

6.2.4 Report - Audit of Expenses Matter

Responsible GM: Carol Jeffs
Author: Andrew Pomeroy

Recommendation(s)

That Council:

1. Note that the independent audit by Justitia Lawyers into Councillor Collin Ross' expenses (Justitia Report) has been completed in accordance with the Council Resolution resulting from Notice of Motion 1055 from the 17 August 2020 Council meeting (Attachments 1 and 2).
2. Note Cr Collin Ross' responses to the Justitia Report (Attachments 3 & 4).
3. Note Cr Collin Ross' offer to reimburse claims that are at issue within this audit, as outlined in his response to the Draft Supplementary Report of Justitia Lawyers.
4. Review the Councillor Expenses Policy and Councillor claim forms, taking into consideration the information and findings provided in the Justitia Report.
5. Refer this matter to the Local Government Inspectorate for investigation in an independent setting, to enable the most open and transparent governance process to be followed, noting that there are a number of matters that are not resolved or easily explained through the audit conducted by Justitia Lawyers.
6. Note the assistance of the VLGA and the MWRRG in enabling this audit to be completed.

Attachments

1. Audit of Councillor expenses - Justitia Report [6.2.4.1 - 26 pages]
2. Audit of Councillor expenses - Supplementary Justitia Report [6.2.4.2 - 39 pages]
3. Cr Collin Ross' response to initial report [6.2.4.3 - 11 pages]
4. Cr Collin Ross' response to supplementary report [6.2.4.4 - 10 pages]

Executive Summary

Council resolved as follows from the Notice of Motion 1055 presented by Cr Leticia Wilmot at the Council meeting on 17 August 2020:

Following the recent publication of the Councillor expenses report and regarding Cr Ross' positions on both the VLGA Board and the Metropolitan Waste and Resource Recovery Group (MWRRG) Board I request:

1. *That the CEO Ms Jeffs, be given the authorisation to contact the CEO of both organisations to gain answers to the following questions and others that she deems necessary.*
 - a. *How much are Board members paid?*
 - b. *What is the purpose of these payments?*
 - c. *Is Cr Ross involved with any sub-committees for the organisation?*
 - d. *How long has Cr Ross been a member of the Board and a member of any other committee's associated with the organisation?*
 - e. *How many meetings has Cr Ross attended and been paid for as a Board or committee member?*

f. What dates were these meetings held?

2. The dates and information gathered is to be cross referenced to the Travel Expense and Out-of-pocket Expense claims Cr Ross has been reimbursed for by council.

3. A full audit of the kilometres listed for each trip claimed by Cr Ross is conducted using Google Maps as a reference.

4. A report with all the findings is presented to the September General Meeting. This report should include a recommendation as to any further actions the council may be required to take.

Justitia Lawyers were engaged to conduct a review of expense claims made by Councillor Collin Ross in accordance with the Council Resolution. The full report of Justitia Lawyers is provided at Attachments 1 and 2 (in the form of an Initial Report and a Supplementary Report).

The Reports outline the review process undertaken, including opportunities given to Cr Ross to participate in the process, provide information and answer questions. Cr Ross was provided time between the finalisation of the Supplementary Report and the publishing of this Report to include a final response. He has said that he is unable to provide any further response within the timeframe provided.

Through the course of the audit Cr Ross has provided responses to the first Justitia Report and a draft of the Supplementary Report. These responses are provided as Attachments 3 & 4.

The process in getting this report to Council is set out below:

- Justitia Lawyers were appointed on Monday 24th August.
- After a review of the Resolution, clarifying scope and initial review of internal documents and policies, information was sought from the VLGA and MWRRG.
- On Wednesday 26th August Cr Ross was sent an email clarifying the next steps in relation to the Resolution and inviting him to a discussion with Justitia Lawyers to answer some clarifying questions. Ultimately the clarifying questions were sent to Cr Ross on Monday 31st August and a response was sought.
- Further information was provided to Cr Ross on Friday 4th September, including clarifying that the scope of Justitia Lawyers' review (audit) was as set out in the Resolution.
- On Tuesday 8th September the documentation that was then received from the VLGA and MWRRG to cross reference the claims was also forwarded to Cr Ross.
- Cr Ross provided his response to the clarifying questions on Thursday 10th September.
- Initial Report from Justitia Lawyers at 5:04pm on Monday 14th September.
- Cr Ross was provided with the Initial Report at 9:59am on Tuesday 15th September, and invited to provide a response with 48 hours.
- Cr Ross was given 14 additional days in which to respond to the Initial Report at the 21 September Council meeting in which Council resolved as follows:
- That Council:
 1. Note that the independent audit by Justitia Lawyers into Councillor Collin Ross' expenses (Justitia Report) has been completed in accordance with the Council Resolution resulting from Notice of Motion 1055 from the 17 August 2020 Council Meeting.
 2. Note Cr Collin Ross' response to the Justitia Report
 3. Provide Cr Collin Ross with 14 days within which to provide a further response.
 4. Authorise the CEO to liaise with Justitia Lawyers, Cr Ross and Council's legal advisors to ensure that due process is followed in progressing the audit and its

conclusions, and that the CEO report on that progress at the November General Council Meeting.

- Cr Ross submitted his response on 6 October 2020
- Justitia Lawyers reviewed Cr Ross response and cross-referenced information with the VLGA and MWRRG. Again this information was also provided to Cr Ross.
- From this information a draft Supplementary Report was provided to Cr Ross for review and clarification on 30 October.
- On Friday 6 November an extension of time was granted due to the post election period and Cr Ross needing his Council issued computer and login (which had been disabled during the post-election period) to review the additional material provided.
- Cr Ross provided a response to the draft Supplementary Report on 17 November.
- A reviewed timeline was provided to Cr Ross on 27 November, clarifying the steps to enable this report to meet the deadline for the December Council meeting.
- On 1 December the Supplementary Report was provided to Cr Ross in final form. Cr Ross was also given the opportunity to provide a response to be included with this Council Report if provided before 3pm on 4 December.
- Cr Ross' legal advisors stated in an email on the 4 December, "In the timeframe provided Cr. Ross is not able to provide any further response to the report."

The Supplementary Report provides both findings and recommendations that can be found within the Executive Summary of the Report.

- Recommendations 1 to 3 provide an option for the Council to either accept Cr Ross' explanation and offer of reimbursement or to seek further information and legal advice.
- Recommendation 4 recommends that Council consider its position in relation to reimbursement of travel expenses in particular circumstances and recommends seeking further legal advice.
- Recommendations 5 and 6 recommend Council officers review the expense claim forms and processes.
- Recommendation 7 again provides Council with two options, to either accept Cr Ross' explanation for the route that he travelled or to seek legal advice regarding options.

Give the recommendations and options within presented to the Council in the Justitia Supplementary Report, Council has the following options in addressing this matter as a whole:

Option 1:

Seek further legal advice to assist Council in determining if any breach of the Local Government Act or Council Expenses Policy has occurred, and the courses of action that may follow from this advice.

This option will likely take some time, and will incur additional costs prior to Council having any further information. This option will provide Council with further information about next steps and options and an opinion on legal and governance implications of the Justitia audit findings. This option on its own will not necessarily provide Council with an outcome that will close this matter and may result in further investigation or referral to another authority. This option preserves Council's ability to consider this matter but does not give Council any authority to undertake any action relating to Cr Ross' conduct as a Councillor.

Option 2:

Accept Cr Ross' explanation for the matters raised and accept his offer to reimburse Council. In doing so Council could consider that the audit is completed, and the matter is concluded.

This option will provide a timely conclusion of the matter from a Council perspective. There are, however, several aspects of the Justitia Report findings and recommendations that are

inconclusive in this respect, particularly Recommendations 4 and 7 which ask Council for further consideration rather than provide assurance about these matters and recommend Council seeks legal advice. This option is low cost from this point forward, but is unlikely to provide Cardinia Shire community with the highest level of confidence that the matter has been adequately considered. This option also lacks a level of independence that it may need in order to be assured.

Option 3:

That Council refers this matter to the Local Government Inspectorate to investigate the matter in an independent setting to enable the most open and transparent governance process to be followed, noting that there are a number of matters that are not resolved or easily explained through audit conducted by Justitia Lawyers.

This option will give Council and the community an independent view of the matters raised and will be handled by an authority with appropriate powers. This option will take some time and may involve more extensive investigation and broadening of scope. It is also a low-cost option for Council and would allow this matter to continue on in an appropriate institutional setting, separate from Council's other business.

While the Initial Report is marked Private and Confidential, Council has resolved that any Report relating to the review/audit be presented at an 'open' Council meeting. Accordingly, Council waives any legal professional or client legal privilege that may apply in relation to the Justitia Report.

Policy Implications

The relevant policy is the Councillor Expenses Policy. This Policy has been recently updated in line with the new Local Government Act 2020.

Relevance to Council Plan

5.2 Our Governance - Open governance

5.2.2 Govern and make decisions in the best interests of the Cardinia Shire community.

Climate Emergency Consideration

Nil.

Consultation/Communication

Justitia Lawyers and Council Officers have communicated and consulted with Cr Ross and his legal representatives during the preparation of this report.

Financial and Resource Implications

The cost involved in obtaining the independent report was covered within Council's adopted budget.

Conclusion

That Council Note the independent audit by Justitia Lawyers into Councillor Collin Ross' expenses (Justitia Reports) has been completed in accordance with the Council Resolution resulting from Notice of Motion 1055 from the 17 August 2020 Council Meeting.

PRIVILEGED & CONFIDENTIAL REPORT

for Cardinia Shire Council in the matter of Councillor Expenses

14 September 2020

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Executive Summary

The Reviewer conducted a review of expense claims made by Councillor Collin Ross (**Cr Ross**), a Councillor at Cardinia Shire Council (**Council**). The review involved a desktop review of Travel Expense claim forms, and Out-of-pocket Expense claim forms (together, the **Claim Forms**) lodged by Cr Ross with Council for attendance at meetings relating to the Victorian Local Governance Association (**VLGA**) and Metropolitan Waste and Resource Recovery Group (**MWRRG**).

Based on the information available to the Reviewer, and noting that Cr Ross has not been provided with an opportunity to respond to these findings prior to the completion of this Report, in summary the key findings of the review are:

1. Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 2 December 2019.
2. Cr Ross has received a sitting fee of \$426 for a VLGA Board meeting on 22 August 2019 and has been reimbursed by Council for a Claim for travel expenses (i.e. mileage only) to a "VLGA Event/MWRRG Event" on the same date, where the reference to "VLGA event" is a reference to the VLGA Board meeting.
3. With respect to the 38 MWRRG Board and committee meetings that fell within the scope of this review, the Reviewer found that Cr Ross did not make any Claims to Council for his attendance at any of the 38 Board or committee meetings.
4. On one occasion, being 15 February 2018, Cr Ross:
 - was paid sitting fees of \$364 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by MWRRG, for his attendance at a paid AFRM Committee meeting; and
 - also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.

Finding 4 should be read in conjunction with Recommendation 3.

5. On two occasions, being 30 October 2019 and 27 November 2019, Cr Ross:
 - was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by MWRRG, for his attendance at paid Board meetings; and
 - also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at unpaid meetings, the MWRRG SPAG and TORG meetings, on the same dates.

Finding 5 should be read in conjunction with Recommendation 3.

6. Where Councillor Ross has travelled to VLGA meetings according to either his Example 1 route, or his Example 2 route, his claim for a return journey of 136km is for a shorter distance than the actual distance he says he has travelled.

The Reviewer's recommendations are:

1. In relation to finding 1 above, as the VLGA Board sitting fees are inclusive of expenses such as travel, the Reviewer recommends Council make further inquiries of Cr Ross and obtain legal advice as to whether there has been any breach of legislation, code of conduct or policy. As part of any process, Council should provide Cr Ross with an opportunity to respond to any concerns relating to Claims made in respect of these four meetings.

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2. In relation to finding 2 above, the Reviewer recommends that Council make further inquiries about the joint claim of 22 August 2019 and seek further information from Cr Ross in order to determine whether it is a claim of concern which may require further action.
3. In relation to findings 4 and 5 above, the Reviewer recommends that Council make further inquiries about the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 and seek further information from Cr Ross to determine whether they are claims of concern which may require further action.
4. Council should consider its position with respect to reimbursement of travel expenses for a meeting (meeting 1), where a Councillor attends another meeting in the same or similar location on the same day (meeting 2), and is reimbursed by another organisation for that meeting (meeting 2). If Council considers a reimbursement from Council for a meeting (meeting 1) in these circumstances would be a breach of Council policy (or another source of Councillor obligations), then the Reviewer recommends that Council undertake a broader review of Cr Ross' Claims to Council, cross referenced against claims to MWRGG with respect to all meetings, to determine whether Cr Ross has claimed two 136km return journeys to the CBD on the same date, one with each organisation.
5. The Reviewer recommends that Council officers review the expense claim forms and consider whether any amendments to the forms may be advisable.
6. The Reviewer recommends that Council officers review the expense claim processes and consider whether any amendments to the process should be made, particularly in relation to forms that do not comply with requirements.

Instructions

Council engaged Justitia to investigate Cr Ross' expense claims in accordance with a motion of the Cardinia Shire Council adopted on 17 August 2020 (**Motion**). The Motion had been moved by Councillor Leticia Wilmot (**Cr Wilmot**) and seconded by Councillor Brett Owen.

While the relevant Council Officer requested an "investigation", the language of the motion was considered and it was identified that this process of information gathering, cross referencing data and conducting an audit was not an investigation in the true sense of the word, as allegations of wrong doing would not be put to Cr Ross as part of this process. What is set out in the motion is the stage before any allegations are put to a respondent; it is the stage of information gathering and reviewing data to determine if there is any evidence that could form the basis of allegations of wrongdoing. Accordingly, this process will be referred in this report as a review. The Motion provides as follows:

Following the recent publication of the Councillor expenses report and regarding Cr Ross' positions on both the VLGA Board and the Metropolitan Waste and Resource Recovery Group (MWRRG) Board I request:

1. *That the CEO Ms Jeffs, be given the authorisation to contact the CEO of both organisations to gain answers to the following questions and others that she deems necessary.*
 - a. *How much are Board members paid?*
 - b. *What is the purpose of these payments?*
 - c. *Is Cr Ross involved with any sub-committees for the organisation?*
 - d. *How long has Cr Ross been a member of the Board and a member of any other committee's associated with the organisation?*
 - e. *How many meetings has Cr Ross attended and been paid for as a Board or committee member?*
 - f. *What dates were these meetings held?*
2. *The dates and information gathered is to be cross referenced to the Travel Expense and Out-of-pocket Expense claims Cr Ross has been reimbursed for by council.*
3. *A full audit of the kilometres listed for each trip claimed by Cr Ross is conducted using Google Maps as a reference.*

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4. *A report with all the findings is presented to the September General Meeting. This report should include a recommendation as to any further actions the council may be required to take.*

The Travel Expense and Out-of-pocket Expense claims referred to in the motion encompass claims to Council for parking, tolls and travel expenses (**Claims**) made by Cr Ross for his attendance at meetings. The terms of the motion are limited to paid Board and committee meetings for VLGA and MWRRG (the **Relevant Meetings**). Accordingly, the Reviewer limited her review to Claims for attendance at the Relevant Meetings, and not Claims for attendance at other types of meetings or events, whether paid or unpaid. As such, the scope of the review was limited to Claims relating to VLGA since 1 July 2019, when Cr Ross became a VLGA Board member, and Claims relating to MWRRG since 1 May 2017, when Cr Ross became an MWRRG Board member.

The Reviewer notes that as part of this process no allegations were put to Cr Ross. Instead, the Reviewer was instructed to conduct a process to review the Claim Forms listed in Annexure A, against the dates of Relevant Meetings where Claims were made. This information was cross referenced against information provided by VLGA and MWRRG, to consider whether Cr Ross has claimed travel expenses, tolls and/or parking costs from Council while also receiving remuneration from VLGA and MWRRG that may cover travel expenses for the same meetings.

While considering the Claims, the Reviewer was not instructed to consider whether any Claims made by Cr Ross were in breach of Council policies.

Review Process

Magda Marciniak, Partner at Justitia, (**the Reviewer**) conducted the review.

The Reviewer was provided with a copy of the Motion, as well as documents provided to Council by Cr Wilmot.

The Reviewer was provided with Claim Forms for the document review dating back to 9 February 2015. These were provided by Mr Andrew Pomeroy, Manager Economic Development. As the scope of the review is limited to the timeframe from which Cr Ross commenced on the boards of VLGA and MWRRG, Claim Forms for expenses incurred prior to 1 May 2017 were not considered as part of this review.

Mr Pomeroy confirmed that all of the Claims made by Cr Ross had been reimbursed by Council. The Reviewer was also provided with a copy of the Cardinia Shire Council Councillor Expenses and Entitlements Policy which provides for the reimbursement of out-of-pocket expenses including travel expenses.

