

Municipal Monitor appointed to Buloke Shire Council

Report to the Minister for Local Government (Dated 18/12/24)

1. Background

1.1 Appointment

The Minister for Local Government appointed me, Mr Peter Harriott as a Municipal Monitor to the Buloke Shire Council on the 9th of May 2024 for a period up to the 31st of December 2024. The appointment was made under section 179 of the Local Government Act 2020 (the Act).

This followed concerns in relation to Behaviour and Governance standards of the council.

The Terms of Reference for the appointment are as follows.

1) To monitor with specific regard to.

- (a) the Councillors understanding and performance of their statutory roles and responsibilities, including in relation to the separation of roles between councillors and the Chief Executive Officer;
- (b) the Council's meeting procedures and decision-making processes, including councillor attendance at briefings and Council meetings, and the adequacy of the Governance rules;
- (c) the relationships between councillors and between councillors and Council staff, including councillor behaviour with respect to the Councillor Code of Conduct and processes for resolving disputes between councillors;
- (d) support for the Chief Executive Officer to effectively perform their responsibilities and functions, including in relation to establishing policies and practices that manage the interactions between Councillors and Council staff and contractors;
- (e) the Council's processes and practices in relation to health and safety, including any matters that may be creating a serious risk to the health and safety of councillors, council staff or other persons;
- (f) the Council's policies, processes and practices related to the management of conflict of interest;
- (g) the Council's community engagement and financial and asset management practices, including its ability to meet current and future needs of the community;
- (h) any support needed in the lead up to and following the elections in October 2024 to ensure good governance at the council; and

- (i) any other matters that may be affecting the Council's ability to effectively perform, including behaviour that may be preventing the Council from performing its function.
- 2) Advise and assist in relation to items included in clause 1 above
- 3) Assist the development of action plans for progression of items included in clauses 1 and 2 above
- 4) 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 recommendation for the exercise of any ministerial power under the Act.

1.2 Context for the Buloke Shire

The total **area** of the Shire is approximately **8000 km²**. It is 140km from the southern boundary near Charlton to the northern boundary beyond Sea Lake, this is a vast area filled with very productive cropping and grazing land and sprinkled with small **townships** including Sea Lake, Wycheproof, Charlton, Donald and Birchip and smaller settlements of Berriwilllock, Culgoa, Nandaly, Nullawil and Watchem. Recreation facilities and appearance of streetscapes are important facets of these communities. Buloke has a **population of 6000** and an asset valuation of approximately **\$300m** most of which is represented by **5300 km of roads** necessary to transport crops from the farmlands to grain silos and other uses. The Buloke Shire Council has its **main administrative centre in Wycheproof** but also runs offices at Birchip, Donald and Charlton. Buloke employs approximately **140 staff**.

Council elections have concluded and there are three returning councillors from the previous term and three new councillors. I refer to councillors from the previous term as pre 2024 election councillors and the new group as post 2024 election councillors.

Staff turnover is high, and some positions are very difficult to fill.

Finances undertook a significant review in 2012 when the council was in some difficulty. In 2024 the finances are in a much better position which I comment on later in the report.

Like most of Victoria, Buloke was hit hard by the **Oct 2022 floods** and **additional events in December 2023 and February 2024**. Currently Buloke Shire Council has a combined natural disaster relief claim of approximately **\$82m**. **Council believes the administrative processes associated with this Natural Disaster Funding are cumbersome and leading to significant delays in completing works, so much so that the next storm or flood event is occurring before works from the previous event have been approved.**

The organisation has very good **Values**. The challenge now is to ensure that they are consistently upheld and actively lived every day. The values include:

- **"Commit to and consistently deliver on our priorities"** and, **"Are responsive and communicate honestly and clearly"**. **The number one issue for pre 2024 election Councillors was organisational adherence to these 2 values, particularly the timing of responses to matters (I expand on this in section 2 (a)).**
- **"Enable a culture which is courteous, based on mutual trust and consideration of others"** and, **"Do right by each other and treat everyone with courtesy and respect"**.

These are two values which are important in relation to councillor-to-councillor interaction but are also related to staff concerns regarding councillor to staff interactions. Respect is a word repeated in Codes of Conduct as well as these values.

