



AGENDA

Supplementary Reports Ordinary Council Meeting Wednesday, 20 July 2022

Date: Wednesday, 20 July 2022

Time: 9am

**Location: Council Chambers
23 West Street
Mount Isa**

**David Keenan
Chief Executive Officer**

Order Of Business

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6 ACTIONS FROM PREVIOUS COUNCIL MEETINGS**6.1 OUTSTANDING ACTIONS FROM PREVIOUS COUNCIL MEETINGS AS AT 20 JULY 2022**

Document Number: 772240

Author: Executive Assistant

Authoriser: Chief Executive Officer

EXECUTIVE SUMMARY

Outstanding actions from previous Council Meetings as at 20 July 2022

RECOMMENDATION

THAT Council receives and notes outstanding actions from previous Council Meetings as at 20 July 2022.


RECOMMENDATION OPTIONS

THAT Council receives and notes outstanding actions from previous Council Meetings as at 20 July 2022

Or

THAT Council does not receive and note outstanding actions from previous Council Meetings as at 20 July 2022

ATTACHMENTS

1. Council Actions - As at 20.07.2022 [↓](#) 

ACTIONS REPORT

Printed: 18 July 2022 11:31 AM

Division:

Committee:

Officer:

Council

Date From:

Date To:

Meeting	Date	Officer	Title	Target
Council 16/02/2022	16/02/2022	Chief Executive Officer	Encroachments onto Council Land From Adjoining Landholders (746907)	28/02/2023
Council 19/05/2022	19/05/2022	Manager Economic and Community Development	Proposal to rename the Xstrata Entertainment Centre at Buchanan Park	30/08/2022

10 EXECUTIVE SERVICES REPORTS**10.1 OFFICE OF THE INDEPENDENT ASSESSOR COMPLAINT REFERRAL - COUNCILLOR PHILLIP BARWICK C/22/00349**

Document Number: 772247

Author: Coordinator Corporate Governance

Authoriser: Chief Executive Officer

Directorate: Executive Services

Portfolio: Executive Services

EXECUTIVE SUMMARY

On 17 June 2022 Council received a referral notice from the Office of the Independent Assessor (OIA) advising that Council was to deal with a complaint of alleged inappropriate conduct by Councillor Phillip Barwick. In accordance with resolution SM25/06/22 Council engaged an external investigator to investigate the complaint and an investigation report has been completed.

RECOMMENDATION

THAT Council note receipt of the Councillor Complaint Investigation Report

AND

THAT Council note the findings of this report that Cr Phillip Barwick has engaged in inappropriate conduct as defined under section 150K(1) of the *Local Government Act 2009* on two occasions when referring to the Mayor's behaviour as erratic and reckless on his Facebook page.

AND

THAT pursuant to Section 150AH(1)(a) of the *Local Government Act 2009* Council makes an Order that no further action be taken

BACKGROUND

On 17 June 2022 Council received a referral notice from the OIA advising that Council was to deal with a complaint regarding alleged inappropriate conduct by Councillor Phillip Barwick. In accordance with the *Local Government Act 2009* and the Councillor Investigation Policy, Council is required to deal with the complaint.

Council resolved at its' 29 June 2022 Special Meeting: That Council engage an independent contractor to undertake the investigation, in a manner that is consistent with the Mount Isa City Council Investigation Policy.

OVERVIEW

An investigation into the allegations outlined by the OIA was undertaken to establish if Councillor Phillip Barwick breached the Code of Conduct for Councillors when he posted comments on social media Facebook on 24 May 2022 relating to an article in the North West Star about "the mayor's refusal to back the budget she helped develop". An Investigation Report is provided to Council for its consideration. The Executive Summary of this report is as follows:

The Investigator has interviewed and considered the responses of the Complainant and the Subject Councillor and has reviewed the relevant provisions of the *Local Government Act 2009*, Council's

Code of Conduct for Councillors Policy, Council's Councillor Investigation Policy and the Referral Notice and attachments from the OIA.

The Investigator has broken the complaint down into five components:

- Untrue public comment on the budget timelines
- Referring to the Mayor as erratic
- Referring to the Mayor as manipulative
- Referring to the Mayor as antagonistic
- Referring to the Mayor as reckless

and found that two of the complaint components, referring to the Mayor's behaviour as reckless and erratic, have been proven and three of the components unsubstantiated.