In accordance with the Motion, Carol Jeffs, CEO of Council, contacted Ms Kathryn Arndt, CEO of VLGA and Ms Jillian Riseley, CEO of MWRRG, to request information about Board and committee meetings, including information such as the dates and locations of those meetings, Cr Ross' attendance record for those meetings, payments and policies.

The Reviewer requested information from Cr Ross about the route he takes to VLGA and MWRRG meetings, and other related information. This information was required in order to ensure the audit could be undertaken accurately. Further details about the questions asked by the Reviewer, and Cr Ross' responses to those questions, are set out in the Audit of Kilometres Claimed section of this report.

After a period of time, VLGA and MWRRG provided their responses to Ms Jeffs' requests for information. The Reviewer clarified their responses and requested further relevant information where necessary.

The Reviewer considered the information provided by VLGA and MWRRG with respect to paid Board and committee meetings and, in accordance with item 2 of the Motion, cross referenced this against the Claims made by Cr Ross.

Where it was identified that Cr Ross had made a Claim with Council for a paid Board or committee meeting then, in accordance with item 3 of the Motion, an audit of the kilometres listed for each of those claimed

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trips was conducting using Google Maps as a reference. While the Claim Forms do not require the Councillor completing the form to provide a complete address of the destination of their claimed trip (requesting a "destination or locality" only) this audit was possible because VLGA and MWRRG provided the addresses of the locations of the paid Board and committee meetings attended by Cr Ross.

Due to the wording of the Motion, and the time limitations placed on the review, the scope of the audit was limited to Claims made by Cr Ross with respect to paid Board and committee meetings.

Furthermore, it is important to note that the timeframes in which this review and report were required did not allow sufficient time for the Reviewer to put any preliminary findings to Cr Ross for a response. Therefore, while the Reviewer refers to "findings" in this report as required by the Motion, the findings of this review are simply observations of the Reviewer after undertaking the review. As the findings have not been put to Cr Ross before the completion of this report, the Reviewer recommends that prior to Council taking any actions as a result of this review, Cr Ross is given an opportunity to respond to the findings.

Documentary review

The documents provided to the Reviewer and considered as part of the documentary review are listed in Annexure A.

Review of attendance at VLGA meetings

Ms Arndt provided the following information by email:

1. *Cr Collin Ross was elected to the VLGA Board in June 2019 – his term commenced on 1 July 2019.*
2. *Attached is the VLGA Board remuneration/sitting fee policy. Sitting fees are only paid for attendance at meetings (in person or virtual) and are inclusive of related expenses – ie. travel. Cr Ross is entitled to receive \$426 per meeting.*
3. *Cr Ross is entitled to receive sitting fees as a VLGA Board member and a member of the Board's Governance & Risk Committee (GRC). Board and GRC members are required to sign an attendance sheet at each meeting attendance which is counter signed by the VLGA CEO. In the event of virtual meetings, the CEO registers the attendance of all Board members present.*
4. *Board and related meetings for which Cr Ross received an allowance (sitting fee) include:*
 - *Board planning workshops - 8 August 2019, 13 December 2019*
 - *Board meetings –22 August 2019, 17 October 2019, 12 December 2019, 13 February 2020, 16 April 2020, 16 July 2020*
 - *Governance & Risk (GRC) committee meetings - 29 August 2019, 28 November 2019, 28 January 2020, 26 March 2020 (via Zoom due to COVID although Cr Ross presented unannounced at the VLGA office to attend – he was the only Board member to do so), 2 July 2020, 27 August 2020*
5. *Board and GRC meetings are held at the VLGA offices at 60 Leicester St, Carlton, however since March 2020 meetings have been held via Zoom due to COVID.*

At point 2 above Ms Arndt states that sitting fees are inclusive of related expenses i.e. travel. The Reviewer considered the VLGA Board sitting fees policy, and notes that it provides that sitting fees assist with the costs associated with travel to VLGA meetings and forums.

Ms Arndt confirmed that, despite her use of the word "include", the list of the Board and committee meetings at point 4 above is an exhaustive list. Ms Arndt also confirmed Cr Ross was in attendance for all of the Board and committee meetings listed at point four, and that a sitting fee was paid to him by VLGA for all of those meetings. These meetings, and any relevant Claims made by Cr Ross to Council in relation to these meetings, are set out below.

Description of meeting	Date of meeting	Location of meeting	Relevant VLGA-related Claims submitted to Cardinia matching VLGA meeting date
VLGA Board Planning workshop	8 August 2019	60 Leicester St, Carlton VIC 3053	8/8/19 - VLGA Event – Melb CBD - 136km. ¹ 8/8/19 - VLGA Event (tolls) – \$16.38. ² 8/8/19 - VLGA Event (parking coins)- \$24. ³
VLGA Board Meeting	22 August 2019	60 Leicester St, Carlton VIC 3053	22/8/19 - VLGA Event/MWRRG Event – Melb CBD - 136km. ⁴
VLGA GRC Committee Meeting	29 August 2019	60 Leicester St, Carlton VIC 3053	29/8/19 - VLGA Event – Melb CBD - 136km. ⁵ 29/8/19 - VLGA Meeting (parking coins)- \$15. ⁶
VLGA Board Meeting	17 October 2019	60 Leicester St, Carlton VIC 3053	No Claims made for VLGA meetings on this date as of the date of this report
VLGA GRC Committee Meeting	28 November 2019	60 Leicester St, Carlton VIC 3053	28/11/19 – VLGA Gov + Risk Com – Melb CBD - 136km. ⁷
VLGA Board Meeting	12 December 2019	60 Leicester St, Carlton VIC 3053	12/12/19 – VLGA Meeting - Melb CBD – 136km. ⁸ 12/12/19 - Parking Coins - \$15. ⁹ 12/12/19 - Tolls Road – \$5.08. ¹⁰
VLGA Board planning workshop	13 December 2019	60 Leicester St, Carlton VIC 3053	No Claims made for VLGA meetings on this date as of the date of this report
VLGA GRC Committee Meeting	28 January 2020	60 Leicester St, Carlton VIC 3053	No Claims made for VLGA meetings on this date as of the date of this report
VLGA Board Meeting	13 February 2020	60 Leicester St, Carlton VIC 3053	No Claims made for VLGA meetings on this date as of the date of this report
VLGA GRC Committee Meeting	26 March 2020	60 Leicester St, Carlton VIC 3053 and Zoom	No Claims made for VLGA meetings on this date as of the date of this report
VLGA Board Meeting	16 April 2020	Via Zoom	No Claims made for VLGA meetings on this date as of the date of this report
VLGA GRC Committee Meeting	2 July 2020	Via Zoom	No Claims made for VLGA meetings on this date as of the date of this report
VLGA Board Meeting	16 July 2020	Via Zoom	No Claims made for VLGA meetings on this date as of the date of this report
VLGA GRC Committee Meeting	27 August 2020	Via Zoom	No Claims made for VLGA meetings on this date as of the date of this report

¹ Travelling expenses form dated 16 September 2019, page 3.

² Out of pocket expenses form dated 16 September 2019, page 1.

³ Out of pocket expenses form dated 16 September 2019, page 1.

⁴ Travelling expenses form dated 16 September 2019, page 4.

⁵ Travelling expenses form dated 16 September 2019, page 5.

⁶ Out of pocket expenses form dated 16 September 2019, page 1.

⁷ Travelling expenses form dated 18 December 2019, page 7.

⁸ Travelling expenses form dated 18 December 2019, page 11.

⁹ Out of pocket expenses form dated 18 December 2019, page 2.

¹⁰ Ibid.

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The Reviewer notes that the travelling expenses claim for 22 August 2019 appears to simultaneously claim for a VLGA Event and a MWRRG Event. This is discussed further below.

The Reviewer notes that the completed Claim Forms often lack specific details regarding meetings and events attended by Cr Ross. As such, some of the relevant Claims extracted from the Claim Forms completed by Cr Ross refer to "VLGA Event" or "VLGA Meeting". In particular, the Claims on 8 August 2019, 22 August 2019 and 29 August 2019 as referenced in the table above refer to "VLGA Event", rather than specifically referring to a Board or GRC Committee meeting. The Claim on 12 December 2019 refers to "VLGA meeting" rather than specifically referring to the VLGA Board meeting. Accordingly, the Reviewer considered whether there may have been another VLGA event or meeting in the vicinity of the CBD on the same day as the VLGA meeting for which Cr Ross was paid sitting fees, and that perhaps he was claiming for that other event or meeting.

Further information was obtained from Ms Arndt. Ms Arndt confirmed to the Reviewer that other than the VLGA Board Planning Workshop, the VLGA Board Meeting and the VLGA GRC Committee Meeting that took place on 8 August 2019, 22 August 2019 and 29 August 2019 respectively, there were no other VLGA events taking place on those three dates in the CBD or its vicinity. The Reviewer also reviewed the publicly available VLGA events calendar on the VLGA website and noted that there were no events listed on those dates. As a result, the Reviewer has concluded that where Claims on 8 August 2019, 22 August 2019 and 29 August 2019 refer to a "VLGA Event", that Cr Ross was referring to the VLGA Board Planning Workshop, the VLGA Board Meeting or the VLGA GRC Committee Meeting as applicable to the dates provided on the Claim Forms. Ms Arndt also confirmed that on 12 December 2019 there were no other VLGA meetings that required Cr Ross's attendance or to which he was invited, except for the Board meeting. Therefore, the Reviewer considers that the 12 December 2019 Claim for a "VLGA meeting" is a Claim for the Board meeting of that date.

Ms Arndt also informed the Reviewer that the VLGA Board had an end of year dinner immediately following the Board meeting on 12 December 2019, which was held at a restaurant located around the corner from the office, being The Lincoln Hotel at 91 Cardigan St Carlton. As part of the Claims relating to this date, Cr Ross made a claim for \$5.08 in road tolls. The Citylink Trip history attached to the Out-of-pocket expenses form dated 18 December 2019 indicates that Cr Ross was on Citylink from Monash Fwy/Toorak Rd to Punt Rd at approximately 3:10 PM on that date. As such, the Reviewer considers it more likely than not that the Claims on 12 December 2019 relate to the Board Meeting, rather than the end of year dinner taking place after the meeting.

Observations and Recommendations

Based on the information available to her, the Reviewer finds that Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 2 December 2019. The expenses claimed from Council are set out in the table below:

Date of Meeting	Description of meeting	Travel expenses claimed	Tolls claimed	Parking costs claimed
8 August 2019	VLGA Board Planning workshop	136km at 113.346 cents per km	\$24.00	\$16.38
29 August 2019	VLGA GRC Committee Meeting	136km at 113.346 cents per km	\$15.00	none
28 November 2019	VLGA GRC Committee Meeting	136km at 113.346 cents per km	none	none

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12 December 2019	VLGA Board Meeting	136km at 113.346 cents per km	\$15.00	\$5.08
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As the VLGA Board sitting fees are inclusive of expenses such as travel, the Reviewer recommends Council make further inquiries of Cr Ross and obtain legal advice as to whether there has been any breach of legislation, code of conduct or policy. As part of any process, Council should provide Cr Ross with an opportunity to respond to any concerns relating to Claims made in respect of these four meetings.

Additionally, the Reviewer finds that Cr Ross has received a sitting fee of \$426 for the 22 August 2019 VLGA Board meeting and has been reimbursed by Council for a Claim for travel expenses (i.e. mileage only) to a "VLGA Event/MWRRG Event" on the same date, where the reference to "VLGA event" is, as explained above, a reference to the VLGA Board meeting. The Reviewer observes that Cr Ross has received a sitting fee inclusive of travel expenses for one part of this claim but not the other (as information provided by MWRRG did not identify Cr Ross as attending a paid MWRRG Board or committee meeting on 22 August 2019). The Cardinia Shire Council Councillor Expenses and Entitlements Policy provides for the reimbursement of out-of-pocket expenses. Council might take the view that if Cr Ross has travelled into the CBD once that day to attend both a VLGA Board meeting and a MWRRG event, and he has been paid a sitting fee inclusive of travel expenses for the Board meeting, then it does not appear that he has any out-of-pocket travel expenses (for a 136km journey) to claim for his attendance at the MWRRG event, as he was already compensated by VLGA for his travel into the CBD for the Board meeting. However, as part of this Review this joint claim of 22 August 2019 was not put to Cr Ross for a response and so it is not known, for example, whether Cr Ross travelled the 136km journey twice that day. The Reviewer recommends that Council make further inquiries about the joint claim of 22 August 2019 and seek further information from Cr Ross, in order to determine whether it is a claim of concern which may require further action.

Review of attendance at MWRRG Meetings

In response to Ms Jeff's questions, Ms Riseley provided the following relevant information:

All meetings were held at the MWRRG office. 18 – 38 Siddeley Street, Melbourne

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MWRRG Board Director fees are as follows

2017-18: \$364 per session

2018-19: \$380.40 per session

2019-20: \$388.11 per session

In some instances, Cr Ross was paid at half session fees due to the nature of the meeting.

.....

Cr Ross commenced his position on the MWRRG Board on 1 May 2017. Cr Ross was also a member of our Audit Risk and Finance Management Committee from July 2017 – August 2018

Ms Riseley later identified some 2020 meetings and one 2019 meeting that were held remotely, however none of these remote meetings were relevant to the review. Ms Riseley also noted some meetings where Cr Ross was paid a half session fee but again, none of those meetings were relevant to the review.

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Ms Riseley also provided a table that included the details of 68 MWRRG events and meetings that Cr Ross attended and for which he received MWRRG Board director fees. After seeking further clarification from Ms Riseley, the Reviewer determined that of these 68 MWRRG events or meetings, 38 of them were Board meetings or committee meetings that fell within the scope of this review.

They are as follows:

Date	Meeting
18 July 2017	AFRM Committee
26 July 2017	Board Meeting
30 August 2017	AFRM Committee
30 August 2017	Board Meeting
6 September 2017	Board Meeting
27 September 2017	Board Meeting
17 October 2017	AFRM Committee
25 October 2017	Board Meeting
29 November 2017	Board Meeting
20 December 2017	Board Meeting
15 February 2018	AFRM Committee
28 February 2018	Board Meeting
28 March 2018	Board Meeting
19 April 2018	AFRM Committee
2 May 2018	Board Meeting
30 May 2018	Board Meeting
27 June 2018	Board Meeting
19 July 2018	AFRM Committee
25 July 2018	Board Meeting
29 August 2018	Board Meeting
5 September 2018	EPA/SV/MWRRG Boards
26 September 2018	Board Meeting

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31 October 2018	Board Meeting
28 November 2018	Board Meeting
19 December 2018	Board Meeting
15 February 2019	Board Workshop
27 February 2019	Board Meeting
27 March 2019	Board Meeting
1 May 2019	MWRRG Board workshop
29 May 2019	Board Meeting
26 June 2019	Board Meeting
31 July 2019	Board Meeting
28 August 2019	Board Meeting
25 September 2019	Board Meeting
30 October 2019	Board Meeting
27 November 2019	Board Meeting
29 January 2020	Board Meeting
12 March 2020	Special Board Meeting

The Reviewer notes that references to in the above table to "AFRM committee" are references to the Audit Risk and Finance Management Committee which Cr Ross was a member of in the period July 2017 – August 2018.

Ms Riseley also provided a copy of the MWRRG Board Remuneration and Reimbursement Policy (the **MWRRG Policy**).

The Reviewer considered the MWRRG Policy. It provides that sessional rates are paid to Board members due to their workload, the regularity of meetings and the Board activities they undertake. The MWRRG Policy also provides that Board members are eligible for reimbursement of out-of-pocket expenses such as travel associated with attending meetings. Travel is reimbursed at the rate of 68 cents per kilometre, and car parking at reasonable costs. Relevantly, where Cr Ross attends a MWRRG meeting, he is entitled to both the payment of a sitting fee/director fees, as well as an additional reimbursement of travel and parking costs.

The Reviewer was also provided with the claim forms Cr Ross lodged with MWRRG when claiming reimbursement for travel related expenses. In respect of the 38 MWRRG Board and committee meetings, the Reviewer observed that save for one instance where Cr Ross did not claim travel expenses (mileage), one instance where he did not claim parking and two instances where he did not claim tolls, Cr Ross otherwise

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claims travel expenses (mileage), tolls and parking from MWRRG for his attendance at Board and committee meetings, as he is entitled to do under the MWRRG Policy.

The Reviewer was also provided with a spreadsheet of reconciliations of claims made and monies reimbursed.

Observations and Recommendations

When cross referencing the 38 MWRRG Board and committee meetings that fell within the scope of this review against Claims made by Cr Ross to Council, the Reviewer found that Cr Ross did not make any Claims to Council for his attendance at any of the 38 Board or committee meetings.