- **"Have the courage to stand up for what is right and inspire others to value integrity and respect"**. This value is most important for the new council and organisation heading into a new term.

Adherence to the Values is the first step in ensuring not only very good performance but also that the Council is an attractive and safe place to work.

Councillors were asked to briefly state what they would like mentioned in the report.

Responses included:

- "one size does not fit all",
- "the truth",
- "make a clear statement about the difference between operational and strategic sufficient for the community to understand the difference also",
- "training to ensure the organisation does not walk past obvious maintenance works and that we all take pride in our work", and
- "for councillors to be treated like adults".

In relation to the request to clarify councillors strategic role, I note that this will form part of the councillors induction training. I also note that there are many publicly available resources (such as the candidate training prepared by DGS, the MAV's Citizen to Councillor Guide 2024 and the VLGA's Good Governance Guide) which include helpful information about the role of councillors.

The executive were asked a similar question and their responses included:

- "we are resource poor, we need greater federal assistance grants and it is not all doom and gloom, we have good people doing good work",
- "we have high overheads because of our location, high expectation to deliver business as usual whilst recovering from major flood and storm events",
- "we are proud of what we do and who we are",
- "behaviour issues are the major concern", and
- "the new council will be an opportunity for a reset".

1.3 Monitoring activities

1.3.1 Establishing action sheets relating to my terms of reference (TOR), and covering, Indoor Staff issues, Outdoor Staff issues, Councillor issues, Community issues and Behavioural issues. The behavioural issues range from bullying and harassment allegations to general human resource matters such as recruitment to examples of poor communication. There are approximately 200 individual actions associated with the 7 action sheets. As at 5/12/24, 80 are complete/closed or 39%. Some Councillors would debate that if more tasks were done on time, they wouldn't feel the need to be so operational.

1.3.2 Attending meetings, including Councillor meetings, Council Briefings, Executive meetings, Audit and Risk committee (ARC) meetings and other Community meetings. Generally, the behaviour at these meetings has been good. ***I have only***

had to call out poor Councillor behaviour at Councillor briefings twice. With regard to the Audit and Risk committee it is relevant to look at some comments found in the Chairs annual report: "It has been an ongoing concern to this Committee that there have been considerable delays in the finalisation of the internal audit reports."" Given the important value of internal audits to drive process improvement and the education and development of the organisation, the Committee strongly encourages a greater focus on completing the outstanding audits." ... Following these comments from the Chair of the Audit and Risk committee, it is fair to say that greater focus needs to be applied to ARC matters.

1.3.3 Councillor induction has started and I have presented the key findings of my report.

1.3.4 Requesting a review of the financial indicators in the 24/25 budget and trends for the future. This report is attached and summary comments provided in section 2(g) below.

1.3.5 Observing the CEO's annual review process. An independent consultant was engaged by Council to oversee the annual review and from what I observed very good governance was adhered to.

1.3.6 Contributing advice as part of initial policy reviews, including the Governance Rules, Councillor/Staff interaction policy and Community Grants Policy. Significant work has been done by the organisation to review and update its policies of recent times. Prior to the elections, Councillors had started discussing proposed Governance Rule changes during two productive sessions, however the adoption of any changes will be for the newly elected Council. The pre-2024 election Councillors were reluctant to move away from raising and discussing operational matters at Council meetings as well as changes relating to meeting times and locations. The changes to delegate decision making to staff for community grants in accordance with a VAGO recommendation was proposed in a report to a Council meeting however the report lapsed due to lack of a seconder for the motion. This is reflective of a sentiment amongst some Councillors that their role is being diminished, a view that "one size does not fit all" and a concern by some Councillors that staff may be equally as likely as a Councillor to have a conflict of interest in relation to a community grant.

1.3.7 Undertaking a staff, Stop/Keep/Start survey. Approximately 40% of staff participated in this voluntary survey. The average staff satisfaction rating was 50%.

Stop responses related to alleged poor recruitment practices and the delays with the Enterprise Bargaining Agreement (EBA). Staff wanted poor behaviour including bullying and abuse to stop as well as poor communication to be addressed.

