

## LOCAL GOVERNMENT STANDARDS PANEL

Established under section 5.122 of the *Local Government Act 1995* (WA)

Complaint Number	SP 25 and 27 of 2015 [DLG 20150124 and 20150126]
Legislation	<i>Local Government Act 1995</i>
<b>Complainant</b>	<b>Mayor John Gangell</b>
<b>Subject of complaint</b>	<b>Councillor Paul Bridges</b>
Local Government	<b>Town of Bassendean</b>
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Mr B Jolly (Presiding Member) Councillor P Kelly (Member) Mr P Doherty (Member)
Heard	23 February 2016 (Determined on the documents)
Outcome	Public censure ordered

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### DECISION AND REASONS FOR DECISION

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#### DEFAMATION CAUTION

**The general law of defamation, as modified by the *Defamation Act 2005*, applies to the further release or publication of all or part of this document or its contents. Accordingly, appropriate caution should be exercised when considering the further dissemination and the method of retention of this document and its contents**

## **1. Summary of Breach Findings**

1.1 At its meeting on 3 September 2015 the Panel made findings that Cr Paul Bridges, a member of the Council of the Town of Bassendean committed three breaches of regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* by sending:

- (a) emails dated 25 September 2014, 1 October 2014 and 6 October 2014 to Lotterywest;
- (b) an email dated 30 September 2014 to the City's Chief Executive Officer, his fellow councillors, the Department of Local Government and Communities' Director Local Government Regulation and Support and the Town's Records Section); and
- (c) an email dated 1 October 2014 to the CEO, his fellow Councillors and to the Department's Director Local Government Regulation and Support,

concerning a proposal by the Town to move the Bassendean War Memorial and to seek funding for the same from Lotterywest.

### **(Minor Breaches)**

## **2. Summary of Decision**

2.1 The Panel considered how the Minor Breach is to be dealt with under section 5.110(6) of the *Local Government Act 1995 (Act)* and concluded, for the following reasons, that Cr Bridges should be publicly censured in terms of Attachment "A" hereto.

## **3. Notice of the Minor Breaches**

3.1 By letter dated 30 November 2015, Cr Bridges was notified of the Panel's finding of a Minor Breach, provided with a copy of the Panel's Findings and Reasons for Finding (**Findings**) and Cr Bridges was offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the *Act*.

3.2 Cr Bridges responded to the Panel by email dated 19 December 2015 in which he stated as follows:

"I work in the heritage industry as a museum curator with a particular interest in Australian military history. I was a Bassendean Councillor 1985-1990 including a year as mayor ...

In 2013 the Bassendean Council was proposing to relocate our war memorial.

I joined those campaigning against this and the widespread opposition was made very apparent to the Council. Having done many successful Lotterywest grant applications I knew that they did not fund controversial projects and included a grant question 'Demonstrate community support for your proposal'. I wrote to Lotterywest and urged that should they get an application to fund the relocation that they consider this carefully as it didn't have community support. I then ran for Council with opposition to relocation as one of my issues. I was elected with the highest number of votes.

I was appalled to then discover that the summary of the submissions from the community consultation (the actual submissions were declared confidential) on the relocation matter had been falsified to give a positive response. I reported this to the DLGC and it fell on deaf ears. I was told if I wished to disclose this I would have to resign from Council. When staff later applied to Lotterywest for funding I requested a copy of the grant application and found that the figures presented as community support were again false and did not even relate to the original false figures. I had raised both concerns with the CEO and Councillors but none were interested. I was very disillusioned with all concerned but did not raise the matter publically or with Lotterywest.

Later in 2014, at a time when I was seriously ill, I had a phone call from Lotterywest asking me questions about the public consultation. I became concerned when they were quoting from the summary of the community responses that I knew was false. They also said that Town of Bassendean staff had told them that I was in favour of the civic gardens proposal that was an integral part of the war memorial move. This was also false. I stated my concerns about the integrity of the information provided to them by staff and was asked if I had evidence to support my statements. I forwarded an email that showed clearly the public had not been given the opportunity to submit on the civic gardens proposal as these plans were confidential right up until the moment the contractor was determined.

I also forwarded emails that showed I had raised my concerns with the CEO and fellow Councillors. Lotterywest granted the funding requested anyway. Again I was disappointed that no-one cared about the truth but I remained silent publically. ...

Having managed to silence me, by declaring matters confidential, I became increasingly concerned that during public question time answers were being given that I knew were lies. I eventually challenged this practice as I was concerned that it had become the culture of this Council and could not in all conscience remain silent. I gave a salutary warning that I would challenge this if it happened again.

This gave rise to the three complaints to the Standards Panel. It was clear that the CEO and mayor were annoyed that I had challenged their integrity and they had previously sought an FOI on the exchange with Lotterywest after they had contacted me.

It strikes me that the role of the Standards Panel is more about protecting the image of local government rather than ensuring it operates honestly as no-one has bothered to actually consider the accusations I have made. Please enlighten me as to how I should make a complaint that may be assessed.

Back to my alleged breaches, obviously my preference would be that my accusations be investigated and that the complaints against me be dismissed.

I have already apologised, as directed over the ‘red card’ incident, and presume that I will again be directed to apologise or some more punitive action taken.