In examining the Claim Forms, the Reviewer observed that there were three dates where Cr Ross made Claims with Council for other types of MWRRG meetings or events held on the same date as a paid MWRRG Board or committee meeting. Cr Ross was reimbursed for those Claims. The relevant MWRRG Board and committee meetings, and the amounts claimed **from MWRRG** for travel related expenses to those Board and committee meetings are as follows:

Date of Meeting	MWRRG Description of meeting	Travel expenses claimed from MWRRG	Tolls claimed from MWRRG	Parking costs claimed from MWRRG
15 February 2018	AFRM Committee	136km at ATO rate	\$12.76	\$16.50
30 October 2019	Board Meeting	136km at ATO rate	\$16.53	\$12.29
27 November 2019	Board Meeting	136km at ATO rate	\$16.53	\$12.29

Ms Riseley had provided information that all paid Board and committee meetings were held at 18 – 38 Siddeley Street, Melbourne.

Cr Ross has made Claims to Council for one MWRRG Forum and two MWRRG SPAG and TORG meetings held in the CBD on the same dates as the MWRRG Board and committee meetings noted above. The Details of the Claims with Council are as follows:

Date of Meeting	Cr Ross' description of Meeting on travel expenses Claim Form	Travel expenses claimed from Council	Cr Ross' description of Meeting on Out-of-pocket expenses Claim Form	Tolls claimed from Council	Parking costs claimed from Council
15 February 2018	MWRRG Forum	CBD - 136km at 113.346 cents per km	Metro Waste Meeting - Car Parking (Melb CBD) Meter	None	\$15.00
30 October 2019	MWRRG SPAG and TORG	CBD - 136km at 113.346 cents per km	Parking Coins	None	\$14.40
27 November 2019	MWRRG SPAG and TORG	CBD - 136km at 113.346 cents per km	None	None	None

Cr Ross has made a travel expense claim to Council for the MWRRG Forum on 15 February 2018. Initially, the Reviewer understood that this forum was a paid meeting because some MWRRG forums were listed as paid meetings in the information provided by Ms Riseley. The Reviewer sought further clarification about this

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MWRRG Forum on 15 February 2018. Ms Riseley informed the Reviewer that Cr Ross would not have been paid director fees for attending a MWRRG Forum on 15 February 2018 as at that time Councillors were not paid for their attendance. Ms Riseley understood that this MWRRG Forum took place on the same day as the AFRM Committee, but at a different time to the AFRM Committee. The Reviewer does not have any information from MWRRG about the location of the MWRRG Forum on 15 February 2018, but notes that Cr Ross has claimed for 136km to the CBD to attend the MWRRG Forum on this date.

The two events described as "MWRRG SPAG and TORG" in the table above are unpaid meetings, as is the MWRRG Forum of that date, therefore it appears that Cr Ross has not made claims to Council for any paid meetings on the same dates.

While Council may wish to make further inquiries with respect to the parking costs claimed from both MWRRG and Council, the Reviewer notes that it would not be unusual to have two claims for parking on the same date when attending two meetings/events in the same location, particularly in the CBD where parking costs are high. As the Reviewer was unable to obtain further information about the parking costs from Cr Ross due to the report timeframes, the Reviewer makes no finding in relation to the parking costs claimed.

Based on the information available to her, the Reviewer finds that on one occasion, being 15 February 2018, Cr Ross:

- was paid sitting fees of \$364, and was reimbursed travels expenses (i.e. mileage) for a 136km return journey to the CBD, by MWRRG for his attendance at an AFRM Committee; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.

Based on the information available to her, the Reviewer finds that on two occasions, being 30 October 2019 and 27 November 2019 Cr Ross:

- was paid sitting fees of \$388.11, and was reimbursed travels expenses (i.e. mileage) for a 136km return journey to the CBD, by MWRRG for his attendance at Board meetings; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at unpaid meetings, the MWRRG SPAG and TORG meetings, on the same dates.

In concluding that Cr Ross was reimbursed for travel expenses in the form of mileage by MWRRG as described above, the Reviewer considered the spreadsheet of reconciliations provided by MWRRG. The spreadsheet includes a reconciliation of total amounts claimed against total reimbursements, by quarter. It also provides a breakdown of reimbursements for parking, travel expenses (in the form of mileage) and tolls. Upon examining the spreadsheet, the Reviewer identified that Cr Ross was reimbursed his claims in full in the 3rd quarter of 2018-2019, being the applicable quarter for the 15 February 2018 claim. The Reviewer identified that although Cr Ross was not reimbursed his claims in full in the 2nd quarter of 2019-2020, being the applicable quarter for the 30 October 2019 and 27 November 2019 claims, he was reimbursed in full for travel expenses in the form of mileage in the 2nd and 3rd quarters. (The Reviewer notes that the 2nd and 3rd quarters are combined for that financial year in the spreadsheet). Accordingly, the Reviewer determined that Cr Ross was reimbursed for his travel expenses in the form of mileage for the 30 October 2019 and 27 November 2019 claims.

The Cardinia Shire Council Councillor Expenses and Entitlements Policy provides for the reimbursement of out-of-pocket expenses. Council might take the view that if Cr Ross has travelled into the CBD once that day to attend a paid MWRRG Board or committee meeting, as well as another unpaid MWRRG meeting/event, and he has been reimbursed travel expenses for the Board/committee meeting, then it does not appear that he has any out-of-pocket travel expenses (for a 136km journey) to claim for his attendance at the unpaid MWRRG meeting/event, as he was already compensated by MWRRG for his travel into the CBD that day. Given that the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 were not put to Cr Ross

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for a response as part of this review, it is not known, for example, whether Cr Ross travelled the 136km journey twice that day. The Reviewer recommends that Council make further inquiries about the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 and seek further information from Cr Ross to determine whether they are claims of concern which may require further action. Further information would also need to be obtained from MWRRG about the relevant meeting/event times.

In examining the Claim Forms, the Reviewer also observed that there appeared to be other dates where Cr Ross made both:

- claims with MWRRG for travel expenses for a 136km return journey to the CBD for a MWRRG Board or committee meeting; and
- Claims with Council for travel expenses for a 136km return journey to the CBD for other types of meetings not related to MWRRG.

For example, Cr Ross claimed and was reimbursed by Council for travel expenses to an "Interface meeting" held on 28 February 2018 for which he travelled a 136km return journey into the CBD and he also claimed travel expenses from MWRRG for his attendance at a MWRRG Board meeting held on the same date, for which he also travelled a 136km return journey into the CBD. It is not known whether Cr Ross travelled the 136km return journey to the CBD once that day, or twice. Due to the timeframes set for this review and report, the Reviewer was not able to comprehensively review other non-MWRRG related Claims made to Council against MWRRG claims made to MWRRG.

Council should consider its position with respect to reimbursement of travel expenses for a meeting (meeting 1), where a Councillor attends another meeting in the same or similar location on the same day (meeting 2), and is reimbursed by another organisation for that meeting (meeting 2). If Council considers a reimbursement from Council for a meeting (meeting 1) in these circumstances would be a breach of Council policy (or another source of Councillor obligations), then the Reviewer recommends that Council undertake a broader review of Cr Ross' Claims to Council, cross referenced against claims to MWRRG with respect to all meetings, to determine whether Cr Ross has claimed two 136km return journeys to the CBD on the same date, one with each organisation. This type of review would require an extensive examination of all MWRRG claim forms and, in order to be accurate, would require the reviewer to obtain further information from MWRRG, such as meeting locations and meeting times. It would also involve obtaining further information from another organisation, such as the organisation related to Interface meetings, where two claims have been identified. The Reviewer also notes that it may take some time to obtain this additional information from other organisations, as was the case in this review.

If a later review determines further instances where Cr Ross has claimed two 136km return journeys to the CBD on the same date, one with MWRRG and one with Council, then it would be important to put this to Cr Ross for a response, as he may have a legitimate explanation for why he has made two claims.

Audit of kilometres claimed

Prior to conducting the audit, it was observed that Cr Ross consistently claimed for a return journey of 136km when attending meetings related to VLGA and MWRRG. In accordance with item 3 of the Motion the Reviewer was required to conduct an audit of the kilometres listed for trips claimed by Cr Ross using Google Maps as a reference. When inputting a trip, Google Maps will display the number of kilometres undertaken as part of this trip. However, the Reviewer cannot attest to the accuracy of Google Maps' calculations.

In order to accurately conduct an audit of the trips claimed by Cr Ross, it was important to ascertain where Cr Ross begins his journey, which route he takes to the meeting, where he parks his car, which route he takes on the return journey and where his journey ends. Had this information not been obtained the audit would be inaccurate as it would be based purely on assumptions, such as an assumption that Cr Ross commences his journey from his home. Cr Ross was asked the following questions by the Reviewer:

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When you have previously made an expense claim for travel to a VLGA or MWRRG meeting you have recorded the distance travelled for the return journey as 136km. I have attached an expense claim form for your information. For example, on 11 April 2019 you travelled to VLGA and recorded 136km and on 9 May 2019 you travelled to MWRRG and recorded 136km.

With respect to travel to VLGA meetings, could you please clarify for me:

- 1. Where does your journey begin (e.g. home, work) and what is the address of that place?*
- 2. What is the route that you take to the meeting? (I will ask you to please explain it in detail)*
- 3. Where do you park your car when you arrive for the meeting?*
- 4. What is the route that you take on the return journey?*
- 5. Where does your journey end, and what is the address of that place?*

With respect to travel to MWRRG meetings, could you please clarify for me:

- 1. Where does your journey begin (e.g. home, work) and what is the address of that place?*
- 2. What is the route that you take to the meeting? (I will ask you to please explain it in detail)*
- 3. Where do you park your car when you arrive for the meeting?*
- 4. What is the route that you take on the return journey?*
- 5. Where does your journey end, and what is the address of that place?*

Cr Ross responded to the above questions. He provided information that he commences and ends his journey at his home in Pakenham and provided the address of his home (the **Home Address**). The Home Address, and an adjacent street, are not included in this report for privacy reasons. Cr Ross provided examples of the routes he takes, and where he parks, and these are discussed in detail below.

The Reviewer had noted to Cr Ross that he claimed a consistent 136km return journey. The results of the audit below, where Cr Ross' example routes were analysed, show a return journey of greater than 136km.

The Reviewer notes in this report a summary of the explanation that Cr Ross has provided for how he arrived at the figure of 136km. Cr Ross has explained that, around 12 years ago, he had discussions with other Councillors about processing expense claims and they advised him that it was sufficient to ascertain the average distance he has travelled and to use that average when making his expense claim. Cr Ross further explained that he used his odometer over approximately 3 trips to VLGA and MWRRG meetings and the average distance was 136km. Even though Cr Ross later noticed that he was travelling a greater distance than 136km he was happy to maintain a consistent claim for 136km. Cr Ross also noted that he told a Council officer that he was making his travel expense claims on the basis of an average and that the Council officer did not object to this. The Reviewer was not able to verify the explanations provided with any Councillors or Council officer, as this would be outside the scope of the Review, but includes a summary of Cr Ross' explanation so that it is clear in this report why the routes Cr Ross has given as examples are not consistent with his claim of 136km.

The Reviewer notes that when Cr Ross has made travel expense claims with MWRRG for Board and committee meetings, he consistently claims for a 136km return journey. The MWRRG expense claim forms contain a section for odometer readings. In the period 18 July 2017 to 26 September 2018, Cr Ross inserted 22 odometer readings into the MWRRG expense claim forms. Those readings consistently show a return journey of 136km. It is unclear why Cr Ross continued to monitor and record odometer readings for his MWRRG claims as late as September 2018, but not his Cardinia Shire Council claims, or why the actual odometer readings for his MWRRG claims are consistently 136km when Cr Ross uses routes to meetings that are in excess of 136km. Due the timeframes required for this report, the Reviewer did not have the opportunity to raise these matters with Cr Ross and notes that he should be given an opportunity to address this.

Cr Ross explained that he does not park in one consistent location when attending VLGA or MWRRG meetings, as this depends on the availability of reasonably affordable parking. For these meetings, he noted that he will usually try to find on street metered parking because these car parks are usually charged at a rate

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of around \$7.70 per hour, which makes the parking cost of attending a meeting for around 4 hours approximately \$30.00. This is much cheaper than parking in a private parking lot, such as those provided by Wilson Parking around the CBD, where anything in the range of \$60-\$100 will be charged for a few hours parking. As a result, Cr Ross will usually have to drive around some of the streets near the meeting in order to find appropriate and available street parking. For the purpose of this audit, the Reviewer has taken this information into account and chosen to use the meeting locations as an approximate end point, given the difficulty of estimating the route taken and time required to find an appropriate and available parking spot. The Reviewer acknowledges that additional kilometres would be required for the purpose of driving around to find a parking spot.

As set out in this report, the Reviewer has identified four VLGA meetings where Cr Ross has been reimbursed travel related expenses from Council while receiving a sitting fee for attending those meetings. As item 3 of the Motion requires "a full audit of the kilometres listed for each trip claimed by Cr Ross", the Reviewer understands that this is to be read in the context of the entire Motion. As a result, the focus of the audit of kilometres travelled will be limited to these four VLGA meetings where Cr Ross has claimed for expenses from Council while receiving a sitting fee inclusive of travel expenses from VLGA for attending these meetings. (In any event, addresses have not been provided on the Claim Forms for any other meetings, and the address of the VLGA meetings was provided by VLGA.) These relevant VLGA meetings are as follows:

Date of Meeting	Description of Meeting	Meeting Location
8 August 2019	VLGA Board Planning workshop	60 Leicester St, Carlton VIC 3053
29 August 2019	VLGA GRC Committee Meeting	60 Leicester St, Carlton VIC 3053
28 November 2019	VLGA GRC Committee Meeting	60 Leicester St, Carlton VIC 3053
12 December 2019	VLGA Board Meeting	60 Leicester St, Carlton VIC 3053

The Councillor Expenses and Entitlements Policy provides "that travel must be undertaken as quickly as possible and by the shortest route possible." The Reviewer cannot confirm if any route is both the quickest and the shortest route in accordance with the Councillor Expenses and Entitlements Policy, as the duration of a journey will depend on numerous factors, including but not limited to the time of travel, traffic conditions on that day and road closures. On this basis, the Reviewer has only performed Google Maps searches for the purpose of considering the shortest possible route.

Results of audit of kilometres for VLGA meetings

Starting point	End point	Number of kilometres for shortest route as provided by Google Maps
Home address	60 Leicester St, Carlton VIC 3053	60.4km
60 Leicester St, Carlton VIC 3053	Home Address	61.5km
	Total	121.9km

Google Maps provides that the return journey for travelling the shortest route possible to VLGA meetings is 121.9km, which is 14.1 km less than the 136km return journey claimed by Cr Ross.

The Reviewer acknowledges that the total number of kilometres listed above does not include the additional driving required to look for an appropriate and available parking spot. The Reviewer considers that it is likely

that an additional one or two kilometres would be required to look for an appropriate and available parking spot.

Examples of routes provided by Cr Ross

Cr Ross provided information that he always tries to take the quickest and shortest route possible in accordance with the requirement of the Councillor Expenses and Entitlements Policy 2016. However, his route varies day to day depending on a number of variables. These variables, such as the time of the meeting and traffic conditions, can mean the shortest route may not be the fastest route, or vice versa. Cr Ross has stated that he takes different routes, to ensure that he takes the most time and cost efficient route in all of the circumstances.

Cr Ross provided the Reviewer with some examples of routes he takes to VLGA meetings.

While Cr Ross also provided example routes that he takes to MWRRG meetings, the Reviewer has not replicated these example routes in this report as the focus of the audit of kilometres travelled is limited to four paid VLGA meetings where Cr Ross has claimed for expenses from Council while receiving a sitting fee inclusive of travel for attending these meetings.