Council's Code of Conduct for Councillors requires Councillors to treat fellow Councillors in a respectful way with courtesy, honesty and fairness. Referring to the Mayor's behaviour as reckless and erratic does not meet the behavioural requirements of this Code.

The Investigator reasonably believes the context within which Cr Barwick made the comments about the Mayor's behaviour needs to be considered in determining what action the Council should take in dealing with Cr Barwick's breach of the Act.

Council's Code of Conduct for Councillors also requires the conduct of Councillors to not reflect adversely on the reputation of Council and for Councillors to respect the democratic process and maintain and strengthen the public's trust and confidence in the integrity of Council.

It is clear in evidence that Cr Barwick, as Deputy Mayor, was concerned about the reputational damage to the Council and to the individual Councillors following public comments by the Mayor that the Councillors had lost touch with their community. Cr Barwick, in his posts to his Facebook page in response to posts from members of the public, was intent on correcting what he considered to be disrespectful and damaging comments made by the Mayor about the budget process and about the Councillors.

Given the context referred to above around the behaviour of both the Mayor and Cr Barwick and given Cr Barwick has admitted to his comments and that he has no prior breaches of the Act, the recommendation below proposes Council note the breach and take no further action.

The Mount Isa City Council's Councillor Investigation Policy (the Investigation Policy) requires this Report with the below recommendations be considered in an open meeting of Council subject to the health and safety of the complainant

BUDGET AND RESOURCE IMPLICATIONS

Cost of this investigation is \$7,040 inclusive of GST.

LINK TO CORPORATE PLAN

Theme:	5.	Ethical & Inclusive Governance
Strategy:	5.3	Develop and implement customer focused policies and processes in keeping with Council's commitment to customer service

CONSULTATION (INTERNAL AND EXTERNAL)

- Chief Executive Officer
- External Investigator
- Office of the Independent Assessor

LEGAL CONSIDERATIONS

Pursuant to section 150AC of the *Local Government Act 2009* the OIA refers inappropriate conduct complaints back to Council to deal with.

POLICY IMPLICATIONS

- Media Policy
- Councillor Investigation Policy
- Code of Conduct for Councillors

RISK IMPLICATIONS

Nil

HUMAN RIGHTS CONSIDERATIONS

Protected Human Rights have been considered

RECOMMENDATION OPTIONS

THAT Council note receipt of the Councillor Complaint Investigation Report

AND

THAT Council note the findings of this report that Cr Phillip Barwick has engaged in inappropriate conduct as defined under section 150K(1) of the *Local Government Act 2009* on two occasions when referring to the Mayor's behaviour as erratic and reckless on his Facebook page.

AND

THAT pursuant to Section 150AH(1)(a) of the *Local Government Act 2009* Council makes an Order that no further action be taken

OR

THAT Council note receipt of the Councillor Complaint Investigation Report

AND

THAT Council note the findings of this report that Cr Phillip Barwick has engaged in inappropriate conduct as defined under section 150K(1) of the *Local Government Act 2009* on two occasions when referring to the Mayor's behaviour as erratic and reckless on his Facebook page.

AND

THAT pursuant to Section 150AH(1)(b) of the *Local Government Act 2009* Council make 1 or more of the following orders:

- (i) an order that the councillor make a public admission that the councillor has engaged in inappropriate conduct
- (ii) an order reprimanding the councillor for the conduct
- (iii) an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense
- (iv) an order that the councillor be excluded from a stated local government meeting
- (v) an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor
- (vi) an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct
- (vii) an order that the councillor reimburse the local government for all or some of the costs arising from the councillor's inappropriate conduct.

ATTACHMENTS

1. **CONFIDENTIAL MICC Conduct Investigation Cr Barwick July 2022 C/22/00349 - (Under Separate Cover)** 

10.2 MOUNT ISA AGRICULTURAL SHOW 16 AND 17 JUNE 2023 - APPLICATION FOR APPOINTMENT OF ANNUAL SHOW HOLIDAY**Document Number:** 772260**Author:** Executive Assistant**Authoriser:** Chief Executive Officer**Directorate:** Executive Services**Portfolio:** Tourism, Events, Sports and Recreation, Library**EXECUTIVE SUMMARY**

The *Holiday's Act 1983* provides for the granting and observance of special holidays which includes show days. Each year local governments are requested to nominate special show holidays for the following year.

