

INTERIM ADMINISTRATOR MINUTE – UPDATE – Ordinary Council Meeting 22 July 2020

I wish to report on a number of matters that have occurred since the last Council meeting, principally in order to start to improve Council's communication with the Armidale Regional Council community.

The CEO of the Council Ms Susan Law submitted her resignation on 1 July and her last day with Council is 31 July. This has been a difficult time for Ms Law and I wish her well with her future endeavours and thank her for her contribution.

As required by law, I was consulted in the resignation of the General Manager Organisational Development, Ms Kim Bryan, and she finished her employ on 17 July. Her contribution to the Council is recognised.

In the future the term CEO will not be used by the Council and it will revert to the statutory and more appropriate title of General Manager.

I have been able to obtain the services of an Acting General Manager Mr John Rayner who is a well known and highly respected in Local Government nationally. Mr Rayner cannot commence his duties until 24 August as he is presently working as Acting General Manager at Edward River Council. In the period between Ms Law's departure and Mr Rayner commencing I have yet to make a determination who will be Acting and have asked that delegations in that regard be listed at the Extraordinary Meeting of Council on 29 July 2020.

The appointment of a new General Manager will be one of the most important tasks that I will have to undertake during my term of Interim Administrator. I would be less than honest if I did not inform the ARC community that this will be a difficult assignment as unfortunately the Council does not have a good reputation for General Manager longevity.

It is also going to be necessary to appoint a new Director (again a more appropriate description of a second level role).

In my view the Council needs an experienced local government professional preferably from NSW to lead it through what will continue to be an extremely difficult period with so many issues needing to be addressed resulting from the dysfunction of the Council. Having sourced several expressions of interest the Council will be appointing Local Government Management Solutions from LG NSW to undertake the recruitment of both the General Manager and the Director.

For over 25 years this service has facilitated the recruitment of General Managers and Directors for a wide range of councils from remote rural, to regional centres to Metropolitan Sydney. They have broad ranging experience and I am confident will identify and secure the most suitable candidates. I would expect that the recruitment will commence in the second week of August for the General Manager and a month later for the Director as it is important that the new General Manager is involved in that process.

I have yet to determine the most appropriate way to ensure the community is involved in the recruitment interview process.

At the June meeting a report was presented on the Council's Manager Structure that was deferred as I found the structure to be confusing. It was noted in the report that Council was being consulted in relation to the matter when in fact Section 332 of the Local Government Act clearly states the opposite.

A Council must, after consulting with the General Manager, inter alia, determine the roles and reporting lines of holders of Senior Staff positions and the resources to be allocated towards the employment of staff.

This matter should have been relisted on the current agenda; however, time has not allowed me to form a view excepting that it has not helped with the current situation of the Council. Many staff are confused and it is impacting on morale as is the so called Administration Hub.

I have asked the CEO to stop any more negotiations in relation to this latest restructure and now seek details and reports (including consultants and redundancy payments) on all restructures that have occurred since May 2016. The information required will take some time to put together but is to be available for the Acting General Manager when he commences in August so that he can form a view and to advise the new General Manager.

To be clear, I am not proposing that there be another wholesale restructure of the Council. My principal concern is the complexity of what appears to have occurred since amalgamation.

Another priority that will require a reference to the Acting General Manager is the deterioration in the Council's reserves and unrestricted cash position since amalgamation in May 2016. A high level report was made to Council in December 2019 in relation to the matter that was simply received, when in my view warranted the urgent attention of the elected body.

The newly formed Council was obviously living beyond its means and unsustainable financial decisions were made that now have dramatically effect the Council's cash position. In short there has been a deterioration of available cash (internal reserve and unrestricted cash) of around 70% from the time of merger to June 2018. Since that time it appears to me that Council staff have worked to improve the cash position but it remains tenuous with a poor outlook and is now being also being further negatively influenced by the continuing impact of COVID-19.

These are matters that warrant detailed analysis which I believe will provide many explanations for criticism now being directed at Council for the lack of funds to finalise works underway and projected in the Strategic Plan.

At the initial meeting following my appointment as Interim Administrator I outlined a process for dealing confidentially to ensure people could discuss matters openly with me so I could form a view to allow me to make an Interim Progress Report as was required in my letter of appointment. I wish to thank suspended and former Councillors, staff both past and present and the many residents and organisations who I have met with over recent weeks.

The time has now come for me to give notice that from Monday 3 August I will be supported by an Executive Assistant; however, as is the norm any correspondence to me marked as confidential will be treated accordingly. Of course I will also do my best to respond to phone calls as expeditiously as possible.

The Land and Environment Court case is a matter that I must address as in my view there is a clear public interest. The decision to commence proceedings was not taken in this Chamber and is a matter I have unfortunately inherited.

From the information made available to me, all decisions of staff and the use of sub delegations have been based on written legal advice and whether that advice was correct or appropriate is for others to judge.

The result of the Case is clear and for the record the Judgement of Chief Justice Preston (File number 2020/140210) will be attached to the minutes.

Costs in the case have rightly attracted much community concern and I have been advised that the Council's direct costs are \$155,368 and will be brought to account in the 2019/2020 financial statements.

While the Respondents were awarded costs against the Council and its CEO, I can confirm that Council's insurers have advised that they will not seek to recover costs incurred in defending Councillors for the matter raised by ARC. I'm advised that again, on legal advice Council agreed to indemnify the costs of the CEO when she became the Second Applicant in respect of any Orders made by the Court. I will be meeting with the insurers in early August to finalise the matter.

The next Ordinary Meeting of Council is scheduled for Wednesday 26 August and I have an important family matter that means I must be in Sydney on that date. Accordingly, the meeting will be held on Wednesday 19 August at 4pm. I apologise for this rescheduling but I have no alternative.

When I took on this role, I clearly indicated that I would act with honesty, openness and transparency. Every local authority has what I would describe as "council watchers," but in my opinion it is very important that the views of people who are not in the room are also taken into account. i.e. the community generally.

I have spoken to many people in my short time working with the ARC community and have done my best to better understand how we now find ourselves in this situation. When the CEO decided to resign some suspended Councillors thought that was the end of the matter.

In my view that decision was the start, not the conclusion of restoring community trust in the ARC. I have also stated publicly that we need to rebuild the confidence of the staff.

I would never breach the trust of confidentiality that has led so many residents making contact with me and what I have been told about suspended Councillors and staff both past and present. Some of what has been told to me is very disturbing but is the basis of my forming a preliminary view.

The resignation of the former Mayor, Deputy Mayor and two other Councillors has made my job all the more difficult. I have even been contact by some suspended councillors and read in the press that their reinstatement should be expedited.

The Minutes of the Meeting of Council of 1 June clearly state that some suspended Councillors do not acknowledge their behaviours are not acceptable and that the community has lost respect in their elected representatives. In my view this has not been helped by the actions of some staff members.

The LGA requires that I submit a report to the Minister for Local Government on any recommendations I may have to improving or restoring the proper or effective functioning of the Council and I am still working on that report.

Given my experience to date I believe the community needs nothing short of a fresh start and not only with its General Manager.

Clearly the future of the Council is in the hands of the Minister for Local Government but in accordance with my already stated principles I advise the ARC community that I will be requesting a three-month extension of my appointment.

I move that the advices be received and the actions outlined in this Minute be endorsed.