The example routes and estimated distances are as follows:

Example 1: Route to and From VLGA Meeting (using toll roads)

Journey to meeting	Example route for journey provided by Cr Ross
Route to VLGA Meeting - using toll roads	Drive out of [street name redacted], turn right onto [street name redacted], left onto Mackellar St, right onto McCubbin Ave, right onto Henry Rd, left onto McGregor Rd, left onto Princes Hwy, travel down Princes Hwy, right into Old Princes Hwy through Beaconsfield CBD, right onto Beaconsfield-Emerald Rd, left into Inglis Rd, left at the roundabout into Lyaal Rd, right at the roundabout onto Harkaway Rd, follow Harkaway Rd, when Harkaway Rd ends, turn left onto Wellington Rd, follow Wellington Rd to Stud Rd, turn right onto Stud Road, follow Stud Road to Ferntree Gully Rd, left onto Ferntree Gully Rd, follow Ferntree Gully Rd, turn right into Blackburn Rd and left onto the Monash Freeway, exit Monash Freeway onto Exhibition St, left into Victoria St, right onto Bouverie St, left into Queensberry St, left into Leicester St.
Instructions on Car Parking	In order to find appropriate and available on street metered parking Cr. Ross will usually have to drive past the office and around the nearby streets. In doing so he takes the following approximate route: drive down Leicester St, U turn back up Leicester St, left into Berkeley St, U turn in Berkeley St, left into Leicester St over Queensberry St, up Leicester St, left into Penham St, left into Berry St, left into Leicester St, right into Penham St, left into Bouverie St. By taking this route Cr. Ross will usually find a car park.
Route from VLGA Meeting - using toll roads	Assuming Cr. Ross found a car park on Berry St, he would drive from Berry Street, turn right onto Leicester St, left onto Victoria Parade, right onto Punt Rd, left onto Monash Freeway, left onto Ferntree Gully Road, follow Ferntree Gully Rd, right onto Stud Rd, left onto Wellington Rd, right onto Harkaway Rd, left onto Old Princes Hwy Berwick, follow then left onto Princes Hwy Beaconsfield, right onto McGregor Rd, right onto Henry Rd, right on McKellar St, right onto [street name redacted], left into [street name redacted].
Estimated kilometres for Example 1	148.55 kilometres

The Reviewer inserted the above route into Google Maps and notes that on the basis of Google Maps' calculations, the return journey for the above route is 148.55km. The Reviewer notes that where Cr Ross

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refers to Penham Street and Berry Street in Carlton in the directions above, there are no streets in this area by these names. The Reviewer has assumed that he is referring to Pelham Street and Barry Street in Carlton and estimated the kilometres on this basis.

On the basis of information provided by Cr Ross, it appears that the estimated distance travelled by Cr Ross to these meetings exceeds the 136km that has been claimed by Cr Ross for VLGA meetings.

Example 2: Route to and From VLGA Meeting (not using toll roads)

Journey to meeting	Example route for journey provided by Cr Ross
Route to VLGA Meeting – not using toll roads	Drive out of [street name redacted], turn right onto [street name redacted], left onto Mackellar St, right onto McCubbin Ave, right onto Henry Rd, left onto McGregor Rd, Left onto Princes Hwy, travel down Princes Hwy, right into Old Princes Hwy through Beaconsfield CBD, right onto Beaconsfield-Emerald Rd, left into Inglis Rd, left at the roundabout into Lyall Rd, right at the roundabout onto Harkaway Rd, follow Harkaway Rd, when Harkaway Rd ends, turn left onto Wellington Rd, follow Wellington Rd to Stud Rd, turn right onto Stud Road, follow Stud Road to Ferntree Gully Rd, left onto Ferntree Gully Rd, follow Ferntree Gully Rd, turn right into Blackburn Rd and left onto the Monash Freeway, turn left onto Toorak Rd, right on Williams Rd, left onto Alexandra Ave, right onto Punt Rd, right onto Victoria Parade, right onto Bouverie St, left into Queensberry St, left into Leicester St.
Instructions on Car Parking	In order to find appropriate and available on street metered parking, Cr. Ross will usually have to drive past the office and around the nearby streets. In doing so he will take the following approximate route: drive down Leicester St, U turn back up Leicester St, left into Berkeley St, U turn in Berkeley St, left into Leicester St over Queensberry St, up Leicester St, left into Penham St, left into Berry St, left into Leicester St, right into Penham St, left into Bouverie St. By taking this route Cr. Ross will usually find a car park.
Route from VLGA Meeting – not using toll roads	Assuming Cr. Ross found a car park on Berry St, he would drive from Berry Street, turn right onto Leicester St, left onto Victoria Parade, right onto Punt Rd, left onto Alexandra Blvd, left onto Toorak Rd, right onto Monash Freeway, left onto Ferntree Gully Road, follow Ferntree Gully Rd, right onto Stud Rd, Left onto Wellington Rd, Right onto Harkaway Rd, left onto Old Princes Hwy Berwick, follow then left onto Princes Hwy Beaconsfield, right onto McGregor Rd, right onto Henry Rd, right on McKellar St, right onto [street name redacted], left into [street name redacted].
Estimated kilometres for Example 2	143.45 kilometres

The Reviewer inserted the above route into Google Maps and notes that on the basis of Google Maps' calculations, the return journey for the above route is 143.45km. The Reviewer notes that where Cr Ross refers to Penham Street and Berry Street in Carlton in the directions above, there are no streets in this area by these names. The Reviewer has assumed that he is referring to Pelham Street and Barry Street in Carlton and estimated the kilometres on this basis. Additionally, in the Route from the VLGA Meeting, the directions provided instruct that a left hand turn was taken from Alexandra Avenue onto Toorak Road. These roads are adjacent and would require a person to drive through a connecting street to access Toorak Road from Alexandra Avenue. As Williams Road was used as a connecting road in the route to the VLGA Meeting, the Reviewer has assumed that Cr Ross would have driven on Williams Road to make a left hand turn onto Toorak Road from Alexandra Avenue on the return trip.

On the basis of information provided by Cr Ross, it appears that the estimated distance travelled by Cr Ross to these meetings exceeds the 136km that has been claimed by Cr Ross for VLGA meetings.

Observations

Based on the information available to the Reviewer, the Reviewer finds that where Councillor Ross has travelled to VLGA meetings according to either his Example 1 route, or his Example 2 route, his claim for a return journey of 136km is for a shorter distance than the actual distance he says he has travelled.

Additional recommendations

Council's expense claim form for travelling expenses does not require the Councillor to insert the exact address of their destination. The Reviewer recommends that Council officers review the expense claim forms and consider whether any amendments to the forms may be advisable.

Earlier versions of the Council's Out-of-pocket expense claim form stated as follows: *Claims for parking expenses must include details of what function was being attended and how long the period of parking was for.* Cr Ross did not always include this information. Later versions of the form require a receipt to be attached. The Reviewer recommends that Council officers review the expense claim processes and consider whether any amendments to the process should be made, in particular in relation to forms that do not comply with requirements.

Annexure A – List of Documents

Expense Claim Forms	Date of Expense Claim Form	Provided by
Expense Claim Forms		
Travelling expenses	9 February 2015	Andrew Pomeroy
Out-of-pocket expenses	12 March 2015	Andrew Pomeroy
Travelling expenses	12 March 2015	Andrew Pomeroy
Out-of-pocket expenses	7 May 2015	Andrew Pomeroy
Travelling expenses	7 May 2015	Andrew Pomeroy
Travelling expenses	5 June 2015	Andrew Pomeroy
Out-of-pocket expenses	9 July 2015	Andrew Pomeroy
Travelling expenses	9 July 2015	Andrew Pomeroy
Travelling expenses	10 August 2015	Andrew Pomeroy
Travelling expenses	7 September 2015	Andrew Pomeroy
Out-of-pocket expenses	8 October 2015	Andrew Pomeroy
Travelling expenses	8 October 2015	Andrew Pomeroy
Travelling expenses	16 November 2015	Andrew Pomeroy
Travelling expenses	18 January 2016	Andrew Pomeroy
Out-of-pocket expenses	19 January 2016	Andrew Pomeroy
Out-of-pocket expenses	31 March 2016	Andrew Pomeroy
Out-of-pocket expenses	8 August 2016	Andrew Pomeroy
Travelling expenses	8 August 2016	Andrew Pomeroy
Travelling expenses	12 December 2016	Andrew Pomeroy
Travelling expenses	12 December 2016	Andrew Pomeroy
Out-of-pocket expenses	12 December 2016	Andrew Pomeroy
Out-of-pocket expenses	28 March 2017	Andrew Pomeroy
Travelling expenses	28 March 2017	Andrew Pomeroy
Out-of-pocket expenses	31 May 2017	Andrew Pomeroy

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Travelling expenses	31 May 2017	Andrew Pomeroy
Travelling expenses	13 June 2017	Andrew Pomeroy
Travelling expenses	13 June 2017	Andrew Pomeroy
Out-of-pocket expenses	24 July 2017	Andrew Pomeroy
Travelling expenses	24 July 2017	Andrew Pomeroy
Out-of-pocket expenses	6 September 2017	Andrew Pomeroy
Travelling expenses	6 September 2017	Andrew Pomeroy
Out-of-pocket expenses	9 November 2017	Andrew Pomeroy
Travelling expenses	9 November 2017	Andrew Pomeroy
Out-of-pocket expenses	11 December 2017	Andrew Pomeroy
Travelling expenses	11 December 2017	Andrew Pomeroy
Out-of-pocket expenses	23 January 2018	Andrew Pomeroy
Travelling expenses	23 January 2018	Andrew Pomeroy
Out-of-pocket expenses	5 March 2018	Andrew Pomeroy
Travelling expenses	5 March 2018	Andrew Pomeroy
Out-of-pocket expenses	4 June 2018	Andrew Pomeroy
Travelling expenses	4 June 2018	Andrew Pomeroy
Out-of-pocket expenses	15 July 2018	Andrew Pomeroy
Travelling expenses	15 July 2018	Andrew Pomeroy
Out-of-pocket expenses	23 August 2018	Andrew Pomeroy
Travelling expenses	23 August 2018	Andrew Pomeroy
Out-of-pocket expenses	13 December 2018	Andrew Pomeroy
Travelling expenses	13 December 2018	Andrew Pomeroy
Out-of-pocket expenses	25 March 2019	Andrew Pomeroy
Travelling expenses	25 March 2019	Andrew Pomeroy
Out-of-pocket expenses	25 June 2019	Andrew Pomeroy
Travelling expenses	25 June 2019	Andrew Pomeroy

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Out-of-pocket expenses	16 September 2019	Andrew Pomeroy
Travelling expenses	16 September 2019	Andrew Pomeroy
Out-of-pocket expenses	18 December 2019	Andrew Pomeroy
Travelling expenses	18 December 2019	Andrew Pomeroy
Out-of-pocket expenses	19 March 2020	Andrew Pomeroy
Travelling expenses	19 March 2020	Andrew Pomeroy
Travelling expenses	9 February 2015	Andrew Pomeroy
Out-of-pocket expenses	12 March 2015	Andrew Pomeroy
Travelling expenses	12 March 2015	Andrew Pomeroy
Out-of-pocket expenses	7 May 2015	Andrew Pomeroy
Travelling expenses	7 May 2015	Andrew Pomeroy
Travelling expenses	5 June 2015	Andrew Pomeroy
Out-of-pocket expenses	9 July 2015	Andrew Pomeroy
Travelling expenses	9 July 2015	Andrew Pomeroy
Travelling expenses	10 August 2015	Andrew Pomeroy
Travelling expenses	7 September 2015	Andrew Pomeroy
Out-of-pocket expenses	8 October 2015	Andrew Pomeroy
Travelling expenses	8 October 2015	Andrew Pomeroy
Travelling expenses	16 November 2015	Andrew Pomeroy
Travelling expenses	18 January 2016	Andrew Pomeroy
Out-of-pocket expenses	19 January 2016	Andrew Pomeroy
Out-of-pocket expenses	31 March 2016	Andrew Pomeroy
Out-of-pocket expenses	8 August 2016	Andrew Pomeroy
Travelling expenses	8 August 2016	Andrew Pomeroy
Travelling expenses	12 December 2016	Andrew Pomeroy
Travelling expenses	12 December 2016	Andrew Pomeroy
Out-of-pocket expenses	12 December 2016	Andrew Pomeroy

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Out-of-pocket expenses	28 March 2017	Andrew Pomeroy
Travelling expenses	28 March 2017	Andrew Pomeroy
Out-of-pocket expenses	31 May 2017	Andrew Pomeroy
Travelling expenses	31 May 2017	Andrew Pomeroy
Travelling expenses	13 June 2017	Andrew Pomeroy
Travelling expenses	13 June 2017	Andrew Pomeroy
Out-of-pocket expenses	24 July 2017	Andrew Pomeroy
Travelling expenses	24 July 2017	Andrew Pomeroy
Out-of-pocket expenses	6 September 2017	Andrew Pomeroy
Travelling expenses	6 September 2017	Andrew Pomeroy
Out-of-pocket expenses	9 November 2017	Andrew Pomeroy
Travelling expenses	9 November 2017	Andrew Pomeroy
Out-of-pocket expenses	11 December 2017	Andrew Pomeroy
Travelling expenses	11 December 2017	Andrew Pomeroy
Out-of-pocket expenses	23 January 2018	Andrew Pomeroy
Travelling expenses	23 January 2018	Andrew Pomeroy
Out-of-pocket expenses	5 March 2018	Andrew Pomeroy
Travelling expenses	5 March 2018	Andrew Pomeroy
Out-of-pocket expenses	4 June 2018	Andrew Pomeroy
Travelling expenses	4 June 2018	Andrew Pomeroy
Out-of-pocket expenses	15 July 2018	Andrew Pomeroy
Travelling expenses	15 July 2018	Andrew Pomeroy
Out-of-pocket expenses	23 August 2018	Andrew Pomeroy
Travelling expenses	23 August 2018	Andrew Pomeroy
Out-of-pocket expenses	13 December 2018	Andrew Pomeroy
Travelling expenses	13 December 2018	Andrew Pomeroy
Out-of-pocket expenses	25 March 2019	Andrew Pomeroy

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Travelling expenses	25 March 2019	Andrew Pomeroy
Out-of-pocket expenses	25 June 2019	Andrew Pomeroy
Travelling expenses	25 June 2019	Andrew Pomeroy
Out-of-pocket expenses	16 September 2019	Andrew Pomeroy
Travelling expenses	16 September 2019	Andrew Pomeroy
Out-of-pocket expenses	18 December 2019	Andrew Pomeroy
Travelling expenses	18 December 2019	Andrew Pomeroy
Out-of-pocket expenses	19 March 2020	Andrew Pomeroy
Travelling expenses	19 March 2020	Andrew Pomeroy
Further Documents Considered		
Motion	Date	Provided by
Extract from Ordinary Council Meeting Minutes	17 August 2020	Andrew Pomeroy
Information provided by VLGA, MWRRG and Cr Ross		
Information provided by email by VLGA	Various, September 2020	Kathryn Arndt
Information provided by email by MWRRG	Various, September 2020	Jillian Riseley
Information provided by email by Cr Ross	Various, August - September 2020	Bridie Murphy and Kamal Farouque
Policies		
VLGA Board Sitting Fees 2019	2019	Kathryn Arndt
Councillor Expenses and Entitlements Policy	2016	Andrew Pomeroy
MWRRG Board Remuneration and Reimbursement policy	September 2019	Jillian Riseley
Information provided to Council by Cr Leticia Wilmot		
Travel Claims 2017	Undated	Cr Leticia Wilmot
Travel Claims 2018	Undated	Cr Leticia Wilmot
Travel Claims 2019	Undated	Cr Leticia Wilmot
Travel Claim 2020	Undated	Cr Leticia Wilmot

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Explanation	Undated	Cr Leticia Wilmot
VLGA Breakdown	Undated	Cr Leticia Wilmot
2020 Forum leadership team elected	February 2020	Cr Leticia Wilmot
Emails from Kathryn Arndt to Cr Leticia Wilmot regarding Board member allowances	17 June 2020	Cr Leticia Wilmot
Email from Corey Hale (MWRRG) to Cr Leticia Wilmot regarding Request for information from MWRRG	26 June 2020	Cr Leticia Wilmot

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SUPPLEMENTARY REPORT

for Cardinia Shire Council in the matter of Councillor Expenses

1 December 2020

Executive Summary

The Reviewer conducted a review of expense claims made by Councillor Collin Ross (**Cr Ross**), a Councillor at Cardinia Shire Council (**Council**). The review involved a desktop review of Travel Expense claim forms, and Out-of-pocket Expense claim forms (together, the **Claim Forms**) lodged by Cr Ross with Council for attendance at meetings relating to the Victorian Local Governance Association (**VLGA**) and Metropolitan Waste and Resource Recovery Group (**MWRRG**).

The Reviewer prepared a report dated 14 September 2020 (**Report**). The Reviewer made findings and recommendations in the Report. This Supplementary Report should be read in conjunction with the Report. The Reviewer notes that any definitions from the Report are adopted in this Supplementary Report.

Cr Ross provided a response to the Report (**First Response**) and it is attached to this Supplementary Report as Attachment A.

The Reviewer reviewed the First Response and obtained further information from the VLGA and the MWRRG to cross-reference the information provided by Cr Ross in the First Response. After considering the additional information, the Reviewer reviewed her findings and recommendations as set out in the Report and commenced preparing a supplementary report to conclude the review. Cr Ross requested that he be able to provide a response to a draft of the supplementary report before it is finalised.

The Reviewer prepared a draft supplementary report dated 30 October 2020 (**the Draft Report**) and Cr Ross was provided with an opportunity to respond to the Draft Report before it was finalised. Cr Ross' response to the Draft Report (**the Second Response**) is attached to this Supplementary Report as Attachment B. The Reviewer considered the Second Response and made amendments to the Draft Report as she considered appropriate.

