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	*Local Government Act 1995*
Complainant	**Mayor John Ross Henry Gangell**
Subject of complaint	**Councillor Paul Bridges**
Local Government	**Town of Bassendean**
Regulation	Regulations 6(2)(a), 7(1)(b) and 10(3) of the *Local Government (Rules of Conduct) Regulations 2007*
Panel Members	Mr B Jolly (Presiding Member) Councillor P Kelly (Member) Mr P Doherty (Member)
Heard	3 September 2015 (Determined on the documents)
Outcome	3 breaches of regulation 7(1)(b) established

FINDINGS AND REASONS FOR FINDING

---

1. Summary of the Panel's Decision

1.1 The Panel found that Cr Bridges committed three breaches of regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* (**Regulations**) by sending Emails 1, 2, 3, 4 and 5 (as defined in paragraph 3.2 and 3.3 (below).

2. Jurisdiction

2.1 On 8 May 2015 the Panel received two Complaints of Minor Breach, being Complaint SP 25 of 2015 (**First Complaint**) and Complaint SP 27 of 2015 (**Second Complaint**) from Mr Bob Jarvis the Chief Executive Officer (**CEO**) and Complaints Officer of the Town.

2.2 The Complaints allege breaches of regulations 6(2)(a), 7(1)(b) and 10(3) of the *Regulations*.

2.3 A breach of any of those regulations a "minor breach"[1] and the Panel is required to make findings as to whether the breaches occurred or to send the Complaints to the Chief Executive Officer of the Department of Local Government and Communities under section 5.111 of the *Local Government Act 1995 (**LG Act**)*.

2.4 The Panel finds that the Complaints were made and have been dealt with in accordance with the requirements of Division 9 of the *LG Act*, that the Complaints are not ones that should be dealt with under section 5.111 and that the Panel has jurisdiction to determine whether the breaches alleged in the Complaints occurred.

3. The Complaints

3.1 The Complaints relate to an application by the Town to Lotterywest for funding to assist it with the cost of moving the Bassendean War Memorial (**Memorial**) and Cr Bridges' conduct in relation to that application and his conduct in relation to the appropriateness of moving the Memorial.

3.2 In the First Complaint the Complainant alleges that Cr Bridges contravened:

(a) regulation 6(2)(a) by sending an email to Lotterywest dated 25 September 2014 (**Email 1**), which attached a copy of a confidential document (being "RFT CO 025 2013-2014 War Memorial Civic Gardens – Final.doc[2]")[**RFT**] thereby disclosing information that Cr Bridges derived from a confidential document (**Allegation 1**); and

(b) contravened regulation 7(1)(b) by sending emails to Lotterywest being Email 1 and emails dated 1 October 2014 (**Email 2**) and 6 October 2014 (**Email 3**) thereby making improper use of his office as councillor of the Town to cause detriment to the Town (**Allegation 2**).

---

1 *LG Act*, s 5.101A and s 5.105(1).

2 Being the Town's Request for Tender for works associated with the construction of Civic Gardens and the Relocation of Bassendean War Memorial.

3.3 In the Second Complaint, the Complainant alleges that Cr Bridges contravened:

(a) regulation 10(3)(a) by:

(i) sending an email dated 30 September 2014 to the CEO, his fellow Councillors, to the Department's Director Local Government Regulation and Support and to the Town's Records Section (**Email 4**); and

(ii) sending an email dated 1 October 2014 to the CEO, his fellow Councillors and to the Department's Director Local Government Regulation and Support (**Email 5**);

(**Allegation 3**)

(b) regulation 7(1)(b) by sending Email 4 in that he thereby made improper use of his office as councillor of the Town to cause detriment to Mr Simon Stewert-Dawkins (the Town's Director Operational Services) (**Mr Stewert-Dawkins**) the CEO, Mayor Gangell and Cr Carter (**Allegation 4**); and

(c) regulation 7(1)(b), by sending Email 5 in that he thereby made improper use of his office as councillor of the Town to cause detriment to Mr Simon Stewart-Dawkins, his fellow councillors and the CEO (**Allegation 5**).