RECOMMENDATION

THAT Council endorse the nominated date for the 2023 Mount Isa Agricultural Show holidays to occur on Friday 16 June 2023.

BACKGROUND

Council has confirmed the Mount Isa Agricultural Show Society Inc. intends to stage the 2023 event on Friday 16 and Saturday 17 June 2023.

BUDGET AND RESOURCE IMPLICATIONS

A holiday of this nature is a public holiday to which industrial laws governing employee paid entitlements for a public holiday apply.

LINK TO CORPORATE PLAN

Theme:	1. People & Communities
Strategy:	1.3 Assist community groups to increase their sustainability and build social capacity

CONSULTATION (INTERNAL AND EXTERNAL)

Mount Isa Agricultural Show Society Inc.

LEGAL CONSIDERATIONS

Holidays Act 1983

Industrial Relations Act 2016

POLICY IMPLICATIONS

Mount Isa City Council Leave Policy

RISK IMPLICATIONS

Minimal risk as appropriate resources will be rostered and on call to cover required service levels.

HUMAN RIGHTS CONSIDERATIONS

Consideration has been given to the protected human rights as per Council's Human Rights Policy.

RECOMMENDATION OPTIONS

THAT Council endorse the nominated date for the 2023 Mount Isa Agricultural Show holidays to occur on Friday 16 June 2023.

OR

THAT Council does not endorse the nominated date for the 2023 Mount Isa Agricultural Show holidays to occur on Friday 16 June 2023.

ATTACHMENTS

1. Letter from Queensland Government Requesting Speical Holidays [↓](#) 



Office of
Industrial Relations

Department of Education

15 June 2022

Dear Chief Executive Officer,

As you may be aware, each year in accordance with the *Holidays Act 1983* local governments are invited to request special holidays to be observed during the following year for districts in their area.

If you wish to request special holidays to be observed during 2023 for districts in your local government area, please complete the attached request form and submit via email to info@oir.qld.gov.au by no later than **Friday, 29 July 2022**.

A local council requested special holiday is a public holiday only if it is in respect of an agricultural, horticultural or industrial show. Under federal industrial relations legislation, on a public holiday employees are, without loss of ordinary pay, entitled to be absent from work or refuse to work in reasonable circumstances. Employees who work on a public holiday are entitled to penalty rates in accordance with their award or agreement.

A special holiday for any other reason is not a public holiday but is a bank holiday only and under the *Trading (Allowable Hours) Act 1990*, is only a holiday for banks and insurance offices and under a directive of the *Public Service Act 2008*, a holiday for public service employees unless otherwise determined by a chief executive.

Upon receiving Ministerial approval, the holidays will be published in the Queensland Government Gazette. Confirmation of the approved special holidays together with a link to the Queensland Government Gazette will be emailed to your office.

Should you require further information regarding this process, please contact Ms Jacqui McGuire, Office of Industrial Relations on (07) 3406 9854 or email jacqui.mcguire@oir.qld.gov.au.

Yours sincerely

Tony Schostakowski

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12 INFRASTRUCTURE SERVICES REPORTS**12.1 AWARD OF - RFT 2022-68 MOUNT ISA CITY STREETS REHAB AND RESEAL STAGE 2 TO FULTON HOGAN****Document Number: 772239****Author: Manager Works and Operations****Authoriser: Director Infrastructure Services****Directorate: Infrastructure Services****Portfolio: Engineering, Roads, Rural Works, Concrete Batch Plant****EXECUTIVE SUMMARY**

Mount Isa City Council is responsible for the ongoing maintenance of local government roads. Council has been approved \$1,009,518 funding under the Federal Governments Roads to Recovery program to assist in delivering this maintenance. Council have recently tendered for the rehabilitation and reseal of approximately 30,549m² of roads.