After taking into account the First Response, the further information obtained from the VLGA and the MWRRG and the Second Response, some of the finding and recommendations have been amended. A complete list of findings and recommendations is set out below.

The Reviewer also notes that Cr Ross has offered to repay the reimbursements paid to him by Council with respect to the eight meetings noted in the findings below. Cr Ross says this is a total of \$1,370.58 and that he would repay these monies on the basis that this is without any admission of any wrongdoing by him, and in order to finalise all matters. It is up to the Council to decide whether it would like to accept this offer of repayment on the terms on which it is offered.

Based on the information available to the Reviewer, in summary the key findings of the review are as follows.

Finding 1:

Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 12 December 2019.

Finding 1 should be read in conjunction with Recommendation 1.

Finding 2.1:

Cr Ross has received a sitting fee of \$426 for a VLGA Board meeting on 22 August 2019 and has been reimbursed by Council for:

- a Claim for travel expenses (i.e. mileage only) to a "VLGA Event/MWRRG Event" on the same date (which Cr Ross says is a claim for the MWRRG event only); and
- a Claim for parking and tolls to an "MWRRG event" on the same date.

Finding 2.1 should be read in conjunction with Recommendations 2.1, 2.2, 2.3 and 2.4.

Finding 2.2:

The Claim made by Cr Ross for tolls in relation to the MWRRG event of 22 August 2019 is \$16.38, however the cost of the toll was \$8.19.

Finding 2.2 should be read in conjunction with Recommendation 2.5.

Finding 3:

With respect to the 38 MWRRG Board and committee meetings that fell within the scope of this review, the Reviewer found that Cr Ross did not make any Claims to Council for his attendance at any of the 38 Board or committee meetings.

Finding 4:

On one occasion, being 15 February 2018, Cr Ross:

- was paid sitting fees of \$364 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and a toll, by MWRRG, for his attendance at a paid AFRM Committee meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.

Finding 4 should be read in conjunction with Recommendations 3.1, 3.2 and 3.3.

Finding 5.1:

On one occasion, being 30 October 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and tolls, by MWRRG, for his attendance at a paid Board meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at unpaid meetings, the MWRRG SPAG and TARG meetings, on the same date.

Finding 5.1 should be read in conjunction with Recommendations 3.4, 3.5 and 3.6.

Finding 5.2:

On one occasion, being 27 November 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and tolls, by MWRRG, for his attendance at a paid Board meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council, for his attendance at unpaid meetings, the MWRRG SPAG and TARG meetings (which Cr Ross says is the Forum Annual Review and Planning Meeting, a SPAG and TARG event), on the same date.

Finding 5.2 should be read in conjunction with Recommendations 3.7, 3.8 and 3.9.

Finding 6:

Where Councillor Ross has travelled to VLGA meetings according to either his Example 1 route, or his Example 2 route, his claim for a return journey of 136km is for a shorter distance than the actual distance he says he has travelled.

Finding 6 should be read in conjunction with Recommendation 7.

The Reviewer's recommendations are as follows.

Recommendation 1:

In relation to finding 1, the VLGA has advised the Reviewer that the VLGA Board sitting fees are inclusive of expenses such as travel. Cr Ross disagrees with this and states that this matter was in dispute. Accordingly, the Reviewer recommends Council consider the First and Second Responses and Cr Ross' offer to repay the expense claims paid to him by Council for the VLGA meetings of 8 August 2019, 29 August 2019, 28 November 2019 and 12 December 2019. If Council is satisfied with Cr Ross' response and/or accepts repayment of the travel expenses as the conclusion of the matter, then no further action is recommended. If Council does not accept repayment as the conclusion of the matter and is not satisfied with Cr Ross' response, or if Council requires additional information to form a view, then the Reviewer recommends Council consider whether it wishes to take further action such as obtaining legal advice as to whether there has been any breach of legislation, code of conduct or policy.

Recommendation 2.1:

In relation to finding 2.1, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the "VLGA Event/MWRRG Event" on 22 August 2019 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 2.2:

In relation to finding 2.1, and subject to Recommendation 2.1, if Council does not accept Cr Ross' explanation that the Claim for "VLGA Event/MWRRG Event" is a Claim for the MWRRG event only, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 2.3:

In relation to finding 2.1, and subject to Recommendation 2.1, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 22 August 2019 to attend the VLGA Board meeting and the MWRRG event, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 2.4:

In relation to finding 2.1, and subject to Recommendation 2.1, if Council accepts Cr Ross' explanation that the Claim for "VLGA Event/MWRRG Event" is a Claim for the MWRRG event only and also accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 22 August 2019 to attend the VLGA Board meeting and the MWRRG event, then the Reviewer recommends that Council obtain legal advice about (a) whether travel expenses to the MWRRG event are properly claimable under the Cardinia Expenses Policy and if they are, (b) whether Cr Ross' claim for travel expenses for a journey which commenced with picking up his immediate

family member from home and dropping them off at their extra-curricular activity, in circumstances where he later continued on to a MWRRG event, is a breach of any Council policy, code of conduct or legislation

Recommendation 2.5:

In relation to finding 2.2, and subject to Recommendation 2.1, if Cr Ross was reimbursed \$16.38 for tolls by Council in relation to travel on 22 August 2019, then the Reviewer recommends that Council take whatever steps it considers necessary to deal with this overpayment. Cr Ross has offered to repay the overpaid \$8.19 that he was reimbursed for the toll. If Council accepts repayment of this amount as the conclusion of the matter then, save for providing Cr Ross with confirmation as to how he should repay this amount, no further action is recommended with respect to the overpaid \$8.19.

Recommendation 3.1:

In relation to finding 4, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the MWRRG Forum on 15 February 2018 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 3.2:

In relation to finding 4, and subject to Recommendation 3.1, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 15 February 2018 to attend the AFRM Committee meeting and the MWRRG Forum, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.3:

In relation to finding 4, and subject to Recommendation 3.1, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 15 February 2018 to attend the AFRM Committee meeting and the MWRRG Forum, then the Reviewer recommends that Council obtain legal advice about (a) whether travel expenses to the MWRRG Forum are properly claimable under the Cardinia Expenses Policy and if they are, (b) whether Cr Ross' claim for travel expenses for a journey which commenced with picking up his immediate family member from home and dropping them off at their extra-curricular activity, in circumstances where he later continued on to the MWRRG Forum, is a breach of any Council policy, code of conduct or legislation.

Recommendation 3.4:

In relation to finding 5.1, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the MWRRG SPAG and TARG meetings on 30 October 2019 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 3.5:

In relation to finding 5.1, and subject to Recommendation 3.4, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.6:

In relation to finding 5.1, and subject to Recommendation 3.4, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, then the Reviewer recommends that Council obtain legal advice about whether travel expenses to the MWRRG SPAG and TARG meetings are properly claimable under the Cardinia Expenses Policy.

Recommendation 3.7:

In relation to finding 5.2, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the MWRRG SPAG and TARG meetings (which he says is the Forum Annual Review and Planning Meeting, which is a SPAG and TARG event) on 27 November 2019 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 3.8:

In relation to finding 5.2, and subject to Recommendation 3.7, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 27 November 2019, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.9:

In relation to finding 5.2, and subject to Recommendation 3.7, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 27 November 2019, then the Reviewer recommends that Council obtain legal advice about whether travel expenses to the Forum Annual Review & Planning Meeting are properly claimable under the Cardinia Expenses Policy.

Recommendation 4:

The Reviewer recommends that Council consider its position with respect to reimbursement of travel expenses for a meeting (meeting 1), where a Councillor attends another meeting in the same or similar location on the same day (meeting 2), and is reimbursed by another organisation for that meeting (meeting 2). If Council considers a reimbursement from Council for a meeting (meeting 1) in these circumstances would be a breach of Council policy (or another source of Councillor obligations), then Council may wish to consider whether to undertake a broader review of Cr Ross' Claims to Council, cross referenced against claims to MWRRG with respect to all meetings, to determine whether Cr Ross has claimed two 136km return journeys to the CBD on the same date, one with each organisation. Council may wish to obtain legal advice about undertaking such a review, or any alternatives to it, before embarking upon such an exercise.

Recommendation 5:

The Reviewer recommends that Council officers review the expense claim forms and consider whether any amendments to the forms may be advisable.

Recommendation 6:

The Reviewer recommends that Council officers review the expense claim processes and consider whether any amendments to the process should be made, particularly in relation to forms that do not comply with requirements.

Recommendation 7:

In relation to Finding 6, if Council accepts Cr Ross' evidence about the routes he commonly takes to VLGA meetings (being his Example 1 route and his Example 2 route) and his explanation for why he takes them, then no further action is recommended. If the Council does not accept Cr Ross' evidence and explanations, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

The Reviewer also notes that she uses the term "immediate family member" throughout this Supplementary Report rather than the description provided by Cr Ross in his responses which identifies the gender and relationship of his family member. There are a number of instances in this Supplementary Report where what is of relevance is that Cr Ross was dropping off an immediate family member at their extra-curricular activity, which is not Council-related business. Cr Ross had requested that the reference simply be to his "family responsibilities" however the Reviewer considers that this may not provide sufficient detail for the Council as to what Cr Ross was doing.

Instructions

The Reviewer refers to pages 3-4 of the Report which set out the instructions for the review of expense claims.

Review Process

The Reviewer refers to pages 4-5 of the Report which set out the review process.

Documentary review

The documents provided to the Reviewer and considered as part of the documentary review are listed in Annexure A of the Report.

Additional documents provided are the First and Second Responses and also emails and their attachments provided by VLGA and MWRRG.

Finding 1 and corresponding recommendation**Background**

The Reviewer refers to pages 5-8 of the Report for the observations that resulted in Finding 1 and its corresponding recommendation.

Finding 1 in the Report:

Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 2 December 2019.

Corresponding recommendation in the Report:

In relation to finding 1 above, as the VLGA Board sitting fees are inclusive of expenses such as travel, the Reviewer recommends Council make further inquiries of Cr Ross and obtain legal advice as to whether there has been any breach of legislation, code of conduct or policy. As part of any process, Council should provide Cr Ross with an opportunity to respond to any concerns relating to Claims made in respect of these four meetings.

Cr Ross' First Response

Cr Ross' response to Finding 1 and its corresponding recommendation is found in paragraphs 1 – 20 of the First Response. Council should consider his response in full.

In summary, Cr Ross' response is three-fold.

Firstly, he claimed travel expenses from Council for the four paid VLGA meetings listed in Finding 1 above because he thought he was entitled to do so. In the First Response, Cr Ross on occasion refers to the VLGA sitting fee as an allowance. In summary, Cr Ross' response is that he "does not recall receiving any additional information about which meetings the allowance would be paid for, and in particular whether that allowance incorporated reimbursement for travel and out-of-pocket expenses incurred in relation to attending meetings." Cr Ross understood that the sitting fee "was paid in respect of the time spent attending meetings, and did not also cover out of pocket expenses for travel." Cr Ross provides further explanations about the basis of his understanding. Cr Ross also states that it was not clear to him "which meetings sitting fees were paid for and which were not." Cr Ross also "does not recall seeing a copy of the document titled "VLGA Board Sitting Fees (effective 1 July 2019)....." and "does not know if it was given to him by the VLGA" when he commenced as a VLGA Board member.

Secondly, Cr Ross considers that his expense claims to Council, in relation to the four paid VLGA meetings, were made in accordance with section 75 of the *Local Government Act 1989* (Vic) (**the Act**) and, as they were approved and paid by Council in circumstances where Council knew Cr Ross was receiving a sitting fee for his attendance at those meetings, Cr Ross considers that there is no basis to assert that he has improperly claimed the expenses.

Thirdly, Cr Ross does not agree that VLGA's internal policy, the document titled "VLGA Board Sitting Fees (effective 1 July 2019)" (**VLGA Board sitting fees policy**), displaces his entitlement to claim expenses from Council for reasons outlined in paragraph 16 of the Response.

As a result of the above, Cr Ross considers that he claimed travel expenses from Council for the four VLGA meetings in accordance with the Act and the Cardinia Shire Council Councillor Expenses and Entitlements Policy (**the Cardinia Expenses Policy**).

While Cr Ross does not consider he has made any improper claims, he has offered to repay the claimed travel expenses for the four VLGA meetings if Council considers that he should not have claimed them.

VLGA information

The Reviewer requested information from the Ms Arndt, CEO of VLGA, about whether Cr Ross was informed that the sitting fee incorporated reimbursement for travel and out of pocket expenses incurred in relation to his attendance at relevant meetings. Ms Arndt responded as follows:

As per the attached email file dated 20 June 2019, Cr Ross was advised of the sitting fee policy on 20 June 2019, including that the sitting fees incorporated reimbursement for travel and out of pocket expenses incurred in relation to attendance at relevant meetings. As per the attached email file dated 24 June 2019, Cr Ross responded to an email train that was attached to this advice.

Ms Arndt provided the Reviewer with an email dated 20 June 2019, where Cr Ross was one of the recipients, which contains the following information about sitting fees:

>> *Sitting Fees*

>>

>> *Under the VLGA Constitution (attached), Directors are paid an allowance in accordance with the VLGA Regulations (attached) which state that this allowance is a sitting fee (ie. only paid for attendance (not for an*

apology) at an official board meeting or board committee meeting). The sitting fees are in line with Schedule 3 of the State Government Remuneration Guidelines for organisations/advisory committees of a similar size/complexity as that of the VLGA as outlined below.

>>

>> VLGA Board Sitting Fees* (effective 1 July 2019)

>>

>> Chair/President

>> \$557 per meeting – 10 meetings per year (6 Board plus 4 Governance & Risk committee meetings)

>>

>> Governance & Risk Committee Members

>> \$426 per meeting – 10 meetings per year (6 Board plus 4 Governance & Risk committee meetings)

>>

>> Directors

>> \$426 per meeting – 6 meetings per year (6 Board meetings)

>>

>> *NB: Sitting fees assist with the costs associated with travel to VLGA meetings and forums, as well as travel around the state on behalf of VLGA. If applicable, and subject to approval in advance, reasonable accommodation costs may be reimbursed for rural/regional based councillors to attend Board meetings.

>>

>> Director sitting fees will be paid through the VLGA's payroll system and the relevant paperwork will be distributed to you shortly for your completion.

>>

On 24 June, Cr Ross replied to an email chain containing Ms Arndt's email of 20 June.

The Reviewer requested information from the Ms Arndt about whether Cr Ross was informed of which types of VLGA meetings sitting fees would be paid for. Ms Arndt responded as follows:

As per the attached file, all VLGA board members are required to sign an attendance roll in order to receive sitting fees. Sitting fees apply to all meetings of the board (including extraordinary board planning sessions – unless advised otherwise).

Ms Arndt provided a bundle of attendance rolls which contain the following instructions:

Please sign below to record your attendance at this meeting. This roll will be used as a record for payment of Board Director sitting fees.

The Reviewer understands Ms Arndt to be saying that, in addition to the information in the email of 20 June 2019, which provides that the sitting fee is payable for attendance at an official board meeting or board committee meeting (as opposed to another type of VLGA meeting or event), Cr Ross would have been aware which meetings he would be paid a sitting fee for because he was aware that he was required to sign the attendance roll in order to be paid the sitting fee.

The Reviewer requested information from the Ms Arndt about whether Cr Ross was at any time provided with a copy of the document titled VLGA Board sitting fees (effective 1 July 2019). Ms Arndt responded as follows:

The VLGA board sitting fee policy is accessible to all board members, including Cr Ross, on the VLGA board portal (intranet).

Cr Ross' Second Response

After reviewing the Draft Report, Cr Ross provided a response that he considered the Reviewer's summary of his First Response (as outlined above) was incomplete and that the "Reviewer fails to reference matters that are critical to Cr. Ross response in her summary of the response and the more detailed considerations of the report" and then goes on to list those four matters.

In the Draft Report the Reviewer had referred the Council to paragraphs 1 – 20 of the First Response (attached to this Supplementary Report as Attachment A) and advised that the Council should consider Cr Ross' response in full. The Reviewer did not expressly set out all of the points raised by Cr Ross in her summary as it was a summary only. However as Cr Ross considers that critical aspects of his First Response had been excluded from the summary in the Draft Report, the Reviewer has included those four matters, taken from the First Response, here. They are as follows.