4. The Panel's Role

4.1 The Panel observes that its members are required to have regard to the general interests of local government in Western Australia[3]; it is not an investigative body and determines complaints solely upon the evidence presented to it; a finding of a minor breach may affect an individual both personally and professionally and that in order for the Panel to make a finding that a minor breach has been committed by a Councillor, the finding is to be "based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur"[4] (**Required Standard**).

4.2 When assessing whether it is satisfied to the required standard:

(a) the Panel considers, amongst other things, the seriousness of the allegations made in the Complaint, the likelihood of an occurrence of the given description and the gravity of the consequences flowing from a particular finding; and

(b) where direct proof is not available, the Panel considers that it must be satisfied that the circumstances appearing in evidence give rise to a reasonable and definite inference of a breach, not just to conflicting inferences of equal degrees of probability so that the choice between them is mere matter of conjecture.

---

[3] Clause 8(6) of Schedule 5.1 of the *LG Act*

[4] *LG Act*, s 5.1 save for a minor change[4], Council resolved in favour of the officer recommendation;

5. Documents

5.1 The Documents considered by the Panel (**Documents**) are set out in Attachment "A".

6. Objective Facts

6.1 On the evidence available to the Panel it is satisfied to the Required Standard as follows:

(a) at its Ordinary Council Meeting held on 27 November 2012 Council resolved to receive certain drawings in relation to proposed works, being the relocation of the Bassendean War Memorial to the BIC Reserve (within a setting of a to-be-constructed civic garden) for the purpose of undertaking a community consultation process and that a further report be provided to the Council following the consultation period;

(b) at an Ordinary Meeting of Council held on 26 February 2013, the Council considered a report from Mr Stewert-Dawkins in which he recommended that the Council resolve as follows:

> "10.3 War Memorial (Ref A3774 & PARE/DESCONT/14) Simon Stewert-Dawkins, Director Operational Services)
>
> APPLICATION
>
> The purpose of the report is to provide Council with a copy of the community feedback for the proposed relocation of the Bassendean War Memorial.
>
> OFFICER RECOMMENDATION — ITEM 10.3 That Council:
>
> 1. Notes the Returned Services League (RSL) WA State President and the Eastern Regional RSL Sub Branch President feedback provided on Tuesday 14th August 2012 that the existing Bassendean War Memorial was not in the most appropriate location to commemorate the ANZAC centenary scheduled for 2015 due to the site limitations and growing number of people participating in the services;
>
> 2. Notes the 14 October 2012 Eastern Regional Returned Services League Sub Branch i n principle" letter of support for the relocation of the Bassendean War Memorial to the BIC Reserve in accordance with the schematic drawings presented;
>
> 3. Receives the public feedback attached to the Ordinary Council Agenda of 26 February 2013, conducted between the 11 December 2012 and concluded 12 February 2013 on the Artistic Impression and schematic drawing SKO1p3, SKO2p3, and SKO3p2 Bassendean War Memorial schematic drawings;
>
> 4. Approves s the relocation of the Bassendean War Memorial to the BIC Reserve within a setting of a civic garden in accordance to the Heritage Architect artistic impression and schematic drawings attached to the Ordinary Council Agenda of 26 February 2013;

5. Includes the project and considers funds in the 2013/2014 draft Corporate Business Plan using Municipal Funds, available Cash in Lieu funds and suitable grant funding; and

6. Submits grant applications to Lotterywest and the Department of Veterans Affairs."

(c) save for a minor change[5], Council resolved in favour of Mr Stewert-Dawkins recommendation;

(d) in Mr Stewert-Dawkins Report he noted, amongst other things:

