

13.13**Directorate****Director****Manager****Attachment(s)****Response to Preliminary Views of Governance Issues at Brimbank City Council**

People, Partnerships and Performance

Georgie Hill

Danny Bilaver

1. Letter from Minister Melissa Horne MP to Brimbank City Council [**13.13.1** - 3 pages]
2. Letter to The Hon Melissa Horne MP RE Response to Preliminary Views of Governance Issues at Brimbank [**13.13.2** - 6 pages]

Purpose

For Council to endorse the response to a letter from the Minister Local Government, Melissa Horne MP, dated 28 May 2024 regarding the preliminary views of governance issues observed by the municipal monitors to Brimbank City Council.

Recommendation

That Council endorses the response to the letter dated 28 May 2024 from the Minister for Local Government Melissa Horne MP regarding preliminary views of governance issues at Brimbank City Council, including its commitment to the 10 Point Plan, at Attachment 2 to this report.

Background

Council received a letter from Minister Melissa Horne MP dated 28 May 2024 regarding the preliminary views of governance issues observed by the Municipal Monitors to Brimbank City Council (**Attachment 1**). The letter requested a response on the issues outlined in the letter and a written commitment to the 10 Point Plan by 30 June 2024.

Matters for Consideration

The Municipal Monitors were appointed to Brimbank City Council on 12 February 2024 to 31 December 2024, and have been working closely with Councillors and the Executive Leadership Team.

The letter from the Minister raised serious concerns in relation to the Council's ability to provide good governance to the Brimbank community, including:

- failures to give effect to the overarching governance principles in section 9(2) of the *Local Government Act 2020 (the Act)*.
- failures to take into account the supporting principles in section 9 (3) of *the Act*.
- failures by councillors to perform their role in accordance with section 28 of *the Act*.
- behaviour that may be inconsistent with the Standards of Conduct in the Council's Councillor Code of Conduct.

The Minister has asked for Council to provide a response by 30 June 2024, on the action that will be taken to address and remedy these concerns.

A response to the letter from the Minister has been drafted at **Attachment 2** for Council's consideration and endorsement. The response letter includes Council's commitment to advancing the 10 Point Plan.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

There are no Community, Environmental, Financial, Regulatory or Safety risks identified.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- High Performing and Accountable - Our workforce strive to enhance services and liveability for the Brimbank community.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.



The Hon Melissa Horne MP

Minister for Casino, Gaming and Liquor Regulation
Minister for Local Government
Minister for Ports and Freight
Minister for Roads and Road Safety

121 Exhibition Street
Melbourne, Victoria 3000 Australia

Ref: CMIN-2-24-23888

Cr Ranka Rasic
Mayor
Brimbank City Council
CrRasic@brimbank.vic.gov.au

Dear Cr Rasic

On 16 April 2024, I received an update from the municipal monitors at Brimbank City Council, Ms Janet Dore and Ms Penelope Holloway, on their preliminary views of governance issues at the Council.

The update confirmed that in a short period of time, the municipal monitors have observed evidence of poor governance practices, poor decision-making, and behaviour that is negatively impacting the wellbeing of councillors and senior staff.

Their observations raise serious concerns in relation to the Council's ability to provide good governance to the Brimbank community including by, but not limited to:

- failures to give effect to the overarching governance principles in section 9(2) of the *Local Government Act 2020* (the Act)
- failures to take into account the supporting principles in section 9 (3) of the Act
- failures by councillors to perform their role in accordance with section 28 of the Act
- behaviour that may be inconsistent with the Standards of Conduct in the Council's Councillor Code of Conduct.

The municipal monitors' update included the following observations about the Council which I have set out below.

1. There is a lack of trust, respect and goodwill amongst councillors and the group is not acting as a team. This behaviour is hindering the Council's capacity to give effect to the overarching governance principles specified in sections 9(2)(b) and (c) of the Act. Councillors are expected to adhere to conduct principles, such as treating others with dignity, fairness, objectivity, courtesy, and respect as well as clause 1 of the Standards of Conduct.