Keep responses related to local employment opportunities, flexible work arrangements and the friendly wonderful people that work at the Council. They want to keep listening to the community and spend more money on roads.

Start responses related to fair recruitment processes, the timing of the new EBA having annual reviews completed on time, improve communications, ensuring

the executive is more visible and the prevention of bullying and a higher pursuit of respect.

1.3.8 Reviewing other data sets.

- **2024 Community Satisfaction Survey** (2021 to 2024). Waste Management has remained constant at 68 to 66. Declines in satisfaction have occurred for Customer Service (69 to 57), Making Community Decisions (61 to 52), Community Consultation (60 to 50), Overall Performance (62 to 49), Value for Money (52 to 43), Overall Council direction (54 to 38), and Sealed Roads (48 to 37). Some arrest of the decline has been seen in the last 12 months and areas such as Recreational Facilities show an increase from the previous year, (68 to 72). These figures show a need for change as some of them are amongst the lowest in the State. Council's summary of these results says, "Council should look to strengthen confidence among residents in the effectiveness of its decision making, as perceptions of council decision making have the strongest influence on overall performance." This relates to several aspects of the Council however it would include the standard of debate around a decision, the behavioural standards surrounding the debate and the decision itself. Currently the Council's decision making processes (especially in relation to Councillor debate and conduct during Council meetings and the quality of Council decisions) are producing very low community satisfaction results. That should be enough incentive for change.
- **All Staff Meeting Survey.** Staff input into the results of the August all staff meeting survey was extensive. The results included similar comments to other staff surveys such as the need for improved communications, greater leadership, a need to improve staff response time, improvements to recruiting, requests for more staff, more flexible working arrangements, provision of housing for staff, better equipment, more training, an improved website and better promotion of the Council's achievements.
- **McArthur Culture Survey.** This survey has been conducted since 2018, collates quarterly results and appears to have a workforce participation rate of about 25%. The results mostly show an average decline from 2018 to 2024. I do not think that this survey has been promoted for some time, that the results have been made available or that the results and trends have been used as a management tool. The lowest category with consistent decline from 2018 through to 2024 is "Communications". This is consistent with the other data available and requires immediate and significant change.
- **Outdoor Staff Culture and OH&S review (2020).** This report which goes back 4 years and the issues raised are similar and consistent with the issues noted above.

2. Governance at the Council

This section includes observations and findings in relation to matters contained in the terms of reference and have been informed by the action sheets relevant to each section and the activities discussed above in section 1.3.

(a) The Councillors understanding and performance of their statutory roles and responsibilities, including in relation to the separation of roles between councillors and the Chief Executive Officer.

Whilst the councillors understand the difference between the role of a Councillor and the role of the CEO, some do not accept that they have a limited role in operational matters. Wanting to maintain, "Councillor Question time", as a standing agenda item at Council meetings to question and berate council staff in relation to road grading matters (as an example) shows a misunderstanding of their role. Section 28(3) of the Act says the role of Councillors does not include the performance of any responsibilities or functions of the CEO. The CEO is responsible for all staff and Councillors should not be attempting to use the Council meeting to performance manage staff. The new Councillor induction period will be an opportunity for further training and education for Councillors to ensure they understand and accept their statutory role and the important separation between the role of Councillor and the CEO. In my view the main tool for guiding councillors away from raising operational matters in Council meetings and briefings is to improve the way operational matters are recorded, responded to, and reported. Currently councillors are saying this is not working and that they are required to keep raising matters because they are unresolved.

(b) The Council's meeting procedures and decision-making processes, including councillor attendance at briefings and Council meetings, and the adequacy of the Governance Rules.