> "Attached to the agenda is a summary of the community feedback received for the proposed relocation of the War Memorial to the BIC Reserve, together with the Project Working Group's comments and responses for each of the statements made within a particular submission.
>
> Full public submissions received from individuals, which includes names and addresses, can be found in the Confidential Attachments section of the agenda.
>
> The Project Working Group has considered the public sentiment and comments from residents and the local community groups concerning the current War Memorial site and the proposal to relocate the War Memorial.
>
> *While the level of sentiment is high for the memorial to remain at the current site, it should be noted that a number of the submissions were based on assumptions and a large proportion of the issues raised would be addressed in the detail design phase, should Council resolve to proceed with the project by appointing a Heritage Architect & Landscape Architectural firm to develop the proposal.*
>
> In this particular case, in August 2012, the Returned Services League (RSL) WA State President and the Eastern Regional RSL Sub Branch President initially advised that the existing Bassendean War Memorial was not in the most appropriate location to commemorate the ANZAC centenary scheduled for 2015, due to the site limitations and growing number of people participating in the services.
>
> On 14 October 2012, the Eastern Regional Returned Services League Sub Branch provided an "in principle" support for the relocation of the Bassendean War Memorial to the BIC Reserve in accordance with the schematic drawings presented.
>
> Considering the merits of the public feedback and the request from the Returned Services League (RSL) WA and the Eastern Regional Returned Services League Sub Branch, it is recommended that Council supports the relocation of the War Memorial to the BIC Reserve, within a setting of a civic garden." *[emphasis added]*

(e) his report also included a summary of the Public Submissions received (**Summary**);

---

[5] Item 5 was changed to "5. Includes the project and considers funds in the 2013/14 draft Corporate Business Plan".

(f) on 2 September 2013, Cr Bridges (who was not then a Council member) sent a letter to Lotterywest urging it to not to fund the relocation of the Memorial;

(g) on 19 October 2013, Cr Bridges became a Councillor of the Town;

(h) on 19 March 2014, Cr Bridges sent an e-mail to the CEO alleging that the Summary was inaccurate, and that "… some of [the Councillors] went on to mislead the public based on this information";

(i) on 20 March 2014, the CEO responded to Cr Bridges, advising him in an e-mail: "I think this is a discussion you should have with your fellow councillors";

(j) on 21 July 2014, Cr Bridges requested that the Town's Administration provide him with a copy of the RFT;

(k) later that day the CEO's Executive Assistant sent an e-mail to each of the Councillors and the CEO on the subject "FW: RFT CO 025 Construction of Civic Gardens and Relocation of Bassendean War Memorial from 48 Old Perth Road to the BIC Reserve— CONFIDENTIAL" which read as follows:

> "Good afternoon Councillors
>
> In response to a request from Cr Bridges, please find attached a copy of the CONFIDENTIAL RFT for the Civic Gardens & War Memorial.
>
> …."

(l) the "Confidential RFT" was a copy of the RFT;

(m) the RFT had previously been issued to members of the public, so that they might submit a tender to undertake the works associated with the relocation of the Memorial;

(n) at an Ordinary Meeting of the Council held on 22 July 2014 the Council resolved (with only Cr Bridges voting against the resolution):

- to appoint an identified corporation as the successful tenderer for the Works in accordance with the specifications, terms and conditions of the subject RFT commencing 1 August 2014; and
- that "the design plans be made available to the public upon request and that they be displayed in the Town's Public Library"

(o) on 25 September 2014 Cr Bridges sent E-mail 1 and a copy of the RFT to Ms Grmas, the Grants Manager, Grants and Community Development at Lotterywest. That email provided as follows:

Hi Lee,
At the Council meeting held the next night 22/7/2014 ITEM 10.8
The motion was to (and I've summarised part 1)

1. Appoint BCL to construct the civic gardens and relocate the war memorial (according to the attached confidential plans)
2. The design plans be made available to the public upon request and that they be displayed in the Town's Public Library.

Carried by an absolute majority 5/1.
It then lists those in favour and then states – Cr Bridges voted against this motion.
Clearly by the dates the public had absolutely no say in the civic gardens project until after they had voted to accept the tender and start.

What they would have sent you was that I voted for the 2014/15 budget but asked that my name be listed as opposed to the funding of the war memorial relocation.
I did not vote for the civic gardens.
Cheers
Paul

(p) on 1 October 2014, Cr Bridges sent Email 2 to Ms Grmas of Lotterywest, which provided as follows:

Hi Lee,

Thanks for your response. Below is my response (and please keep this confidential as I am clearly breeching confidentiality by forwarding it to you) to the CEO forwarding the letter of 'in principle support for relocation' they received in October 2012. Public consultation commenced in December yet this undated letter was included as the RSL submission. The RSL to not put in a submission.