RECOMMENDATION

THAT Council award Contract 2022-68 to Fulton Hogan Industries for the Mount Isa City Streets rehabilitation and reseal 2022-2023 program for the value of \$1,170,763.35 (excl. GST).

OVERVIEW

Council have been approved funding to rehabilitate and reseal the roads listed in the table below through the Roads to Recovery (R2R) 2022-2023 program.

R2R Projects 2022-23

STREET	FROM	TO	AREA m2
West St	Barkly Highway	Alma St	13,844
Mary St	West St	Western End Mary St	1,430
Steelcon Parade	Thompson Rd	Thompson RD	3,000
Little West St	Hoey St	Verry St	2,500
Rigby Rd	Little West St	To End of Street	780
Soldiers Lane	Carbonate St	End of Street	1,256
Wewak St	Urquhart St	Buka St	5,090
Falcon St	Barkley Highway	Corella St	2,649
Total			30,549

The Roads to Recovery 2021-2022 program is being delivery at present by Fulton Hogan Industries. Council invited a single tender through Local Buy to Fulton Hogan Industries for the 2022-23 program under the provisions of the Local Government Regulations 2012 section 235 (f).

Fulton Hogan have provided a detailed cost breakdown for the above works totalling \$1,170,763.35 (excl.GST). The cost of mobilisation has significantly reduced from the previous

contract. Fulton Hogan have confirmed that they will be able to continue on from 2021-22 program into the 2022-23 program.

BACKGROUND

Fulton Hogan Industries are currently in Mount Isa undertaking the Mount Isa City Streets Rehabilitation and Reseal Contract 2022-07. This contract comprises 28,000m² of pulverisation to a depth of 175mm, reprofiling, recompaction and sealing, delivering the 2021-22 Roads to Recovery (R2R) program.

Historically Council has undertaken reseal programs only. This has proven to not be the best value for money as the reseals only have a 2-year lifespan due to moisture entering the pavements preceding the reseals and failures not being rectified. As a result, the pavement will continue cracking and subsiding after the reseal and will eventually fail. The pulverisation and re-compaction process then sealing with a more durable 2-coat seal design allows for the rectification of the cracking and subsidence of the pavement which leads to a 10-to-20-year lifespan. Fulton Hogan specialise in this process.

Council will deliver the R2R funding program fully this financial year by engaging contractors early prior to the unpredictable wet season.

BUDGET AND RESOURCE IMPLICATIONS

Council has been awarded \$1,009,518 under the federal governments Road to Recovery Program.

Council's approved 2022-23 capital budget includes \$1,000,000 for rehabilitation of roads and \$1,100,000 for Street/Road Rehabilitation R2R.

Engaging Fulton Hogan Industries to carry on from 2021-2022 to 2022-2023 program has significantly reduced the cost of mobilisation under the second contract.

LINK TO CORPORATE PLAN

Theme:	3.	Services & Infrastructure
Strategy:	3.13	Determine strategic levels of service within Council's Asset Management Plans to provide well maintained bridges, sealed and unsealed roads, including footpaths and stormwater drainage throughout urban, industrial and rural areas
	3.12	Analyse current roads and other associated infrastructure to determine priorities

CONSULTATION (INTERNAL AND EXTERNAL)

Manager Finance and IT.

LEGAL CONSIDERATIONS

Under Local Government Regulations 2012 - Section 235 Other exceptions:

A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if—

(f) the contract is made with, or under an arrangement with, a government agency.

Local Buy Pty Ltd CAN 090 446 487 is defined as a prescribed local government entity in Schedule 6 of the Local Government Regulation 2012.

POLICY IMPLICATIONS

Procurement Policy – Large Sized Contract – exemption under Local Government Regulations 2012 detailed above.

RISK IMPLICATIONS

There are no unusual or particular risk implications.

HUMAN RIGHTS CONSIDERATIONS

No human rights considerations identified.

RECOMMENDATION OPTIONS

THAT Council award Contract 2022-68 to Fulton Hogan Industries for the Mount Isa City Streets rehabilitation and reseal 2022-2023 program for the value of \$1,170,763.35 (excl. GST).

OR

THAT Council does not award Fulton Hogan Industries Contract 2022-68.

ATTACHMENTS

Nil