Generally, the meetings and briefings I have attended have been conducted well. I did miss a September briefing, and it has been reported to me that it got a little out of hand. This raises concerns about whether the Council will sustain improved practices and performance when a monitor is no longer present. The briefings tend to go a little too late and can finish at 9pm in a location that still requires a further 30 to 40 min drive in areas known for kangaroos and with several potholes. These are not safe conditions particularly in winter for staff or Councillors. This matter was attempted to be addressed in a report to the November Council meeting recommending 4pm starts to meetings. It was disappointing to see the new Council not support this recommendation and raises concerns about whether the new Council are willing to change in other areas also. A review of "pre 2024 election" Councillor's attendance and reasons for any absence from meetings has been undertaken. This included the review of previous independent work and several of the recommendations in this report are aimed at providing safe opportunities for people to attend meetings and for Councillors and staff to perform their respective roles. The Governance Rules have been reviewed by an external consultant. "Pre 2024 election" Councillors, prior to the election, have been briefed on the changes and have had an opportunity for input. Subject to final preparation of the document the new Council are to consider and resolve to place the document on public exhibition at the December 2024 Council meeting. This will see new Governance Rules in place early in 2025. The new Governance Rules are improved in many ways. However, some councillors see these changes as unnecessarily restricting the way they perform their role. There is strong reluctance for change amongst some councillors.

(c) The relationship between councillors and between councillors and council staff, including councillor behaviour with respect to

Councillor codes of Conduct and processes for resolving disputes between councillors.

Poor Councillor behaviour has been the primary issue affecting good governance and performance at the Council. In my view, poor Councillor behaviour directly relates to poor Community Satisfaction Survey Results. Satisfaction results for, "Overall Performance" have decreased from 62 to 49 and results for "Overall Council direction" have decreased from 54 to 38 (over a 4-year period). These results should be incentive enough for Councillors to refrain from poor behaviour.

More importantly poor behaviour over extended periods negatively impacts mental health. I have reviewed several behavioural matters within the Council and what I find is that if the codes of conduct and values of the organisation were followed, particularly in relation to treating everyone with respect, there would not be many issues. Like the experience of many other councils from the previous term, this poor behaviour is difficult to prevent and it is difficult to deal with when it occurs. Quite often, processes to address disputes rely on the different accounts of the parties to the interaction without the benefits of the accounts of other witnesses. Sometimes the behaviour of a Councillor may not constitute a serious matter, and this may go unaddressed. However, if continued over a longer term even minor behaviour problems can wear down and negatively affect the recipient and witnesses of the behaviour. I have received several examples of poor councillor behaviour negatively impacting on staff which has influenced their decision to leave the Council.

This is the main issue that the new Council need to understand from the past, poor Councillor behaviour can cause staff to leave and negatively impact the Councils performance results. The new mandatory Model Councillor Code of Conduct will assist with improved Councillor conduct. However, there is still no legislative basis for a CEO to make a complaint about minor but persistent inappropriate Councillor behaviour through the Councillor conduct framework. Consideration should be given to providing the CEO with the ability to report minor but persistent inappropriate Councillor behaviour directly to the Local Government Inspectorate (LGI). Municipal Monitors appointed to Councils across Victoria are identifying poor Councillor behaviour as a major issue affecting Council governance.

The new Council as part of their annual mandatory training should take a deeper dive into what constitutes poor behaviour, what the individual councillor's role is in monitoring and reporting poor behaviour and what the impacts of this poor behaviour are, including impacts on mental and physical health, difficulty attracting and retaining highly skilled and specialist staff and poor Councillor performance results.

- (d) Support for the CEO to effectively perform their responsibilities and functions, including in relation to establishing policies and practices that manage the interactions between Councillors and Council staff and contractors.

Work in this space continues but I have focussed my efforts on attending meetings and providing advice in relation to Councillor behaviour, observing the CEO's annual performance review process, drafting new governance rules, and assisting with the

adoption of a new Councillor/Staff interaction Policy. All policy review underway at the moment is attempting to adopt best practice and this will provide benefit to the new Council in this next term.

(e) The Council's processes and practices in relation to health and safety, including any matters that may be creating a serious risk to the health and safety of councillors, Council staff or other persons.

The main issues which have been reported to me are alleged instances of poor behaviour described in some instances as bullying and harassment. This includes Councillor to Councillor, Councillor to staff and staff to staff. Council has very good existing Codes of Conduct and dispute resolution is described in these codes. The new Mandatory Model Councillor Code of Conduct will be another step forward in guiding better behaviour. Some of these instances of alleged poor behaviour have been investigated and found to either be not supported or to have insufficient information to adjudicate. There is a reluctance to directly report for fear of retribution. I have suggested that Council address this matter which includes providing adequate support for complaint handling. The new Council with its new mix of councillors has an opportunity to reset and reinforce high standards of Councillor behaviour.