Ken Cardy, who is an excellent person, is standing in for Simon Stewert-Dawkins who is on extended long service leave and returns on 1 Nov. Ken has informally called in the four community women who made up the community component of the Council's Tree Advisory Committee to give him advice on what to plant in the Civic Park. He is not happy with the consultants recommended species and has sought their advice which they have given. Council disbanded the Tree Advisory Committee without informing the members. Just no more meetings convened.

I can say without any hesitation that the 4 women, who I work with very closely and letterboxed for me during our campaign, are still vigorously opposed to the relocation of the war memorial.

They are Carol Seidel, Nonie Jekabsons, Kylie Turner and Ann MacBeth (Ann is currently in Cambodia).

The civic park and relocation are inseparable.

(q) on 6 October 2014, Cr Bridges sent Email 3 to Ms Grmas of Lotterywest, which provided as follows:

Morning Lee,

I have attached my response to Mr Jarvis following partial receipt on Friday evening of the grant application we discussed recently in the phone call from yourself.

I would appreciate if you would also pass this on to Jacquie Thomson, who I met recently (casually) at a book launch at Houghton's, and had a brief discussion with about matters that had occurred since my letter to her in 2013. I have deleted the confidential component in the email trail.

I am as yet unaware of whether Mr Jarvis has actually met with officers from the CCC but it may well be that they consider it too trivial for them to pursue.

If this does turn out to be the case it is my intention anyway to refer the matter to the Minister for Local Government for investigation.

I provide this update in good faith as it may have an impact on your future deliberations with staff at the Town of Bassendean.

Kind regards

Paul

Cr Paul Bridges

(r) that email also included a sequence of emails between Cr Bridges and the CEO, which included the following:

(i) email dated 1 October 2014 (2:08pm) from Cr Bridges to the CEO:

Dear Mr Jarvis,

My interest is in what action you are going to take to correct the fact the Simon's summary misrepresented the true feelings expressed by the community in its submissions. Also I suspect that council then fraudulently used this falsified summary as evidence of public support to seek funding from public bodies to advance the project.

You are the CEO and the buck stops with you.

I would point out that the City of Canning council was dismissed following an inquiry led by Christopher Kendall which found that the council failed to provide good government because of a lack of community engagement. Should you continue to persist in hiding the truth behind confidentiality then you give me little choice but to have to lodge a complaint with the Minister for Local Government.

Regards

Cr Paul Bridges

(ii) email dated 6 October 2014 (11:22am) from Cr Bridges to the CEO:

Dear Mr Jarvis,

Thank you for providing copies of the grant applications re: funding sought for the war memorial relocation in Fridays mailbag.

(1) Was the application to Lotterywest dated 14 May 2014 the only application to Lotterywest with relation to the war memorial relocation/civic park or gardens?

I note that the provided information for the 14 May 2014 application only includes attachments 1 – 3. Attachment one includes answers to questions 27 – 55.

(2) May I have a copy of the actual application referred to in your covering letter of this date and any other attached documentation?

This application refers to funding for the Civic Gardens portion of the war memorial relocation project.

Referring to Question 36 What community consultation has occurred, particularly with proposed users?

In the answer provided reference is made to the nine weeks of community consultation conducted between 11 Dec 2012 and 12 Feb 2013. This was based on the schematic drawings which showed the proposed layout and relocation of the memorial based on an alignment between the corner of Guildford Rd and Wilson St and the toilet block behind the Senior Citizens Centre. It did not include any of the plantings that would make up a 'Civic Park or Gardens'.

It was the subsequent plans prepared that changed the memorial axis from the corner of Guildford Rd and Wilson St to the proposed roundabout at the end of James St that included the planting details that make up the 'gardens' component of the project. These plans you declared confidential right up until the moment the motion was carried at the OCM 22 July 2014 which granted the work to the successful tenderer (who was to come in the next morning to discuss immediate commencement). (3) How then do you justify the statement in the answer to Q36 that: The 'for' and 'against' responses from the consultation period represented 0.125% and 0.076% of the Town's population respectively.