It is my expectation that councillors work together as decision makers and representatives of their communities. A lack of mutual respect and goodwill places undue pressures on the

ability of councillors and the administration to work together effectively and promote good governance practices.

2. Councillors are demonstrating a lack of understanding of their role, undervaluing their strategic role, and preferring to focus solely on ward issues. There are concerns that Council meetings are viewed as a platform for self-promotion rather than a decision-making body.

As such, councillors may not be meeting the requirements for fulfilling the role of a councillor specified in section 28(2)(a) of the Act and the overarching governance principles as stated in section 9(2)(b) of the Act.

3. There is poor attendance at meetings, particularly briefings, despite the option to attend meetings via electronic means. The monitors report that two major budget and financial planning meetings were poorly attended and attendance at Audit and Risk Committee meetings has been very poor. The monitors have also observed an insufficient use of Council processes to inform council decisions by councillors.

I note that under section 28(1)(a) of the Act, councillors must participate in the decision making of the Council and must act in accordance with the Standards of Conduct for councillors (section 28(2)(e)) including in relation to use of Council processes to become informed about matters (clause 2(b) of the Standards of Conduct).

4. Rather than focusing its attention on strategic planning and decision making, the councillors are involving themselves in matters that are the responsibility of the CEO including providing written instructions to staff. Section 28(3) of the Act explicitly states that the role of a councillor does not include the performance of any responsibilities or functions of CEO.

It appears from this that councillors may not fully understand the separation between the political and administrative branch in local government.

5. There is deficiency in the governance rules in relation to the appropriateness of notices of motion which needs to be addressed.
6. A lack of strategic engagement by councillors, with some councillors often participating in community activities that are only relevant to their wards.

A strategic focus is crucial for good governance, as it prioritises the overarching governance principles in the Act involving achieving best outcomes for the community, promoting economic, social, and environmental sustainability, and ensuring Council's financial viability.

7. Poor councillor conduct has had a detrimental and profound effect upon staff morale at the Council. The conduct of the Council has led to an unsafe work environment at the Council which has resulted in staff resignations, staff not attending meetings, seeking medical assistance, and seeking leave of absence. Further, some councillors' behaviour towards the CEO and other senior staff appears to be inconsistent with clause 1 of the Standards of Conduct, endangering the ability to maintain a mutually respectful, productive, and professional working relationship between the Council and the administration, which is critical to good governance.

It is my expectation that the Council will take all the necessary steps to ensure a safe working environment for the CEO and council staff.

I understand that the monitors held a group session with the councillors to brief them on their work, but not all councillors attended and the "Councillors Working together" facilitated session was only attended by eight of the eleven councillors. While councillors have demonstrated a willingness to improve their performance, I am now seeking your written assurance that all councillors will actively engage with the municipal monitors' during their tenure and work to advance the Ten Point Plan.

I request that Council provide me with a response by 30 June 2024 outlining the steps the Council intends to take to address and remedy the concerns identified by the municipal monitors in their interim report.

I ask that you ensure all councillors receive a copy of this letter.

It is my expectation that all councillors perform their duties and conduct themselves respectfully and in accordance with the Act and continue to work with the monitors cooperatively.

I look forward to receiving and considering the Council's response.

Yours sincerely



The Hon. Melissa Horne MP

Minister for Casino, Gaming and Liquor Regulation

Minister for Local Government

Minister for Ports and Freight

Minister for Roads and Road Safety

Date: 28/05/2024

cc. Chief Executive Officer, Fiona Blair

19 June 2024

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The Hon Melissa Horne MP
Minister for Local Government
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Melbourne VIC 3000
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Dear Minister,

Re: Response to Preliminary Views of Governance Issues at Brimbank City Council (Ref: CMIN-2-24-23888)

Thank you for your letter dated 28 May 2024, in which you conveyed the preliminary views of governance issues observed by the municipal monitors to Brimbank City Council.

We appreciate your concerns and would like to assure you that the Council takes these matters seriously and is committed to addressing and remedying the identified concerns.