(f) The Council's policies, processes and practices related to the management of conflicts of interest.

Conflict of interest provisions are described in the new Mandatory Model Councillors Code of Conduct and the relevant sections of the Act are referenced.

The Council failed to adopt a new Community Grants policy at the August 2024 Council meeting. If adopted this would have resulted in staff determining community grants in accordance with the VAGO recommendation from a fraud and corruption investigation. VAGO recommended that councillors should not be involved in the decision-making process for community grants due to the risk of conflict of interest. There was no seconder for the motion and no debate, so the matter lapsed. The concerns expressed at briefings before the matter was considered at the Council meeting gives some insight into the lack of understanding of conflict of interest and good governance by the Councillors. They were concerned that removing their ability to determine community grants would diminish their role as a Councillor and some councillors considered that the staff may be equally as likely as a Councillor to have a conflict of interest in relation to community grants. The Executive are proposing to bring this policy back to the new council for its consideration. The new Council should take the opportunity to implement improvements to its Community Grants policy based on the findings and recommendations of VAGO.

(g) The Council's community engagement and financial and asset management practices, including its ability to meet current and future needs of the community.

Community engagements seem to work well considering the limited resources the Council has to devote to engagement.

The Councils' **financial practices** are well guided by the consultants engaged by the Council and the internal staff working in this space. The CEO has provided comment on the longer-term arrangements for the financial team to ensure ongoing coverage of this vital area including the soon to be appointed manager of Finance. There is a good understanding of the levers to pull to ensure financial stability. That said there are significant pressures on rural councils such as rate capping, natural disasters, staff turnover and reduced financial assistance from the Federal Government. An independent review of the financial indicators for the 24/25 budget and the longer term has been completed. The final report from the review, **"External review of the Buloke Shire Councils current and future financial position, October 2024" (the independent Financial Report) is enclosed with this report.** This independent report notes that *"The current financial position of the Buloke Shire is quite sound"....* however, it cautions that *"The forward financial outlook based on models prepared is not as positive for the Council."* In order for the Council to maintain a strong cash position and ensure longer term financial sustainability, the report suggests that the Council will need to:

- invest time and resources reviewing its modelling,
- consider the extent of capital works it can afford with possible reductions,
- reduce or remove some services,
- engage in asset rationalisation, and
- consult with the community in relation to the possibility of applying for a rate cap exemption.

The Independent Financial Report recommends an organisation wide review to consider these matters. My advice is to include an assessment of the efficiency of running 4 office sites and 5 depot sites as part of this review.

The Independent Financial Report also notes the risk associated with the current estimated National Disaster Relief claim of \$82m. Currently this figure is not accounted for and will obviously have a large impact on future budgets and the Council's resources required to deliver. My advice is that the Council should attempt to de risk this matter as much as possible including by writing to the Federal and State Governments to confirm the current claim. The Council has made submissions to recent Federal and State financial sustainability reviews and both conclude that rate capping is restricting income below increases in CPI over many years and that rural councils such as Buloke that have had significant impacts from natural disasters over the last decade or more just cannot keep up with the impact on roads without an increase in the Federal Assistance Grants.

The Independent Financial Report also notes that the cost of landfill rehabilitation will need to be budgeted for in future capital works programs. Included in this would be the Sea Lake Landfill rehabilitation which has initial estimates of several million dollars associated with rehabilitation. My advice is that the Council adopt this financial report and its findings in full and modify their future budgets and long-term financial plans accordingly.