Firstly, the Claims that are in issue with respect to Finding 1 relate to Cr Ross' first 4 months as a VLGA Board member and the reasons why Cr Ross had an understanding that the sitting fee was paid in respect of time spent attending meetings and did not include out of pocket expenses for travel were described by Cr Ross as follows:

- a. *At the time Cr. Ross commenced acting on the VLGA Board he had been a board member of the MWRGG for approximately 2 years. In relation to attendances at those meetings, Cr. Ross was paid a sitting fee as well as being able to claim for travel and out of pocket expenses. This led him to believe that he would also be able to claim these expenses in relation to the VLGA Board meetings;*
- b. *Cr. Ross' membership of the VLGA Board is inextricably linked to his role as a councillor at Cardinia Shire Council. A person is not able act as a Board member of the VLGA unless they are a councillor. This is different to the role at the MWRGG, where a person can continue on the board even if they stop being a councillor. Because of this, Cr. Ross understood that whilst performing functions and duties as a VLGA Board member he was performing duties as a councillor. As such, the expenses he incurred in attending these meetings were supplemental or incidental to or consequent of the exercise of council functions, meaning they were captured by and claimable under the Cardinia Shire Council Expenses and Entitlements Policy 2016; and*
- c. *Based on Cr. Ross' experience, as both a paid board member and as an attendee of meetings for which he was entitled to claim expenses from the Council over a period of 12 years, it did not seem reasonable that a sitting fee of the same amount, paid to all board members, would also cover out of pocket expenses for travel, in circumstances where many other board members travelled less than 20km to and from the meetings without the need for toll roads, and Cr. Ross travelled approximately 136km and often needed to pay for use of toll roads.*

Secondly, Cr Ross states that in late 2019 another VLGA Board member disputed that the VLGA sitting fee was inclusive of travel expenses. Thirdly, as part of that discussion the VLGA CEO confirmed the VLGA position that the sitting fees were inclusive of travel expenses. Cr Ross provides the following evidence about what he says occurred in late 2019:

We are instructed that in late 2019, there was a discussion at a VLGA Board meeting attended by Cr. Ross about longer distance travel around the state in relation to VLGA Board duties. As part of this discussion, a fellow VLGA Board member Cr. Cynthia Watson, Mayor of the City of Boroondara, asked how Board members could make expense claims from the VLGA in relation to this longer distance travel, on the basis that this should not be a cost incurred by their respective councils. The CEO of the VLGA Ms Katherine Arndt responded to the effect that all travel expenses were covered by the sitting fee paid by the VLGA, and that no additional payments should be made on top of this by anyone.

We are instructed that Cr. Watson disputed this assertion. She argued that, or words to the effect that, the position taken by the VLGA was not correct, that travel expenses to attend meetings were claimable on top of the sitting fee as part of the duties of a councillor in accordance with the Local Government Act and that it was unfair and unreasonable to assert that a single sitting fee, paid at the same rate to all board members, constituted reimbursement for both time and out of pocket expenses when a number of Board members were subject to significant additional time and cost expenditures in attending meetings by virtue of their location. The discussion concluded with Cr. Watson indicating she would seek further advice in relation to the expense claims. At a VLGA meeting attended by Cr. Ross following this, still in or around late 2019, Cr. Watson told the VLGA Board that she had received advice from the legal and governance team at Boroondara council to the effect that reimbursement for travel expenses to VLGA meetings could be claimed by councillors from their respective councils in accordance with section 75 of the Local Government Act and their own council expense policies. Cr. Ross instructs that Ms Arndt responded by reference to the VLGA Sitting Fees document, and noted that it contained the following:

*"*NB: Sitting fees assist with the costs associated with travel to VLGA meetings and forums, as well as travel around the state on behalf of VLGA. If applicable, and subject to approval in advance, reasonable accommodation costs may be reimbursed for rural/regional based councillors to attend Board meetings."*

Cr Watson disputed that this statement overrode the provisions of the Local Government Act in relation to reimbursement and her own council's policy. However the VLGA maintained its position that because of this reference, out of pocket expenses in relation to travel were covered by the sitting fee.

Fourthly, Cr Ross states that after the above discussions took place, he freely ceased claiming travel expenses for his attendance at VLGA meetings "out of an abundance of caution to ensure that he did not claim any more than he was entitled to under relevant policies."

In his Second Response Cr Ross has raised the point that he was not given the information referred to by the VLGA before he prepared his First Response. The Reviewer notes that Cr Ross was one of the recipients of the email of 20 June 2019 and he was aware of the attendance rolls as he signed them. However if Cr Ross is referring to not receiving the information from the VLGA in the form in which the Reviewer received it (i.e. an email from VLGA) that is correct because Cr Ross' First Response pre-dates the VLGA email. Cr Ross provided his First Response and in that response he made claims about not recalling receiving information and documents from the VLGA. It is Cr Ross who put into issue what information and documents he had received from the VLGA. Accordingly, after receiving such a response, the Reviewer requested further information from VLGA for the purpose of cross referencing it against Cr Ross' response.

Cr Ross disagrees with the Reviewer's wording in Recommendation 1 that the VLGA Board sitting fees are inclusive of travel expenses. He states as follows:

The Reviewer appears to have made a finding that Cr. Ross was not entitled to claim travel expenses for attendance at VLGA meetings, by stating in the recommendation that "the VLGA Board sitting fees are inclusive of expenses such as travel". In making this finding, the Reviewer has not addressed the matters raised in paragraphs 13-17 of the further response submitted by Cr. Ross, and has instead seemingly only accepted the assertion made by the CEO of the VLGA. If the Reviewer considers that travel expenses are included in the policy, the Reviewer should set out the basis for this finding including how it has been made notwithstanding the matters raised at paragraphs 13-17 of the Further Response. If the Reviewer is not in a position to make a finding about those matters, then no such finding should be made and the report should be amended to reflect that this finding cannot be made by the Reviewer.

The Reviewer has not made any such finding. The Reviewer has simply noted that the party who pays the sitting fee, the VLGA, has advised that it is inclusive of travel expenses. The Reviewer has amended the language in Recommendation 1 to make this clearer.

Considerations

In the Report, the Reviewer recommended that the Council make further inquiries of Cr Ross and obtain legal advice as to whether there has been any breach of legislation, code of conduct or policy. The Reviewer recommended that Cr Ross be provided with an opportunity to respond to any concerns relating to Claims made in respect of these four meetings.

The potential concern with Cr Ross' travel expense claims for attendance at the four VLGA meetings is that he may have "double-dipped", that is, that he may have received a sitting fee inclusive of travel from VLGA, as well as receiving reimbursement for travel expenses from Council. The potential concern is that he may not qualify for reimbursement under the Cardinia Expenses Policy because he does not have any out of pocket expenses to claim under that policy if the sitting fee he receives is already inclusive of travel costs.

VLGA considers that its sitting fee is inclusive of travel and that Cr Ross was informed of this by email dated 20 June 2019. Cr Ross has stated that he does not recall receiving information about whether the allowance/sitting fees incorporated reimbursement for travel.

Cr Ross was also unclear about which meetings he would receive the sitting fee for. VLGA considers that its email of 20 June 2019 and its system of having an attendance roll provides that information.

Cr Ross could not recall seeing a copy of the VLGA Board sitting fees policy; VLGA advises it is accessible on the intranet.

These considerations go to the knowledge that Cr Ross had and the plausibility of his argument that he made the expense claims to Council because he understood that he was entitled to do so. Council may or may not be willing to accept that, despite the information provided and made accessible to Cr Ross by VLGA, he was still unclear about the sitting fee. The Reviewer makes no finding about this but raises this matter for Council's own consideration.

For completeness the Reviewer notes that Cr Ross does not agree with the Reviewer's considerations as set out above or the reference to the plausibility of his argument. Cr Ross considers that it is of critical importance that in late 2019 another Board member disputed the VLGA's position that the sitting fee is inclusive of travel expenses. Council may also take the view that because another Board member disputed that the sitting fee is inclusive of travel that this is a relevant consideration that goes to the plausibility of Cr Ross' explanation.

Cr Ross also considers that it is a relevant consideration that he ceased making claims to Council for the VLGA travel expenses after this dispute. If that is correct then Council may also take the view that Cr Ross' decision to cease claiming these expenses is a relevant consideration that goes to the plausibility of Cr Ross' explanation. Cr Ross considers that these matters demonstrate that he was not deliberately double-dipping. In addition to the above Cr Ross reiterates that he was a new Board member, that he made Claims for travel expenses for his first four meetings as a Board member, that these Claims were made based on his previous experience and his understanding of the sitting fee, that he considers "other Board members" were unsure of whether travel expenses could be claimed (it is unclear if this is a reference to Cr Watson or others), and that he considers that the VLGA policy is unclear and seemingly unfair. It is up to the Council to decide whether it accepts these arguments or not.

These considerations may well be relevant for any legal adviser who may be asked to decide whether Cr Ross has breached any legislation, code of conduct or policy. However, Cr Ross has also raised other arguments about why he considers he was right to claim as he did and Council may wish to get legal advice about those arguments.

Council, as the decision-maker, must ultimately decide whether it accepts Cr Ross' arguments or not. Given that Cr Ross has offered to repay the claimed amounts, Council might decide that it is satisfied with that course of action and does not wish to take any further action. In that case, after repayment has been made, no further action would be

required. Alternatively, Council may consider Cr Ross' responses and still have concerns. In that case, Council may wish to take further action such as obtaining legal advice.

Conclusion

Findings

The Reviewer has revised Finding 1 to correct a typographical error in a date. The reference to 2 December has now been corrected to refer to 12 December. Otherwise Finding 1 remains the same; it is a factual observation that has not changed. Revised finding 1 is as follows.

Finding 1:

Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 12 December 2019.

Finding 1 should be read in conjunction with Recommendation 1.

Recommendations

Recommendation 1:

In relation to finding 1, the VLGA has advised the Reviewer that the VLGA Board sitting fees are inclusive of expenses such as travel. Cr Ross disagrees with this and states that this matter was in dispute. Accordingly, the Reviewer recommends Council consider the First and Second Responses and Cr Ross' offer to repay the expense claims paid to him by Council for the VLGA meetings of 8 August 2019, 29 August 2019, 28 November 2019 and 12 December 2019. If Council is satisfied with Cr Ross' response and/or accepts repayment of the travel expenses as the conclusion of the matter, then no further action is recommended. If Council does not accept repayment as the conclusion of the matter and is not satisfied with Cr Ross' response, or if Council requires additional information to form a view, then the Reviewer recommends Council consider whether it wishes to take further action such as obtaining legal advice as to whether there has been any breach of legislation, code of conduct or policy.

Finding 2 and corresponding recommendation

Background

The Reviewer refers to pages 4-8 of the Report for the observations that resulted in Finding 2 and its corresponding recommendation.

Finding 2 in the Report:

Cr Ross has received a sitting fee of \$426 for a VLGA Board meeting on 22 August 2019 and has been reimbursed by Council for a Claim for travel expenses (i.e. mileage only) to a "VLGA Event/MWRRG Event" on the same date, where the reference to "VLGA event" is a reference to the VLGA Board meeting.

Corresponding recommendation in the Report:

In relation to finding 2 above, the Reviewer recommends that Council make further inquiries about the joint claim of 22 August 2019 and seek further information from Cr Ross in order to determine whether it is a claim of concern which may require further action.

Cr Ross' First Response

In the First Response, Cr Ross provided a response that the Claim for mileage to what he described as a "VLGA Event/MWRRG Event" was an error and is actually a Claim for mileage to the MWRRG event only, as follows:

In his mileage claim in the expense claim form for this date, Cr. Ross has entered "VLGA Event / MWRGG Event". We are instructed that this may be an error, and Cr. Ross meant only to refer to the MRWGG event. This is because the VLGA attendance earlier that day was a meeting, not an event, and Cr. Ross had travelled to and from each of these meetings by separate journeys as set out above, meaning there was no basis for there to be a joint claim for mileage. This explanation is consistent with the claims Cr. Ross made for parking and tolls on the same date, which are clearly listed as relating only to attendance at the MWRGG event.

Cr Ross considers that he was entitled to claim travel expenses from Council for the MWRRG event. He says that he made two separate return trips into the CBD vicinity from Pakenham, one to attend the VLGA Board meeting and then a separate trip, later that same day, to attend a MWRRG event. In relation to his attendance at the VLGA Board meeting he provides the following information:

We are instructed that on 22 August 2019 Cr. Ross attended a VLGA Board meeting at 60 Leicester Street Carlton. Cr. Ross cannot recall the time of this meeting, save that it was conducted in the early afternoon. Cr. Ross travelled to this meeting from his home in Pakenham and parked in paid parking. He recalls that he had to leave this meeting to collect his [immediate family member] from his home in Pakenham and drop [them] to [their extra-curricular activity] in Mt Waverley. To the best of his recollection, having regard to the usual start times of his [immediate family member's] evening [extra-curricular activity], we are instructed by Cr. Ross that this would have been at around 5-5:30pm that evening. Cr. Ross did not use toll roads on the route to or from this meeting.

It is noted, as stated in the extract of Cr Ross' response above, that Cr Ross could not recall the time of the VLGA Board meeting, or the time that he left it, and has based his response on his best recollection.

As to whether Cr Ross says he left the Board meeting at around 5 or 5.30pm, or dropped his immediate family member off in Mt Waverley at around 5 or 5.30pm, Cr Ross later clarified that:

...he thinks he would have picked up his [immediate family member] in Pakenham [sic] and dropped [them] to Mt Waverly [sic] at around 5:00-5:30pm. This would have required him to leave the Board meeting before this time.

In relation to his later attendance at a MWRRG event, Cr Ross provides the following information in the First Response:

Later on 22 August 2019, Cr. Ross instructs that he was also scheduled to attend an event for the MWRGG in his capacity as a council delegate. This event related to the impending departure of the CEO of the MWRGG, who had been with the organisation for 16 years. The event was a presentation about the organisation and all it had achieved over the period of the CEO's involvement. All current and former council delegates, current and former staff, department heads and even some members of parliament were invited and many attended. The event was held in Southbank, near to the MWRGG head office at 16-36 Siddeley Street Southbank. Cr. Ross cannot recall precisely what time that the event was scheduled to start, but instructs that to the best of his recollection it would have been around 6:00-6:30pm. After he had dropped his [immediate family member] off to [their extra-curricular activity], as set out above, Cr. Ross travelled to attend the event in Southbank and found paid parking. He did not use toll roads on the journey there. Cr. Ross recalls that he arrived a little bit late, at around 6:30pm.

At the end of the event Cr. Ross travelled home to Pakenham, passing through tolls at 8:05pm.

It is noted, as stated in the extract of Cr Ross' response above, that Cr Ross could not recall the time of the MWRRG event and has based his response on his best recollection.

VLGA and MWRRG Information

After considering Cr Ross' First Response, the Reviewer requested information from the Ms Arndt, CEO of VLGA, about the start and finish times of the VLGA Board meeting. Cr Ross could not recall the time of the meeting, save that it was in the early afternoon.

Ms Arndt advised as follows:

Cr Ross attended the VLGA board meeting on 22 August 2019. According to the minutes of that board meeting, the meeting commenced at 4.00pm and concluded at 6.07pm. It is my understanding that Cr Ross may have attended a dinner with Cr Watson and Cr Sipek after this board meeting concluded, however, if such a dinner did take place, it was not official VLGA business or endorsed by the VLGA board.

The Reviewer requested information from Ms Arndt about whether VLGA has any record of the time Cr Ross left this meeting. Cr Ross' First Response is that he left the meeting and then travelled Carlton-Pakenham-Mt Waverley to drop his immediate family member off in Mt Waverley at around 5 or 5.30pm. To travel this journey of approximately 104 km (the Reviewer notes this is an estimate as she does not have the address of the extra-curricular activity in Mt Waverley) the Reviewer estimates that this would have required Cr Ross to leave the VLGA Board meeting at a time before 4.30pm.

Ms Arndt advised as follows:

Cr Ross attended the entire board meeting on the 22 August 2019 and the meeting ended at 6.07pm.

As to whether VLGA held a record of Cr Ross' departure time, Ms Arndt advised:

The minutes of the meeting do not reflect that Cr Ross left the meeting early. I can recall he remained for the duration of the meeting – as can the VLGA President, Cr Lambros Tapinos.

Ms Arndt confirmed that meeting minutes would usually note if an attendee arrived late or left early, and there is no such record for Cr Ross. Furthermore, she could specifically recall the Board meeting of 22 August 2019, and that Cr Ross attended the entire meeting, as it was the meeting to elect office bearers and it was a contentious meeting.

The Reviewer requested information from the Ms Riseley, CEO of MWRRG, as to whether there was a MWRRG event held on 22 August 2019 related to the impending departure of the (then) CEO and other related questions. Ms Riseley confirmed there was such an event and gave the following information about the location, start and finish times of the event and whether Cr Ross attended:

Rivers Edge, WTC, Level 1, 18-38 Siddeley St, Melbourne VIC 3005

....

6pm – 8pm

.....

Yes, Cr Ross attended this event

Ms Riseley advised that MWRRG does not have any record of the time Cr Ross arrived at this event.