There was no community consultation on the Civic Gardens or Civic Park component of the relocation proposal. This was not even discussed by Councillors to my knowledge. Even the figures from Simon's summary which nominate a count of 11 in favour and 10 opposed do not reflect the above stated figures.

In response to a phone call from the Lotterywest officer dealing with this application from the Town it was very clear that she had a copy of Simon's summary. I had not provided this and assumed it was part of the Town's application as evidence of community consultation. She also said that 'it says here that you (being myself) are in favour of the civic park. My answer was that I am not opposed to the concept of a civic park but not at this location (and in this context). (4) Did the Town provide Lotterywest with a copy of the publically released summary of the war memorial submissions prepared by Simon Stewert-Dawkins and has it made the suggestion that I am in favour of the civic park or gardens component?

Regards

Paul

Cr Paul Bridges

(s) on 30 September 2014 by Email 4 (which was sent to the CEO, Councillors, the Department's Director Local Government Regulation and Support and the Town's Records Section) Cr Bridges advised as follows:

Thanks for that Bob,

I think you'll find that Records will say this was received on 16 October 2012.

Now compare this undated letter with submission 21. They are the same. Now look at submissions 18 and 19 and once again you will see that Simon has been creative with the photocopier. A very different outcome to your answer to the question from M Grogan as to how a submission from a couple is treated.

This is why I claim that 19 submissions were received, not 21.

It then doesn't get any better for you. The lovely Pat Hoy, a close friend of Val Dreyer's, would be very disappointed if she found out that her politely worded submission was counted as supportive of relocation (which Simon did).

1

My count of the 19 submissions is 12 against relocation (including Ash CAN that boasts 300 members and the Historical Society) and 7 in favour of relocation (including your and Simons Executive Assistants – both Bassendean residents). Anne suggests there we three submissions from staff employed by you as CEO but I can't confirm this (perhaps you'd like to?). Fundamentally Simon's summary totally misrepresented the truth and due to this you, the Mayor and Cr Carter have given false information to the public.

Then we come to the question of applications for funding for the relocation and civic park. I know Simon's summary was referred to Lotterywest to demonstrate community support for the civic park component of the relocation and to do so is clearly (had you known the figures were deceptive and misleading) fraudulent .

Please supply myself and other Councillors with electronic copies of the applications and attachments for funding to the Member for Perth's ANZAC Centenary funding and to Lotterywest for the civic park component. I am interested to see how community support can be created for a project whose plans were confidential right up to the moment the contract was issued to do the works. It seems that even Councillors didn't receive a copy of these until the day before we were to vote on the matter and then only as I requested a copy so I knew what is was I was voting on.

I would suggest that you all take a deep breath, reset your ethical compasses and decide to re-erect the memorial (with its replacement tiers) back in the small civic gardens in Old Perth Road. Not to do so is clear evidence of collusion from the outset of this highly unpopular project. This is clearly what the people of the Town want and can be demonstrated with empirical evidence. Might I point out that the real reason the BAC project is financially marginal and requires an excessive amount of community assets is that so much vacant land is dedicated to the relocation and civic park and denying an attractive development based on a linear park as opposed to as Anne puts it 'the slums of the future'. The price of reaching a financial threshold indeed.

Careers are at stake and I am not going away.

Regards

Paul

PS Yes I have cc'd Ms Jenni Law from the DLG into this reply so you all can no longer hide behind confidentiality.

(t) on 1 October 2014, by Email 5 (which was sent to the CEO, Councillors and to the Department's Director Local Government Regulation and Support) Cr Bridges advised:

Dear Mr Jarvis,

My interest is in what action you are going to take to correct the fact the Simon's summary misrepresented the true feelings expressed by the community in its submissions. Also I suspect that council then fraudulently used this falsified summary as evidence of public support to seek funding from public bodies to advance the project.

You are the CEO and the buck stops with you.

I would point out that the City of Canning council was dismissed following an inquiry led by Christopher Kendall which found that the council failed to provide good government because of a lack of community engagement. Should you continue to persist in hiding the truth behind confidentiality then you give me little choice but to have to lodge a complaint with the Minister for Local Government.

Regards

Cr Paul Bridges

7. The Response

7.1 By letter posted 25 May 2015, the Department provided Cr Bridges with a copy of the Complaints, two Complaints Summaries and a reasonable opportunity to respond to the allegations made therein.