We acknowledge the observations made by the municipal monitors regarding poor governance practices, poor decision-making, and behaviour negatively impacting the wellbeing of councillors and senior staff.

Councillors also recognise the importance of good governance in serving the Brimbank community effectively. Outlined below is Council's commitment and steps it intends to take to address and remedy the concerns that have been identified in the interim report:

- 1. There is a lack of trust, respect and goodwill amongst councillors and the group is not acting as a team. This behaviour is hindering the Council's capacity to give effect to the overarching governance principles specified in sections 9(2)(b) and (c) of the Act. Councillors are expected to adhere to conduct principles, such as treating others with dignity, fairness, objectivity, courtesy, and respect as well as clause 1 of the Standards of Conduct.*

All Councillors agree to:

- Revisit and adhere to Councillor commitments and outcomes from the 'Working Together Workshop'
- Attend regular Councillor-Only Time meetings to discuss items prior to decision-making to ensure there are no surprises.
- Use informal processes to resolve relationship issues
- Participate in team building activities

2. *Councillors are demonstrating a lack of understanding of their role, undervaluing their strategic role, and preferring to focus solely on ward issues. There are concerns that Council meetings are viewed as a platform for self-promotion rather than a decision-making body.*

All Councillors agree to:

- Revisit previous governance training available through the Councillor Portal
 - Read briefings and reports, understand processes for clarification and be prepared for Council Meetings
 - Speak in the interest of the whole community and respectfully accept the decisions of Council
 - Act in a strategic manner in accordance with the adopted strategies and plans including the Council Plan, Budget and Long Term Financial Plan.
3. *There is poor attendance at meetings, particularly briefings, despite the option to attend meetings via electronic means. The monitors report that two major budget and financial planning meetings were poorly attended and attendance at Audit and Risk Committee meetings has been very poor. The monitors have also observed an insufficient use of Council processes to inform council decisions by councillors.*

All Councillors agree to:

- Read agendas and reports even when not able to attend meetings and seek clarification in advance of the meeting.
 - Attend and be prepared for briefings, committees and meetings.
4. *Rather than focusing its attention on strategic planning and decision making, the councillors are involving themselves in matters that are the responsibility of the CEO including providing written instructions to staff. Section 28(3) of the Act explicitly states that the role of a councillor does not include the performance of any responsibilities or functions of CEO.*

All Councillors agree to:

- Build better relationships with the CEO and Directors and seek advice when required.
 - Be mindful of what is operational and is not, and seek clarification if required.
 - Not interfering in the role and responsibilities of the CEO.
5. *There is deficiency in the governance rules in relation to the appropriateness of notices of motion which needs to be addressed.*

All Councillors agree to:

- Avoid using Notices of Motions (NOMs) for self-promotion.
- Seek feedback from officers and Councillors prior to lodging NOMs.
- Review Governance Rules in relation to NOMs.
- Participate in a session regarding the process for NOMs.

6. *A lack of strategic engagement by councillors, with some councillors often participating in community activities that are only relevant to their wards.*

All Councillors agree to:

- Attend engagement opportunities across the municipality and explain the role of Councillors under the Local Government Act.
- Seek strategic information across the municipality.
- Seek and encourage engagement from a wide section of the community via different options.

7. *Poor councillor conduct has had a detrimental and profound effect upon staff morale at the Council. The conduct of the Council has led to an unsafe work environment at the Council which has resulted in staff resignations, staff not attending meetings, seeking medical assistance, and seeking leave of absence. Further, some councillors' behaviour towards the CEO and other senior staff appears to be inconsistent with clause 1 of the Standards of Conduct, endangering the ability to maintain a mutually respectful, productive, and professional working relationship between the Council and the administration, which is critical to good governance.*

All Councillors agree to:

- Treat the CEO, Directors and officers with respect.
- Call out bad behaviour and discuss ways to deal with it.
- Revisit and comply with the Councillor Code of Conduct.

Additionally, I enclose our written commitment to advancing the Ten Point Plan. Councillors are committed to working closely with the municipal monitors during their tenure and improving our performance through the Plan.