Cr Ross' Second Response

It is noted that Cr Ross says he did not have the meeting and event times from VLGA and MWRRG before he provided the First Response. This Reviewer also did not have this information before Cr Ross provided his First Response. In the First Response Cr Ross gave his version of events as to his Council-related obligations and corresponding trips to the CBD vicinity to demonstrate that he completed two 136km return trips to the CBD vicinity on 22 August 2019. As Cr Ross provided approximate times, to the best of his recollection, for the meetings and events he attended, the Reviewer, after considering Cr Ross' First Response, sought to cross reference the information provided by Cr Ross' by obtaining the meeting and event times from VLGA and MWRRG.

After considering the Draft Report, Cr Ross revised his response and in the Second Response, Cr Ross provided this information:

Cr. Ross instructions are still that he left this meeting to go and collect his [immediate family member] though he accepts the time he did this and the time that he returned late to attend the MMWRG function may have been later than the time estimated in his initial response. Cr. Ross cannot recall whether he left the VLGA meeting early or at the time it is listed as concluding in the minutes. However Cr. Ross has instructed that he has never had dinner with Cr. Watson or Cr. Sipek and therefore did not do so after this meeting.

Considerations

In the Report, the Reviewer recommended that the Council make further inquiries about the joint claim of 22 August 2019 in order to determine whether it is a claim of concern which may require further action.

The potential concerns about this claim were two-fold. Firstly, whether Cr Ross claimed travel expenses (in the form of mileage) to a VLGA Board meeting for which he received sitting fees inclusive of travel. Cr Ross' response is that the reference in the claim form to the "VLGA event" is an error and the Claim is solely for attendance at the MWRRG event. Given that the corresponding Claims for tolls and parking relate solely to the MWRRG event, this appears to be a plausible explanation and Council may choose to accept this explanation. Council will need to decide whether it accepts Cr Ross' explanation that this Claim is solely for the MWRRG event. If Council does not accept Cr Ross' explanation, or if it requires more information in order to make a decision, then it may wish to obtain legal advice about the options available to it for dealing with its concern.

The second potential concern is whether Cr Ross improperly claimed for travel expenses (in the form of mileage for a 136 km return trip) to the MWRRG event held in Melbourne CBD (described as Southbank by Cr Ross), in circumstances where he was already in the CBD vicinity that day attending the VLGA Board meeting in Carlton. Therefore it is critical whether Cr Ross made two return trips from Pakenham to the CBD that day, or one. Cr Ross' response to this concern is that he has properly claimed for the 136k return journey to the MWRRG event on the basis that he made two trips to the CBD vicinity from Pakenham that day. Council must decide whether it accepts this explanation. In order for Cr Ross' explanation to be plausible there must be sufficient time between Cr Ross' departure from the VLGA Board meeting and his arrival at the MWRRG event for him to travel Carlton-Pakenham-Mt Waverley-Melbourne.

Cr Ross' First Response

The Reviewer notes the following:

- Cr Ross' recollection (in his First Response) that he dropped his immediate family member in Mt Waverley at around 5 or 5.30pm would require a departure time from the Board meeting that is much earlier to the time recollected by VLGA CEO, who says Cr Ross attended for the entire meeting which ended at 6.07pm.
- According to the VLGA CEO, there is no note in the meeting minutes that Cr Ross left early. The Reviewer has not reviewed any meeting minutes as part of this review.

- Where there is an inconsistency between the information provided by Cr Ross and VLGA, the Reviewer has not been provided with sufficient evidence to allow her to conclude what information is correct.
- In his First Response, Cr Ross could recall the time he arrived at the MWRRG event, which was he said was about 6.30pm. If Cr Ross left the meeting at 6.07pm it would not be possible for him to drive Carlton-Pakenham-Mt Waverley-Melbourne and arrive in Melbourne CBD at around 6.30pm, being the time he says he arrived in his First Response.

Cr Ross' Second Response

In his First Response Cr Ross provided approximate times for when he dropped his immediate family member in Mt Waverley (around 5 or 5.30pm) and when he arrived at the MWRRG event (around 6.30pm). He also confirmed that he would have had to leave the VLGA Board meeting earlier than 5 or 5.30pm if he travelled Carlton-Pakenham-Mt Waverley to arrive in Mt Waverley at about 5 or 5.30pm.

After considering the Draft Report, Cr Ross revised his responses and in the Second Response he indicated that the times he provided, including the time he arrived at the MWRRG event "may have been later than the time estimated in his initial response." Cr Ross has not provided any revised approximate times. Cr Ross also revised his response about when he says he left the VLGA meeting from a time that would be well before 5.00pm or 5.30pm (estimated by the Reviewer to be before 4.30pm) to not being able to "recall whether he left the VLGA meeting early or at the time it is listed as concluding in the minutes", being 6.07pm.

Matters for consideration

The Reviewer notes the following:

- In the First Response Cr Ross estimated that he dropped his immediate family member in Mt Waverley at about 5 or 5.30pm after having regard to the "usual start times" of his immediate family member's evening extra-curricular activity. In the Second Response Cr Ross cannot recall the time he left the VLGA meeting but does not dispute that it is possible that he may have left the VLGA Board meeting as late as 6.07pm (although he cannot recall if he did or not). If he left the VLGA meeting not before 6.07pm (consistent with Ms Arndt's recollection) and then travelled Carlton-Pakenham-Mt Waverley, it appears that his arrival at the extra-curricular activity on 22 August 2019 would have been much later than the activity's usual start time.
- In his First Response Cr Ross could recall arriving at the MWRRG event "a little bit late, at around 6:30pm" but in his Second Response acknowledges it may have been a later time than that. He does not provide a revised time. If Cr Ross left the VLGA meeting not before 6.07pm (consistent with Ms Arndt's recollection) and then travelled Carlton-Pakenham-Mt Waverley-Melbourne, a journey of not less than 136km as claimed, stopping in Mt Waverley to drop someone off, it appears that he would have arrived at the MWRRG event at a much later time than his initial estimate of 6.30pm. Depending on the speed travelled and the route taken he may have arrived at the MWRRG event closer to the finish time of 8pm. And it is noted he would have to have departed the MWRRG event by 8pm as he crossed the outbound toll gate at 8.05pm.
- Based on the evidence available, it is not known what time Cr Ross left the VLGA meeting.

As Cr Ross no longer provides estimated times for his departure from the VLGA meeting, dropping his immediate family member off in Mt Waverley and arriving at the MWRRG meeting, it is not possible, based on the evidence available, to determine whether Cr Ross had sufficient time to complete two 136km journeys on 22 August 2019 within the times provided. Cr Ross continues to maintain that he undertook two 136km return journeys on this date. Council will need to decide whether it accepts Cr Ross' explanation that he undertook a second return trip to the Melbourne CBD vicinity from Pakenham (a journey of not less than 136km as claimed) via Mt Waverley. If Council does not accept Cr Ross' explanation, or if it requires more information in order to make a decision, then it may wish to obtain legal advice about the options available to it for dealing with its concern. For example, one option that may be available is an investigation to determine Cr Ross' departure time from the VLGA Board meeting and his arrival time at the MWRRG event. This would ordinarily involve interviewing witnesses. Council may also have other options for dealing with its concerns (if any) and legal advice could be obtained about that.

The Reviewer also notes that, even where Council accepts that Cr Ross took a second round trip to the Melbourne CBD vicinity, it appears to the Reviewer that he has claimed mileage for a trip where the purpose of the travel from Pakenham to Mt Waverley may be a personal trip to deliver his immediate family member from home to their extra-curricular activity. Council might form the view that this is not Council related travel. This is up to the Council to decide. Council may wish to obtain legal advice about whether Cr Ross claiming reimbursement for mileage for this leg of the trip (Pakenham to Mt Waverley) is a breach of any Council policy, code of conduct or legislation. The Reviewer notes for completeness that Cr Ross has argued that given he has only claimed for 136km for travelling from Pakenham to Melbourne return and not any additional amount for travelling via Mt Waverley, the 136km claimed is related to the MWRRG event and therefore correctly claimed. Cr Ross has explained as follows:

In making the claim in relation to travel to and from the MWRGG Forum Meeting Cr. Ross claimed the 136km average he utilises for claims for VLGA and MWRRG attendances, which is generally less than the actual distance travelled, and does not incorporate any other incidental travel (as relevant here, travel to drop off his [immediate family member]). Cr. Ross' reliance on this average distance is in part intended to avoid claiming for travel that is not related to council duties but is interspersed with travel that is related to council duties.

Council may also wish to obtain advice about whether travel expenses for attending the MWRRG event are claimable under the Cardinia Expenses Policy as this policy differentiates between attendances at meetings, functions and other events. The Reviewer makes no finding about this and recommends Council obtain legal advice if this is a question it would like answered. Cr. Ross has advised that he "made these claims of the understanding he was entitled to do so under the Policy. Those claims were approved by the Council at the time that they were made."

In the Second Response Cr Ross has offered to repay the amounts claimed in respect of this trip. His response is as follows:

Whilst Cr. Ross is still of the view that these claims were properly made, we confirm he is and always has been willing to rectify any error in expense claims by way of repayment to the Council. To finalise matters and assist the Council, we confirm Cr. Ross is willing to repay the amount claimed in respect of this travel, without any admission of wrongdoing on his part.

Council should consider whether Cr Ross repaying the expense claims he claimed from Council for this travel without any admission of wrongdoing would satisfy Council and conclude the matter from the Council's perspective, or whether, despite the offer to repay these monies, the Council still has concerns about Cr Ross' expense claims that it wishes to have addressed.

Lastly, as Cr Ross in the First Response referred to his Claims for tolls and parking to the MWRRG event to support his explanation about the joint claim, the Reviewer revisited the claim forms to verify his response. The Reviewer notes that on the claim form for out-of-pocket expenses dated 16 September 2019, where Cr Ross has claimed tolls and parking costs to the MWRRG event of 22 August 2019, Cr Ross has claimed reimbursement of \$16.38 for tolls when the cost of the single toll that he took that day was \$8.19. While the Reviewer makes no finding about the circumstances of this incorrect claim, she notes that this may simply be an error on the claim form as Cr Ross has attached the CityLink trip history form to the claim form which clearly shows only one toll was incurred. In the Second Response Cr Ross confirmed:

...that the claim in respect of the tolls on 22 August 2019 must have been an error, caused by him writing down the incorrect amount in the claim form as compared to the toll record which was also submitted. Cr. Ross will rectify this payment additional payment of \$8.19 subject to confirmation from the Council as to how he should do so.

Council should take whatever steps it considers necessary to deal with this overpayment. Given that Cr Ross has offered to repay the \$8.19 toll, Council may wish to consider whether it accepts repayment of this amount as the

conclusion of the matter and if so, save for providing Cr Ross with confirmation as to how he should repay this amount, no further action is recommended with respect to the overpaid \$8.19.

Conclusion

Findings

The Reviewer has revised Finding 2 (now Finding 2.1) to note that Cr Ross may have misdescribed the event that he has claimed travel expenses for (in the form of mileage) and also made a finding with respect to the tolls claim (new Finding 2.2) as follows.

Finding 2.1:

Cr Ross has received a sitting fee of \$426 for a VLGA Board meeting on 22 August 2019 and has been reimbursed by Council for:

- a Claim for travel expenses (i.e. mileage only) to a "VLGA Event/MWRRG Event" on the same date (which Cr Ross says is a claim for the MWRRG event only); and
- a Claim for parking and tolls to an "MWRRG event" on the same date.

Finding 2.1 should be read in conjunction with Recommendations 2.1, 2.2, 2.3 and 2.4.

Finding 2.2:

The Claim made by Cr Ross for tolls in relation to the MWRRG event of 22 August 2019 is \$16.38, however the cost of the toll was \$8.19.

Finding 2.2 should be read in conjunction with Recommendation 2.5.

Recommendations

Recommendation 2.1:

In relation to finding 2.1, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the "VLGA Event/MWRRG Event" on 22 August 2019 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 2.2:

In relation to finding 2.1, and subject to Recommendation 2.1, if Council does not accept Cr Ross' explanation that the Claim for "VLGA Event/MWRRG Event" is a Claim for the MWRRG event only, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 2.3:

In relation to finding 2.1, and subject to Recommendation 2.1, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 22 August 2019 to attend the VLGA Board meeting and the MWRRG event, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 2.4:

In relation to finding 2.1, and subject to Recommendation 2.1, if Council accepts Cr Ross' explanation that the Claim for "VLGA Event/MWRRG Event" is a Claim for the MWRRG event only and also accepts Cr Ross explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 22 August 2019 to attend the VLGA Board meeting and the MWRRG event, then the Reviewer recommends that Council obtain legal advice about (a) whether travel expenses to the MWRRG event are properly claimable under the Cardinia Expenses Policy and if they

are, (b) whether Cr Ross' claim for travel expenses for a journey which commenced with picking up his immediate family member from home and dropping them off at their extra-curricular activity, in circumstances where he later continued on to a MWRRG event, is a breach of any Council policy, code of conduct or legislation

Recommendation 2.5:

In relation to finding 2.2, and subject to Recommendation 2.1, if Cr Ross was reimbursed \$16.38 for tolls by Council in relation to travel on 22 August 2019, then the Reviewer recommends that Council take whatever steps it considers necessary to deal with this overpayment. Cr Ross has offered to repay the overpaid \$8.19 that he was reimbursed for the toll. If Council accepts repayment of this amount as the conclusion of the matter then, save for providing Cr Ross with confirmation as to how he should repay this amount, no further action is recommended with respect to the overpaid \$8.19.

Finding 3 and corresponding recommendation

Background

The Reviewer refers to pages 8-11 of the Report for the observations that resulted in Finding 3.

Finding 3 in the Report:

With respect to the 38 MWRRG Board and committee meetings that fell within the scope of this review, the Reviewer found that Cr Ross did not make any Claims to Council for his attendance at any of the 38 Board or committee meetings.

Corresponding recommendation in the Report:

No recommendation.

Cr Ross Response

Cr Ross did not provide any response to Finding 3 and its corresponding recommendation. In the Second Response, Cr Ross has explained that he made no further response to this finding or recommendation because no finding or recommendation has been made against him. This is noted.

Considerations

As no response was provided by Cr Ross, the Reviewer has not re-considered the finding in light of any response and accordingly the finding remains the same.

Conclusion

Findings

Finding 3 has not been revised and remains the same as follows:

Finding 3:

With respect to the 38 MWRRG Board and committee meetings that fell within the scope of this review, the Reviewer found that Cr Ross did not make any Claims to Council for his attendance at any of the 38 Board or committee meetings.

Recommendations

No recommendation.

Finding 4 and corresponding recommendation

Background

The Reviewer refers to pages 8-13 of the Report for the observations that resulted in Finding 4 and its corresponding recommendation.

Finding 4 in the Report:

On one occasion, being 15 February 2018, Cr Ross:

- was paid sitting fees of \$364 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by MWRRG, for his attendance at a paid AFRM Committee meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.

Finding 4 should be read in conjunction with Recommendation 3.

Corresponding recommendation in the Report:

In relation to findings 4 and 5 above, the Reviewer recommends that Council make further inquiries about the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 and seek further information from Cr Ross to determine whether they are claims of concern which may require further action.

Cr Ross' First Response

Cr Ross considers that he was entitled to claim travel expenses from Council for the MWRRG Forum, in addition to claiming travel expenses from MWRRG for his attendance at an AFRM Committee meeting that same day because he made two separate return trips into the CBD vicinity from Pakenham, one to attend the AFRM Committee meeting and then a separate trip, later that same day, to attend the MWRRG Forum. In relation to his attendance at the AFRM Committee meeting Cr Ross provides the following information in his First Response:

The 15 February 2018 MWRGG AFRM Meeting was held at the MRWGG head office at 16-36 Siddeley Street Southbank between approximately 3:30pm and 5:00pm. To attend this meeting we are instructed Cr. Ross travelled from his home address in Pakenham to the meeting location, passing through tolls at 3:11pm. He parked in paid parking on arrival.

That day Cr. Ross was required to leave the meeting early at around 4:30pm to pick his [immediate family member] up from School in Pakenham and take [them] to [their extra-curricular activity] in Mt Waverley. Cr. Ross did not take the toll roads on his journey from the meeting to pick up his [immediate family member], because the traffic at the time meant that the toll roads were not the most efficient route available.

In relation to his later attendance at the MWRRG Forum, Cr Ross provides the following information in his First Response:

That night Cr. Ross was also scheduled to attend a meeting of the MWRGG Forum from 7:00pm – 8:30pm. To the best of his recollection, Cr. Ross instructs this meeting was being held at the Marriott Hotel on Exhibition

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Street in the city. Cr. Ross attended this Forum as a Council delegate, and it was not an attendance for which he was paid a sitting fee by the MWRGG (the 15 February 2018 MWRGG Forum). We are instructed that the Forum is usually conducted by way of a dinner for attendees being held from around 7:00pm-7:45pm and a forum meeting from around 7:45pm-8:30pm, though often the meeting can run over.