7.2 Cr Bridges was not informed of Allegation 3, as the Department formed a preliminary view that this allegation could not be established. For the reasons set out in paragraphs 13.1 and 13.2 below the Panel agrees with that assessment.

7.3 In his response (documents, 5, 6 and 11 of Attachment "A") Cr Bridges advised, amongst other things:

(a) he denied having committed any of the alleged breaches;

(b) he did not dispute sending Emails 1, 2 and 3 and the RFT to Ms Grmas of Lotterywest;

(c) when sent, the information within the RFT was no longer confidential and was in the public domain;

(d) he sent the Emails 1, 2 and 3 to Lotterywest because he considered the public did not support relocating the Memorial, the "Town's application for funding provided spurious figures claiming community support for the civic gardens", the Summary "was false" and the "Department …, the Town's CEO and Councillors … all seemed happy that this was considered as acceptable practice";

(e) he sent Emails 4 and 5 because he had previously advised the CEO that the Summary was inaccurate and that:

> "Following responses given publically (sic) to a member of the public by the CEO in September 2014, which were at considerable variance with my knowledge of the actual public submissions, I again raised the issue (28 September 2014). I was concerned to be a member of a Council that had a CEO that would tell blatant untruths and that Councillors and senior staff present likely knew that this was the case."

8. Essential elements of a contravention of regulation 6(2)(a)

8.1 The following elements must be established, to the Required Standard, before a contravention of regulation 6(2)(a) of the *Regulation*s is established:

(a) first, that the person the subject of the Complaint engaged in the alleged conduct (**Conduct**);

(b) secondly, that the person the subject of the Complaint was a council member both at the time of the Conduct and the time when the Panel makes its determination;

(c) thirdly, that the council member disclosed information to someone who at the time was not also a council member;

(d) fourthly, that information was information that the council member derived from a document marked by the local government's CEO, or at his or her direction, to clearly show that the information in the document is not to be disclosed; and

(e) fifthly, the disclosure was not of information that was public knowledge at the time of the member's disclosure, and did not occur in any of the ways identified in regulation 6(3) of the *Regulations.*

9. Findings - regulation 6(2)(a) – Allegation 1

9.1 While the Panel is satisfied that Cr Bridges sent Email 1 and the RFT to Lotterywest, it is not satisfied to the Required Standard that the RFT was a confidential document, in that:

(a) the copy of the RFT provided to the Panel was not marked "confidential"; and

(b) the fact that the email of 21 July 2014 from CEO's Executive Assistant to Cr Bridges described the RFT as "confidential" did not make it confidential.

9.2 Further, as the Panel has found, the RFT had previously been issued to members of the public, so that they might submit a tender to undertake the works associated with construction of Civic Gardens and the relocation of Bassendean War Memorial, with the result that the information contained within the RFT was, at 23 September 2014, already "public knowledge".

9.3 **The Panel therefore finds that the minor breach set out in Allegation 1 did not occur.**

10. Essential elements of a contravention of regulation 7(1)(b)

10.1 Where, as here, the alleged conduct is not conduct that contravenes s 5.93 of the *LG Act* or s 83 of *The Criminal Code*, the following elements must be established, to the Required Standard, before a contravention of regulation 7(1)(b) of the *Regulation*s is established:

(a) first, that the person the subject of the Complaint engaged in the alleged Conduct;

(b) secondly, that the person the subject of the Complaint was a council member both at the time of the Conduct and the time when the Panel makes its determination;

(c) thirdly, that by engaging in the Conduct, the person the subject of the complaint made use of his or her office as a council member (in the sense that he or she acted in their capacity as a councillor, rather that in some other capacity);

(d) fourthly, that when viewed objectively[6], such use was an improper use of the person's office as council member in that it:

(A) involved a breach of the standards of conduct that would be expected of a person in the position of a councillor by reasonable persons with knowledge of the duties, powers and authority of the councillor and the circumstances of the case (by for example, an abuse of power or the doing of an act which the councillor knows

[6] That is, when viewed by a reasonable person (i.e. a hypothetical person with an ordinary degree of reason, prudence, care, self-control, foresight and intelligence, who knows the relevant facts).

or ought to have known that he or she had no authority to do[7]); and

(B) was so wrongful and inappropriate in the circumstances that it calls for the imposition of a penalty[8]; and

(e) fifthly, that the person engaged in the Conduct in the belief in the belief that detriment would be suffered by the local government or another person.