Yours sincerely

SIGNED BY
Mayor of Brimbank City Council & Councillors

Enc.



Brimbank City Council

Good Governance 10 Point Plan

1. Understand the role of a Councillor (Local Gov. Act and Code of Conduct)

Council commits to understanding the role of a Councillor as defined in the Local Government Act, adhering to the Councillor Code of Conduct and calling out any behaviour that conflicts with the Code of Conduct.

Council will do this by attending and revisiting training sessions on the Local Government Act and Code of Conduct, revisiting the 'Working Together' workshop outcomes and active participation and evidence based decision making.

2. Understand the role of the Chief Executive Officer (CEO)

Council commits to understanding and complying with the roles and responsibilities of the CEO as outlined in section 94 of the Local Government Act, utilise the CEO as a source of knowledge, respectfully communicate with the CEO, respect operational boundaries and avoid interfering in operational matters.

Council will do this by taking personal responsibility for understanding the role of a CEO as outlined in the Local Government Act, build positive relationships with and seek advice from the CEO and Directors, and seek advice and guidance from the independent advisor to the CEO Performance Committee.

3. Understand the Governance Rules

Council commits to ensuring a thorough understanding of the Governance Rules, avoiding using Notices of Motion for self-promotion, promptly and respectfully seeking clarification for the Rules and giving officers enough time to answer questions comprehensively.

Council will do this by attending and revisiting training sessions and workshops on the Governance Rules, engaging in discussions to clarify Governance Rules and seeking feedback from officers early to inform decision-making.

4. Read agendas and briefing materials

Council commits to reading all agendas and briefing materials before meetings, preparing adequately for meetings and asking informed questions in advance.

Council will do this by allocating time to review agendas and briefing materials, seeking clarification in advance of meetings to ensure thorough understanding.

5. Respect each other and staff

Council commits to acting in accordance with the Councillor Code of Conduct, respecting peers and Council staff, making decisions in the best interest of the community, and addressing disrespectful behaviour in a respectful manner.

Council will do this by fostering a safe environment of mutual respect and open communication for Councillors and staff, revisiting the "Working Together" workshop outcomes and seeking to resolve differences informally and early.

6. Avoid last minute input

Council will commit to avoiding last-minute amendments or unnecessary input during meetings, raising matters in a timely manner and seeking clarification as soon as possible.

Council will do this by using structured Councillor Only Time (COT) and briefings to discuss issues in advance, seek advice from Executive and other Councillors before lodging Notices of Motion, committing to being prepared and giving officers enough time to respond to queries.

7. Maintain strategic outlook

Council commits to focusing on the long-term strategic goals of the Council, and aligning discussions and decisions with the adopted Council's strategic plans.

Council will do this by supporting the adopted Council Plan, long-term financial plan, and other strategic documents, attending development opportunities and workshops to enhance strategic thinking, and encouraging a collective commitment to evidence-based decision-making.

8. Understand Council policies

Council commits to familiarising with and respecting Council policies, accurately representing and following Council policies in all actions.

Council will do this by regularly reviewing relevant Council policies and seeking clarification when needed, take personal responsibility to increase understanding of Council policies, and promoting discussions on the positive impact of Council policies.

9. Keep out of operational issues

Council will commit to respecting the operational boundaries, avoiding inference in operational decisions and requesting information about operational issues.

Council will do this by taking personal responsibility to understand the roles of a Councillor and CEO as described in the Local Government Act 2020, consulting with Directors or the CEO to determine if an issue is operational, using appropriate channels for raising operational and administrative matters, and retaining a focus on strategic objectives rather than operational details.

10. Work together

Council commits to complying with the Councillor Code of Conduct, ensuring open and respectful engagement between Councillors and the CEO, Directors, and staff as well as fostering a positive and safe work environment for all.

Council will do this by revisiting the 'Working Together' workshop outcomes, governing strategically for the whole municipality and not just individual wards, and building and maintaining positive relationships with each other, the CEO and Directors.