Asset Management is suffering from an inability to fill vacant positions. The Council has a high turnover rate and on top of that some positions are just very difficult to fill. A review of the Asset Management Systems needs to be completed in conjunction with two other councils, Swan Hill and Gannawarra. Once that review is complete the asset data needs confirmation of its completeness and accuracy. Currently the Asset Renewal financial indicators suggest on average over the next 4 years that asset renewal will be fully funded at above 100%. This is a good sign however it relies on accurate data to be a sound indicator. The Independent Financial Report also includes comments on renewal expenditure. The report suggests that in attempting to maintain its current strong cash position "this may lead to reductions in the Councils ability to undertake capital works and may in turn lead to increased challenges in terms of adequately renewing Councils assets." This further reinforces the need to finalise the asset system review and then a check of data completeness and accuracy. A specific review of asset useful lives, replacement value and depreciation will assist in improving confidence around the amount of funds required to keep asset renewal at 100% even if the total capital works program needs to be reduced. Funding of asset renewal at 100% must be a fundamental financial and asset management principle otherwise the Councils assets cannot be maintained and will just deteriorate.

(h) Any support needed in the lead up to and following the elections in October 2024 to ensure good governance at the Council.

The Councils role in the election was well handled. Discussions with the VEC indicated that they had good support from Council to perform their role.

(i) Any other matters that may be affecting the Council's ability to effectively perform, including behaviour that may be preventing the Council from performing its functions.

The following two matters are relevant:

1. Council owns a **Caravan Park at Charlton** where a private operator runs the park under the guidance of a committee with a connection to the "Charlton Forum". It is unclear at this stage if Councils risk is sufficiently protected with the current arrangements in place for the management of the facility.
2. The **Sea Lake landfill** has an EPA notice on it to report annually due to its condition and location and the Council whilst responsible for the site do not own the land on which it is located. My advice is that the Council comply with any EPA notice, budget for appropriate works and secure the site through acquisition as soon as possible.

3. Recommendations

1. That the Council:

- i. Ensures that adherence to organisational values is embedded in annual staff performance reviews.
- ii. Ensures that councillors and staff are aware of avenues to report poor councillor and staff behaviour and that there are adequate complaint handling processes in place to ensure the safety of parties to a complaint.
- iii. Provides ongoing training in relation to the benefits of good behaviour and the consequences of poor behaviour.
- iv. Adjusts its meeting times and locations to ensure a safe environment is provided for councillors and staff traveling to these meetings.
- v. Conducts annual culture surveys open to all staff, reports the results annually to the Council and staff and implements actions to address the results.
- vi. Develops a staff retention plan by 3 June 2025 which identifies issues such as flexible work arrangements, working from home, provision of housing for key staff, remuneration rates, working hours and working days (consideration of a 4-day working week) and other employment benefits that may attract and retain staff in a rural setting.
- vii. Conducts a review of its process for recording and responding to operational requests to ensure an efficient process which supports councillors to concentrate on strategic matters.
- viii. Considers consolidating indoor and outdoor staff locations to assist with communication, service and project delivery, and overall Council performance.
- ix. Adopts the financial guidance provided in the report titled "External review of Buloke Shire Council's current and future financial position, October 2024" and ensures that the Council's budgets and long-term financial plans incorporate the suggestions and guidance from this report.
- x. Adopts an improved Community Grants Policy in accordance with the previous VAGO recommendation and continues to work on other policy improvements including exhibition of new Governance Rules.
- xi. Ensures it has adequate processes in place to record and manage the completion of Internal Audit reports.
- xii. Finalises its review of its Asset Management Systems during 2025 and completes an assessment of the data for completeness and accuracy prior to the end of 2025.
- xiii. Implements improved governance and financial accounting practices for the Charlton Caravan Park
- xiv. In relation to the Sea Lake Landfill site, ensures compliance with EPA directions, budgets appropriately for any required rehabilitation in accordance with EPA directions and moves to secure ownership of the site as soon as practicable.
- xv. Requests a review of the Natural Disaster funding process to make the process more efficient and ask the Federal and State Government for early confirmation that additional claims have a confirmed funding source.
- xvi. Write to the Federal Government requesting an increase to the Federal Assistance Grants for Rural Councils.

2. That the Minister request a report from the Council every six months for a period of two years on its progress to address the matters noted above, including whether the Council considers that a municipal monitor is needed to support the Council.
3. That the Minister consider expanding the powers of the Chief Municipal Inspector to bring applications alleging misconduct by councillors based on complaints from council Chief Executive Officers.



Peter Harriott
Municipal Monitor