

Local Government Act 2020

Section 179

APPOINTMENT OF MUNICIPAL MONITOR

I, **Melissa Horne**, Minister for Local Government—

- (a) under section 179(1) of the *Local Government Act 2020* (the Act), APPOINT Mr Peter Stephenson to be the Municipal Monitor to Strathbogie Shire Council (Council);
- (b) determine that a Municipal Monitor ceases to hold office if the Municipal Monitor receives a notice of termination of appointment from the Minister for Local Government, on the basis that the Minister is not satisfied of the suitability of the Municipal Monitor's appointment based on the result of a probity check required by the Minister; and
- (c) under section 179(2) of the Act—
 - (i) FIX the amount Mr Peter Stephenson the Municipal Monitor to the Council is entitled to be paid at \$1,259 per day; and
 - (ii) DETERMINE that the terms of appointment on which Mr Peter Stephenson the Municipal Monitor to the Council hold office to be the terms specified in Schedule 1 and Schedule 2 to this instrument of appointment.

Dated: 15 May 2023



Hon Melissa Horne MP
Minister for Local Government

SCHEDULE 1

**TERMS OF APPOINTMENT OF THE MUNICIPAL MONITOR TO STRATHBOGIE SHIRE COUNCIL
APPOINTED UNDER SECTION 179 OF THE LOCAL GOVERNMENT ACT 2020**

Period of appointment

1. This appointment is effective for the period commencing 15 May 2023 and ending on 15 August 2023 (both dates inclusive).

Powers of the Municipal Monitor

2. The powers of the Municipal Monitor are set out in section 181 of the Act.

Functions and powers of the Municipal Monitor

3. The functions of the Municipal Monitor are set out in section 180 of the Act.
4. The Municipal Monitor must perform the functions and powers under sections 180 and 181 of the Act in accordance with the Terms of Reference contained in Schedule 2 to this instrument of appointment.
5. The Municipal Monitor must provide: a final report, in accordance with clause 1 of the Terms of Reference contained in Schedule 2 to this instrument of appointment, to the Minister within 7 days after the end of the period of appointment.
6. The Municipal Monitor's final report must, with respect to the matters in clause 1 of the Terms of Reference contained in Schedule 2 to this instrument of appointment, outline the following:
 - (a) any steps or actions taken by the Council to improve its governance and the effectiveness of those steps or actions; and
 - (b) any recommendations in relation to the exercise of any Ministerial power under the Act.
7. In the making of any report to the Minister, the Municipal Monitor must comply with the requirements of natural justice, including in the making of reports which may adversely affect the reputation of a person.

Termination and cessation of appointment

8. The Minister, without cause or notice, may terminate the appointment of the Municipal Monitor at any time and for any reason or no reason at all.
9. The appointment of the Municipal Monitor ceases if -
 - (a) the Municipal Monitor resign in writing addressed to the Minister;
 - (b) the appointment is terminated in accordance with clause 8;
 - (c) the Municipal Monitor in the opinion of the Minister, become incapable of performing their duties; or
 - (d) the Municipal Monitor become bankrupt, or a person disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* (Cth).

Payment provisions

10. The Council must pay the Municipal Monitor the amount specified in the instrument of appointment, in accordance with section 179(3) of the Act.
11. It is anticipated that the appointment will require approximately 2 to 3 days of work per week for the duration of the period of appointment, on work directly related to acquitting the terms of reference. A day of work is 7.6 hours.

12. The amount specified in the instrument of appointment does not include any superannuation obligations that may be payable under the *Superannuation Guarantee (Administration) Act 1992* (Cth).

Reimbursements: travel and personal expenses

13. The Municipal Monitor is eligible to be reimbursed by the Council for reasonable out-of-pocket expenses such as travelling, accommodation, meals and other incidental expenses in connection with performing the functions and exercising the powers of Municipal Monitor. Such reimbursement is not to exceed the reasonable allowance expense amounts determined by the Commissioner of Taxation for the income year in which the expense is claimed.

Leave arrangements

14. There are no leave arrangements for this statutory appointment.

Application of the Public Administration Act 2004

15. The Municipal Monitor must, at all times, act -
- (a) in accordance with the Codes of Conduct issued under section 61 the *Public Administration Act 2004*; and
 - (b) in a manner that is consistent with the public sector values in section 7(1) of the *Public Administration Act 2004*.

Confidential Information

16. The Municipal Monitor must hold all confidential information of the Council in confidence other than for the purpose of informing or reporting to the Minister or officers of the Department of Government Services or otherwise agreed with the Council.

Misuse of position

17. The Municipal Monitor must not misuse the position of Municipal Monitor to—
- (a) gain or attempt to gain, directly or indirectly, an advantage for themselves or any other person; or
 - (b) cause, or attempt to cause, detriment to the Council or another person.

Compliance with Council policies

18. The Municipal Monitor must comply with any policies and procedures of the Council when performing the functions of Municipal Monitor including occupational health and safety policies, unless it is not reasonable to do so.

SCHEDULE 2

TERMS OF REFERENCE OF APPOINTMENT OF THE MUNICIPAL MONITOR TO STRATHBOGIE SHIRE COUNCIL APPOINTED UNDER SECTION 179 OF THE LOCAL GOVERNMENT ACT 2020

Without limiting the Municipal Monitors' functions and powers under sections 180 and 181, respectively, of the Act, the Municipal Monitor is:

1. To monitor the Strathbogie Shire Council's (Council) governance functioning, with specific regard to key areas of concern identified in correspondence from the Mayor and other members of the Council dated February and March 2023, including the following matters –
 - (a) The actions taken in response to, and the Council's ability to give effect to, the advice from the former municipal monitor appointed to the Council in 2022;
 - (b) Councillor understanding and performance of their statutory roles and responsibilities;
 - (c) The relationships between councillors and between councillors and Council staff, including councillor behaviour with respect to the Councillor Code of Conduct and processes for resolving disputes between councillors;
 - (d) Council's meeting procedures and decision-making processes, including Council briefings and meetings;
 - (e) the Council's processes and practices in relation to health and safety including any matters that may be creating a serious risk to the health and safety of Councillors, Council staff or other persons; and
 - (f) any other matters that may be affecting the Council's ability to effectively perform its statutory role, including behaviour that may be preventing the Council from performing its functions.
2. To identify the underlying causes of any issues affecting the ability of the Council and / or individual councillors to properly perform their statutory roles, with specific regard to the matters raised in clause 1.
3. To report to the Minister for Local Government, with respect to the matters in clause 1 and 2, on:
 - (a) any steps or actions taken by the Council to improve its governance and the effectiveness of those steps or actions;
 - (b) any recommendations for the Council to ensure the proper performance of its statutory role, including in relation to the conduct of councillors and responding to the advice of the former municipal monitor appointed to the Council; and
 - (c) any recommendations for the Minister, including in relation to the exercise of any Ministerial power under the Act.