which has amounted to misconduct in breach of Part 3 of
that Code to be published in Council’s next minutes, which conduct will not be tolerated by Council and will be held, as all Councillors to appropriate standards of behaviour in line with community expectations.

5. Requires Councillor Hull to provide an apology to Councillor Allen using Appendix 3 to this Report as a guide to indicate Council's expectation. The apology, as approved by Council at its next General Meeting, is to be:

- Dated and signed by Councillor Hull and forwarded to Councillor Allen by 12 August 2014 of the passing of this resolution. A copy of the public apology so dated and signed is to be provided to the Mayor.
- Read out by Councillor Hull at the Council meeting to be held on 12 August 2014 without any embellishment or accompanied by any other statements or qualifications.

6. Requires Councillor Hull to make an undertaking that he agrees to refrain from such conduct in the future. Such undertaking is to identify the conduct breached by Councillor Hull, as found by the Acting Ombudsman. The undertaking is to be given by Councillor Hull in writing using Appendix 4 to this Report as a guide to indicate Council’s expectation, dated and signed as approved by Council and forwarded to the Mayor by no later than close of business on 11 August 2014 and read out by Councillor Hull at the Council meeting to be held on 12 August 2014.

7. In taking into account the forum and means by which the substantiated bullying and harassment has occurred, resolves that the reprimand, public apology and undertaking be:

- Recorded in full in the minutes of the relevant Council meetings i.e. the reprimand to be recorded in the minutes of the Council meeting held on 12 August 2014;
- the public apology and undertaking to be recorded in full in the minutes of the 12 August 2014 Council meeting.
- Be scanned and posted by Councillor Hull on his twitter account as images, with short words to the effect of the apology given in writing, and as a guide, the following “I apologise unreservedly for my behaviour towards Cr Allen and the effect it has had on her. I promise to cease such conduct in future”.
- Be republished in the Guardian Messenger to ensure full and accurate reporting of the apology. Such republishing will be achieved by utilizing the editorial section of Council’s regular column in the Guardian Messenger.

8. Reports back to the Acting Ombudsman on 29 August 2014 detailing the measures taken to comply with the findings and recommendations of the Ombudsman.

9. Notes that if Councillor Hull fails to comply with the above Council requirements, which have been made as a result of an Acting Ombudsman’s recommendation, Councillor Hull will be taken to have failed to comply with Chapter 5 Part 4 of the Local Government Act, and be dealt with according to law.

10. Notes it still needs to consider and deal with the outstanding matters as alleged that Councillor Hull:

- Breached his general duties as an Elected Member
- Breached Part 3 of the Code of Conduct in the alleged misuse of Council resources which have been used (and continue to be used) to further his campaign of bullying and harassment.

- Breached his duties as an ‘other person’ under the Work Health Safety Act 2012.

These matters will be considered during the adjourned item related to this matter on 12 August 2014.

SUSPENSION OF MEETING PROCEEDINGS
Moved Councillor Connor, Seconded Councillor Bouwens, that formal meeting procedures be suspended for 10 minutes to allow for informal discussion on the matter.

Carried

6.59 pm Formal meeting proceedings suspended

7.09 pm Meeting procedures resumed

The amendment become the motion was Carried
The vote on the motion was Tied
The Mayor made a casting vote and voted for the motion

The motion was Carried

Councillor Bouwens called for a division
Those For: Councillors Bouwens, Habib, Connor and Mayor Lewis
Those Against: Councillors Verrall, Veliskou and Appleby

Carried

CLOSURE - Meeting Declared Closed at 7.22 pm, Tuesday 29 July 2014

CONFIRMED THIS 12 AUGUST 2014

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CHAIRPERSON