11. Findings - regulation 7(1)(b) - Allegations 2, 4 and 5

11.1 In relation each of Allegations 2, 4 and 5, the Panel is satisfied to the Required Standard that each of elements 2 and 3 have been established.

11.2 In relation to Allegation 2, the Panel is also satisfied to the Required Standard that:

(a) Cr Bridges engaged in the alleged conduct, being the sending of Emails 1, 2 and 3 to Lotterywest;

(b) Cr Bridges made improper use of his office as councillor of the Town in that he sought to undermine:

(i) the Council's decision to move the Bassendean War Memorial; and

(ii) the Town's funding application to Lotterywest; and

(c) Cr Bridges acted as he did in the belief that detriment would be suffered by the local government, being a lessening of the Town's prospects of obtaining funding from Lotterywest.

11.3 **The Panel therefore finds that the minor breaches set out in Allegation 2 have been established.**

11.4 In relation to Allegation 4, the Panel is also satisfied to the Required Standard that:

(a) Cr Bridges engaged in the alleged conduct, being the sending of Email 4 to the CEO, his fellow Councillors, to the Department's Director Local Government Regulation and Support and to the Town's Records Section;

(b) Cr Bridges thereby made improper use of his office as councillor of the Town in that in that email he:

(i) accused Mr Stewert-Dawkins of "misrepresenting the truth" by compiling the Summary in an inaccurate manner so as to support the relocation of the War Memorial; and

(ii) implied that the CEO may have known that the Summary was inaccurate when it was submitted to Lotterywest and had acted unethically; and

---

7 *Treby and Local Government Standards Panel* [2010] WASAT 81 at [26] – [34].[

8 *Hipkins and Local Government Standards Panel* [2014] WASAT 48 at [9].

(c) Cr Bridges acted as he did in the belief that detriment would be suffered by Mr Stewert-Dawkins and the CEO, in that the publication of such allegations had the potential to damage their reputations in the eyes of the Councillors, the Department's Director Local Government Regulation and Support and to the Town's Records Section[9].

11.5 **The Panel therefore finds that the minor breaches set out in Allegation 4 occurred.**

11.6 In relation to Allegation 5, the Panel is also satisfied to the Required Standard that:

(a) Cr Bridges engaged in the alleged conduct, being the sending of Email 5;

(b) Cr Bridges thereby made improper use of his office as councillor of the Town in that he:

(i) accused Mr Stewert-Dawkins of having "misrepresented the true feelings expressed by the community" in the Summary;

(ii) said that he suspected that the "council then fraudulently used this falsified summary as evidence of public support to seek funding from public bodies to advance the project";

(iii) asked the CEO what he proposed to do as "the buck stops with you".

(c) Cr Bridges acted as he did in the belief that detriment would be suffered by:

(i) Mr Stewert-Dawkins in that the publication of such allegations had the potential to damage his reputation in the eyes of the Councillors, the Department's Director Local Government Regulation and Support and the Town's Records Section;

(ii) the CEO in that the publication of such allegations had the potential to damage his reputation in the eyes of the Councillors, the Department's Director Local Government Regulation and Support and the Town's Records Section; and

(iii) the Councillors in that the publication of such allegations had the potential to damage their reputations in the eyes of the Department's Director Local Government Regulation and Support and the Town's Records Section.

11.7 **The Panel therefore finds that the minor breaches set out in Allegation 5 occurred**

[9] The Panel is not satisfied to the Required Standard that Cr Bridges acted as he did in the belief that detriment would be suffered by Crs Gangell or Carter.