I have already completed considerable training since being re-elected so see little point in being directed to undertake more. It did frustrate me to be taught how local government should operate when I know from experience that my Council operates at a lower standard of integrity.

Your call.”

#### **4. Panel’s views**

- 4.1 Section 5.110(6) of the *Act* specifies the sanctions that may be imposed by the Panel for a Minor Breach. The Panel may:
- (a) dismiss the Complaint;
  - (b) order that —
    - (i) the person against whom the Complaint was made be publicly censured as specified in the order;
    - (ii) the person against whom the Complaint was made apologise publicly as specified in the order; or
    - (iii) the person against whom the Complaint was made undertake training as specified in the order;
- or
- (c) order 2 or more of the sanctions described in paragraph (b).
- 4.2 Pursuant to clause 8(6) of Schedule 5.1 to the *Act*, each of the Panel’s members is to have regard to the general interests of local government in the State.
- 4.3 In considering an appropriate sanction or sanctions for the present breach the Panel notes that Cr Bridges:
- (a) has previously (9 July 2015) been found to have breached the *Regulations*, in that case, regulation 4, as a result of which the Panel ordered him to make a public apology;
  - (b) has not evidenced any contrition in relation to the Minor Breaches; and
  - (c) has expressed a preference for the Complaints to be dismissed and says he sees “little point in being directed to undertake more [training]”.
- 4.4 The Panel does not consider that dismissal of the Complaint is appropriate as this would effectively condone Cr Bridge’s conduct in sending the email.
- 4.5 Nor does the Panel consider that ordering Cr Bridges to undergo further training is appropriate or an adequate sanction.
- 4.6 Because of this, the only options available to the Panel are to order the publication of a Notice of Public Censure or to order Cr Bridges to make a Public Apology (or both).

4.7 When the Panel makes an order that a Notice of Public Censure be published, that Notice is published by the local government's CEO at the expense of the local government and such expense is significant where the Notice is to be published in a newspaper or newspapers.

4.8 In the present case, on the evidence available to the Panel, the Panel considers that it should order a public censure in terms of Attachment "A" hereto.

**5. Panel decision**

5.1 Having regard to the Findings, the matters set out in paragraphs 4 and 5 above and the general interests of local government in Western Australia, the Panel's decision on how the Minor Breach is to be dealt with under section 5.110(6) of the Act, is that pursuant to subsection (b)(i) of that section, Cr Bridges should be publicly censured in Attachment "A" hereto.



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Brad Jolly (Presiding Member)



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Paul Kelly (Member)



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Peter Doherty (Member)

## NOTICE TO THE PARTIES TO THE COMPLAINT

### RIGHT TO HAVE PANEL DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL

The Local Government Standards Panel (**Panel**) hereby gives notice that:

- (1) Under section 5.125 of the *Local Government Act 1995* **the person making a complaint and the person complained about each have the right to apply to the State Administrative Tribunal (the SAT) for a review of the Panel's decision in this matter.** *In this context, the term "decision" means a decision to dismiss the complaint or to make an order.*
- (2) By rule 9(a) of the *State Administrative Tribunal Rules 2004*, subject to those rules **an application to the SAT under its review jurisdiction must be made within 28 days of the day on which the Panel (as the decision-maker) gives a notice** [see the Note below] **under the State Administrative Tribunal Act 2004 (SAT Act), section 20(1).**
- (3) **The Panel's Breach Findings and these Findings and Reasons for Finding – Sanctions, constitute the Panel's notice (i.e. the decision-maker's notice) given under the SAT Act, section 20(1).**

#### **Note:**

- (1) This document may be given to a person in any of the ways provided for by sections 75 and 76 of the *Interpretation Act 1984*. [see s. 9.50 of the *Local Government Act 1995*]
- (2) Subsections 75(1) and (2) of the *Interpretation Act 1984* read:
  - (1) *Where a written law authorises or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, **service shall be deemed to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.*** [Bold emphases added]
  - (2) *Where a written law authorises or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail."*
- (3) Section 76 of the *Interpretation Act 1984* reads:

*"Where a written law authorises or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served —*

  - (a) *by delivering the document to him personally; or*
  - (b) *by post in accordance with section 75(1); or*
  - (c) *by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or*
  - (d) *in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State."*

**Attachment "A"**

**LOCAL GOVERNMENT STANDARDS PANEL**

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**ORDER**

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**THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:**

1. Paul Bridges, Councillor of the Town of Bassendean be censured as specified in paragraph 2 below.
2. Within the period of 29 days to 43 days from the day following the date of service of this Order on Paul Bridges, the Chief Executive Officer of the Town of Bassendean arrange the following Notice of Public Censure to be published, in no less than 10 point print:

- (a) as a one-column or a two-column display advertisement in the first 15 pages of “The West Australian” newspaper; and
- (b) as a one-column or a two-column display advertisement in the first 15 pages of the “Eastern Reporter” newspaper

**NOTICE OF PUBLIC CENSURE**

The Local Government Standards Panel (the Panel) has made findings that during September and October 2014 Councillor Paul Bridges committed three breaches of regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* by sending five emails concerning a proposal by the Town to move the Bassendean War Memorial and to seek funding for the same from Lotterywest.

The Panel censures Councillor Bridges for these breaches of regulation 7(1)(b).

**LOCAL GOVERNMENT**

**STANDARDS PANEL**