12. Essential elements of a contravention of regulation 10(3)

12.1 The following elements must be established, to the Required Standard, before a contravention of regulation 10(3) of the *Regulations* is established:

(a) firstly, that the person the subject of the Complaint engaged in the Conduct;

(b) secondly, that the person the subject of the Complaint was a council member both at the time of the Conduct and the time when the Panel makes its determination;

(c) thirdly, that the person attended a Council meeting, Committee meeting or other organised event in his or her capacity as a Councillor;

(d) fourthly, the Councillor either orally, in writing or by some other means, made a statement which a member or members of the public present heard or otherwise became aware of at the time it was made; and

(e) fifthly, viewed objectively, the Councillor's statement (or a sufficiently clear inference from the words used) was that an employee of the Councillor's local government was incompetent or was offensive or objectionable in reference to a local government employee.

13. Findings - regulation 10(3) – Allegation 3

13.1 While the Panel is satisfied that Cr Bridges sent Email 4 and Email 5, it is not satisfied to the Required Standard that the third element has been established because Cr Bridges was not, when those emails were sent, attending a council meeting, committee meeting or other organised event at which members of the public were present.

13.2 **The Panel therefore finds that the minor breaches set out in Allegation 3 did not occur.**

Brad Jolly (Presiding Member)

Paul Kelly (Member)

Peter Doherty (Member)

Attachment "A"

Doc ID	Description	Page #
Attachment B	Relevant Information	**27**
Attachment C	Observations in regard to a councillor's obligation of fidelity to council and a councillor's fiduciary obligations	**28**
	COMPLAINT SP25/2015	
	Complaints Officer originating correspondence:	
01.doc	Copy of (1-page) correspondence from Mr Bob Jarvis, the CEO and Complaints Officer of the Town of Bassendean, dated 7 May 2015.	**31**
02.doc	Copy of (1-page) Council Member Details form dated 7 May 2015.	**32**
	Complaint and accompanying information:	
03.doc	Copy of (4-page) ***Complaint of Minor Breach* No. SP 25 of 2015** dated 4 May 2015 made by Cr John Ross Henry Gangell, and its (23-page) attachments.	**33**
	Correspondence with the Cr complained about:	
04.doc	Copy of (4-page) Request for Comments letter and attachment to Cr Paul Bridges dated 6 August 2015.	**60**
05.doc	Copy of (1-page) correspondence from Cr Bridges dated 18 August 2015.	**64**
06.doc	Copy of (2-page) Response to Questions in Form A, being Cr Bridges' attachment to **05.doc**.	**65**
	COMPLAINT SP27/2015	
	Complaints Officer originating correspondence:	
07.doc	Copy of (1-page) correspondence from Mr Bob Jarvis dated 7 May 2015.	**67**
08.doc	Copy of (1-page) Council Member Details form dated 7 May 2015.	**68**
	Complaint and accompanying information:	
09.doc	Copy of (15-page) ***Complaint of Minor Breach* No. SP 27 of 2015** dated 4 May 2015 made by Cr John Ross Henry Gangell, and its attachments.	**69**
	Correspondence with the Cr complained about:	
10.doc	Copy of (4-page) Request for Comments letter and attachment to Cr Bridges dated May 2015.	**84**
11.doc	Copy of (10-page) correspondence from Cr Bridges dated 3 June 2015 and its attachments.	**88**
	Information obtained from the Town's website, not sent with either of the said Request for Comments letters to Cr Bridges	
12.doc	Copy of (7-page) some apparently relevant pages from the minutes of the Town OCM held on 26 February 2013.	**98**
13.doc	Copy of (5-page) some apparently relevant pages from the agenda for the Town OCM held on 22 July 2014.	**105**
14.doc	Copy of (5-page) some apparently relevant pages from the minutes of the Town OCM held on 22 July 2014	**110**
	Information obtained from the Complaints Officer, not sent with either of the said Request for Comments letters to Cr Bridges	
15.doc	Copy of (1-page) e-mail from Mr Jarvis dated 2 June 2015.	**115**
16.doc	Copy of (47-page) RFT CO 025 2013-14, being one of the two attachments to **15.doc**.	**116**
17.doc	Copy of (3-page) the other one of the two attachments to **15.doc**.	**163**
18.doc	Copy of (20-page) Town Code of Conduct for Councillors, Committee Members and Employees, adopted by Council on 22 November 2011.	**166**