We are instructed that Cr. Ross departed from Mt Waverley to attend the 15 February 2018 MWRGG Forum meeting, having dropped his [immediate family member] at [their extra-curricular activity] as set out above. Cr. Ross did not take toll roads on this route. As a result of the travel back and forth necessitated by his family responsibilities between these meetings, Cr. Ross recalls that he arrived late to the Forum meeting at around 7:30pm and missed the dinner. He parked his car in paid parking. At the end of the meeting, which Cr. Ross recalls ran beyond 8:30pm, Cr. Ross drove home to Pakenham, passing through tolls at 9:05pm.

MWRRG Information

The Reviewer requested information from the Ms Riseley, CEO of MWRRG, about the start and finish times of the Audit Risk and Finance Management Committee meeting. Cr Ross provided information to the Reviewer that this meeting was held between approximately 3:30pm and 5:00pm. Ms Riseley advised as follows: 4:30 pm – 5:30 pm. (As to location of this meeting, MWRRG had previously advised that this meeting was held at the MWRRG office at 18 – 38 Siddeley Street, Melbourne).

The Reviewer requested information from Ms Riseley about whether MWRRG has any record of the time Cr Ross left this meeting. Ms Riseley advised that the MWRRG has no such record. Cr Ross' response is that he left the meeting at around 4.30pm to pick up his immediate family member, which according to Ms Riseley is the start time of the meeting.

The Reviewer requested information from Ms Riseley as to whether there was a MWRRG Forum meeting held on 15 February 2018 and other related questions. Ms Riseley provided the following details about this meeting's location and start and finish times:

Park Hyatt Melbourne, 1 Parliament Square, Melbourne

.....

6 pm – 8:30pm

Ms Riseley confirmed that Cr Ross attended the MWRRG Forum meeting but that the MWRRG has no record of his arrival time at the meeting.

The Reviewer requested information from Ms Riseley as to whether there was a dinner associated with this Forum meeting held on the same date and its start and finish times. Ms Riseley advised the following start and finish times: 5:30 – 6:00pm.

As to whether Cr Ross attended the dinner, and whether MWRRG has a record of his time of arrival, Ms Riseley advised as follows:

It is believed so, though there is no official record of Cr Ross time of arrival. Attendees sign in at the registration desk, however the time of their arrival is not recorded.

Cr Ross' Second Response

After considering the Draft Report Cr Ross revised his response and in the Second Response, Cr Ross provided this information:

The Reviewer has obtained information from the MWRRG that the AFRM meeting on 15 February 2018 was held from 4:30-5:30pm and the MWRRG Forum from 6:00pm- 8:30pm. Cr. Ross was not provided with this information at the time that he prepared his response, and recalled AFRM meeting took place between 3:30-5:30pm and the Forum from 7:00pm-8:30pm. He based this estimation on his best recollection of these events, which occurred over 2.5 years ago. Whilst Cr. Ross maintains that he did leave the AFRM meeting to collect his [immediate family member], he accepts the time that he did this may have been later than the 4:30pm time initially estimated, in light of the meeting times provide by the MWRRG.

The Reviewer notes that Cr Ross was not provided with the meeting and Forum times before he prepared his First Response because the Reviewer did not have this information. The Reviewer obtained this information after Cr Ross provided his First Response, which presented his version of events, including his recollections as to the times he attended meetings and events. She did so in order to cross reference the information he had provided.

As to whether he missed the MWRRG Forum dinner, Cr Ross provides in his Second Response that he "maintains that he arrived late to the MWRRG Forum and missed the dinner event."

Considerations

In the Report, the Reviewer recommended that the Council make further inquiries about the Claim of 15 February 2018 and seek further information from Cr Ross in order to determine whether it is a claim of concern which may require further action.

The potential concern about this claim is whether Cr Ross improperly claimed for travel expenses from Cardinia (in the form of mileage for a 136 km return trip) to the MWRRG Forum meeting event held in Melbourne CBD in circumstances where he was already in the CBD vicinity that day attending the AFRM Committee meeting, which is a meeting for which he also claimed travel expenses from MWRRG. Therefore it is critical whether Cr Ross made two return trips from Pakenham to the CBD that day, or one.

Cr Ross' response to this concern is that he has properly claimed for the 136k return journey to the MWRRG Forum meeting on the basis that he made two trips to the CBD vicinity from Pakenham that day. Council must decide whether it accepts this explanation. In order for Cr Ross' explanation to be plausible there must be sufficient time between Cr Ross' departure from the AFRM Committee meeting and his arrival at the MWRRG Forum meeting for him to travel Melbourne (described by Cr Ross as Southbank)- Pakenham-Mt Waverley-Melbourne.

The Reviewer notes the following:

- In his First Response, Cr Ross' advised he left the AFRM Committee meeting early, at around 4.30pm, after attending for about an hour. MWRRG has no record of the time Cr Ross left the meeting but Ms Riseley advises that the meeting commenced at 4.30pm and ran until 5.30pm. In the Draft Report the Reviewer identified that there is an inconsistency between the information provided by Ms Riseley and Cr Ross (in his First Response). And further that if Ms Riseley is correct about the meeting time, then Cr Ross may be incorrect about the time he left the meeting as it is unlikely that Cr Ross would have driven into the CBD all the way from Pakenham in order to leave the meeting at around the commencement time. In his Second Response, Cr Ross revised his evidence and advised that while he did leave the meeting to collect his [immediate family member] he accepts that he "may" have left at a later time than 4.30pm. Cr Ross does not provide any revised time.
- In his First response, Cr Ross advised that he arrived at the MWRRG Forum meeting at around 7.30pm and missed the dinner. In his Second Response, Cr Ross maintains that he missed the dinner but does not identify his arrival time. MWRRG has no record of the time Cr Ross arrived at the MWRRG Forum meeting or dinner. As to whether Cr Ross attended the dinner, which Ms Riseley advised was scheduled for 5.30pm-6.00pm, Ms Riseley advised "It is believed so."
- If Ms Riseley is correct about the meeting and dinner times and about Cr Ross' attendance at the dinner then it appears that Cr Ross would not have enough time between (a) his departure from the AFRM Committee

(whether that was at 4.30pm or a later departure time), and (b) his attendance at the dinner, to travel Melbourne-Pakenham-Mt Waverley-Melbourne (a journey of not less than approximately 136km as claimed by Cr Ross) to arrive before the conclusion of the dinner at 6pm.

- Where there is an inconsistency between the information provided by Cr Ross and Ms Riseley, the Reviewer has not been provided with sufficient evidence to allow her to conclude which information is correct.
- Cr Ross advised that he did not take toll roads for the Melbourne-Pakenham-Mt Waverley-Melbourne journey from the AFRM Committee meeting to the MWRRG Forum meeting. Cr Ross provided the Reviewer with a photograph of his toll statements and the Reviewer confirms that, according to the information presented in the photograph, this is correct.

Council will need to decide whether it accepts Cr Ross' explanation that he undertook a second return trip to the Melbourne CBD from Pakenham (of not less than 136km as claimed) with a side trip to Mt Waverley. If Council does not accept Cr Ross' explanation, or if it requires more information in order to make a decision, then it may wish to obtain legal advice about the options available to it for dealing with its concern. For example, one option that may be available is an investigation to determine what time Cr Ross departed the AFRM Committee meeting and what time he arrived at the MWRRG Forum meeting or dinner. This would ordinarily involve interviewing witnesses, who may be able to recall such details as whether Cr Ross was in attendance at the dinner or not. This could also involve reviewing documentary evidence such as meeting minutes or invitations to verify the meeting and dinner times provided by MWRRG and Cr Ross. Council may also have other options for dealing with its concerns (if any) and legal advice could be obtained about that.

Similarly to the considerations set out above for the 22 August 2019 expense claims, the Reviewer also notes that, even where Council accepts that Cr Ross took a second round trip to the Melbourne CBD that day, Council might have concerns about Cr Ross claiming mileage for a trip if the purpose of the travel from Pakenham to Mt Waverley is a personal trip to deliver his immediate family member from home to their extra-curricular activity. Council might form the view that this is not Council related travel. This is up to the Council to decide. Council may wish to obtain legal advice about whether Cr Ross claiming reimbursement for travel expenses for this leg of the trip is a breach of any Council policy, code of conduct or legislation.

The Reviewer notes for completeness that Cr Ross has argued that given he has only claimed for 136km for travelling from Pakenham to Melbourne return and not any additional amount for travelling via Mt Waverley, the 136km claimed is related to the MWRRG event and therefore correctly claimed. Cr Ross has explained as follows:

In the recommendations, the Reviewer states that the Council may wish to seek advice about whether Cr Ross' is entitled to claim for travel expenses related to attendance at the MWRRG Forum and for a journey to pick up his [immediate family member] from home and drop [them] off at [their extra-curricular activity], in circumstances where he later continued on to the MWRRG Forum, is a breach of any Council policy, code of conduct or legislation. First, this statement does not properly describe the travel expense claim Cr. Ross made. Cr. Ross made a claim in respect of his travel to and from the MWRRG Forum meeting. He did not make a claim for travel to Pakenham to collect his [immediate family member]. He claimed the 136km average he usually claims in relation to these attendances, which does not incorporate any incidental travel and is generally less than the actual distance travelled. Secondly, Cr. Ross made these claims of the understanding he was entitled to do so under the Policy. Those claims were approved by the Council at the time that they were made.

Council may also wish to obtain advice about whether travel expenses for attending the MWRRG Forum meeting event are claimable under the Cardinia Expenses Policy, which may involve an examination of whether Cr Ross was the appointed Council delegate for the MWRRG Forum. The Reviewer makes no finding about this and recommends Council obtain legal advice if this is a question it would like answered. The Reviewer notes for completeness that Cr Ross provides that he is the Council delegate:

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The Reviewer has queried whether Cr. Ross was appointed to the MWRRG as the Council delegate at the time of the meeting. We confirm that Cr. Ross has been a council delegate to MWRRG since he was first elected to Council in around 2008.

In the Second Response Cr Ross has offered to repay the amounts claimed in respect of this trip. His response is as follows:

Whilst Cr. Ross, is still of the view that these claims were properly made, we confirm he is and always has been willing to rectify any error in expense claims by way of repayment to the Council. To finalise matters and assist the Council, we confirm Cr. Ross is willing to repay the amount claimed in respect of this travel, without any admission of wrongdoing on his part.

Council should consider whether Cr Ross repaying the expense claims he claimed from Council for this travel without any admission of wrongdoing would satisfy Council and conclude the matter from the Council's perspective, or whether, despite the offer to repay these monies, the Council still has concerns about Cr Ross' expense claims that it wishes to have addressed.

In the First Response Cr Ross refers to claims for parking costs and tolls that he made to MWRRG and claims for parking costs he made to Cardinia. This is correct and the Reviewer amends her finding to insert this detail.

Conclusion

Findings

The Reviewer has revised Finding 4 to refer to claims for tolls and parking. Otherwise Finding 4 remains the same. Revised finding 4 is as follows.

Finding 4:

On one occasion, being 15 February 2018, Cr Ross:

- was paid sitting fees of \$364 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and a toll, by MWRRG, for his attendance at a paid AFRM Committee meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.

Finding 4 should be read in conjunction with Recommendations 3.1, 3.2 and 3.3.

Recommendations

Recommendation 3.1:

In relation to finding 4, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the MWRRG Forum on 15 February 2018 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 3.2:

In relation to finding 4, and subject to Recommendation 3.1, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 15 February 2018 to attend the AFRM Committee meeting and the MWRRG Forum, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.3:

In relation to finding 4, and subject to Recommendation 3.1, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 15 February 2018 to attend the AFRM Committee meeting and the MWRRG Forum, then the Reviewer recommends that Council obtain legal advice about (a) whether travel expenses to the MWRRG Forum are properly claimable under the Cardinia Expenses Policy and if they are, (b) whether Cr Ross' claim for travel expenses for a journey which commenced with picking up his immediate family member from home and dropping them off at their extra-curricular activity, in circumstances where he later continued on to the MWRRG Forum, is a breach of any Council policy, code of conduct or legislation.

Finding 5 and corresponding recommendation

Background

The Reviewer refers to pages 8-13 of the Report for the observations that resulted in Finding 5 and its corresponding recommendation.

Finding 5 in the Report:

On two occasions, being 30 October 2019 and 27 November 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by MWRRG, for his attendance at paid Board meetings; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at unpaid meetings, the MWRRG and TORG meetings, on the same dates.

Finding 5 should be read in conjunction with Recommendation 3.

Corresponding recommendation in the Report:

In relation to findings 4 and 5 above, the Reviewer recommends that Council make further inquiries about the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 and seek further information from Cr Ross to determine whether they are claims of concern which may require further action.

Cr Ross' First Response

30 October 2019

Cr Ross considers that he was entitled to claim travel expenses from Council for the MWRRG SPAG and TARG meetings, in addition to claiming travel expenses from MWRRG for his attendance at a Board meeting that same day because he made two separate return trips into the CBD vicinity from Pakenham, one to attend the MWRRG SPAG and TARG meetings and then a separate trip, later that same day, to attend the MWRRG Board meeting. In relation to his attendance at the MWRGG SPAG and TARG meetings Cr Ross provides the following information in his First Response:

On 30 October 2019 Cr. Ross attended a MWRGG SPAG and TARG meeting that was scheduled for 10:30am-12:00pm. The MWRGG SPAG meeting stands for a meeting of the MWRGG Strategy Policy Advisory Group. The MWRGG TARG meeting stands for a meeting of the MWRGG Technical Advisory Reference Group. These meetings are usually run one after another. Cr. Ross attends these meetings in his capacity as a council delegate to the MWRGG and does not receive a payment for his attendance at these meetings.

We are instructed that Cr. Ross travelled to the MWRGG SPAG and TARG meeting which was being held at the MWRGG head office at 16-36 Siddeley Street Southbank from his home in Pakenham. He parked in paid parking. At the end of the meeting he travelled back to Pakenham to pick up his trailer and get ready to attend work. Cr.

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Ross did not use toll roads on his journey to or from this meeting.

In relation to his later attendance at the MWRRG Board meeting, Cr Ross provides the following information in his First Response:

On 30 October Cr. Ross was also scheduled to attend a MWRGG Board meeting from 5:00pm-7:00pm. This is a paid meeting for which Cr. Ross received a sitting fee from the MWRGG, in accordance with the MWRRG Board Remuneration and Reimbursement Policy.

Before attending this meeting, we are instructed that Cr. Ross completed his work, dropped his trailer and got changed at home in Pakenham, and travelled from there to the MWRGG head office at 16-36 Siddeley Street Southbank where the meeting was being held. Cr. Ross passed through tolls on this inbound journey at 3:51pm. We are instructed that when he arrived, Cr. Ross parked in paid parking. The meeting ran overtime, and after its conclusion Cr. Ross returned home to Pakenham passing through the tolls at 8:25pm.

27 November 2019

In his First Response, Cr Ross considers that he was entitled to claim travel expenses from Council for the MWRRG SPAG and TARG meetings, in addition to claiming travel expenses from MWRRG for his attendance at a Board meeting that same day because he made two separate return trips into the CBD vicinity from Pakenham, one to attend the MWRRG SPAG and TARG meetings and then a separate trip, later that same day, to attend the MWRRG Board meeting. In relation to his attendance at the MWRGG SPAG and TARG meeting Cr Ross provides the following information in his First Response:

On 27 November 2020 Cr. Ross attended a MWRGG SPAG and TARG meeting that was scheduled for 10:30am-12:00pm. As set out above, this is an unpaid meeting that Cr. Ross attends in his capacity as a council delegate to the MWRGG.

We are instructed that Cr. Ross travelled to the meeting which was being held at the MWRGG head office at 16-36 Siddeley Street Southbank from his home in Pakenham. Upon arrival he parked in paid parking. At the end of the meeting, Cr. Ross departed the meeting and drove back to his home in Pakenham to collect his trailer and get ready for work. Cr. Ross used toll roads on this journey as set out in his Linkt History print out, annexed to his claim forms for the relevant period. This shows that Cr. Ross went through inbound tolls at 8:18am on Wednesday 27 November 2019 and outbound tolls at 11:22am on Wednesday 27 November 2019. Cr. Ross instructs that on occasion he will need to leave these meetings early to get back to Pakenham to start work.

The Reviewer notes that while there is a reference to 27 November 2020 in Cr Ross' response above, it is clear that Cr Ross is referring to 27 November 2019.

In relation to his later attendance at the MWRRG Board meeting Forum, Cr Ross provides the following information in his First Response:

On 30 October Cr. Ross was also scheduled to attend a MWRGG Board meeting from 5:00pm-7:00pm. This is a paid meeting for which Cr. Ross received a sitting fee from the MWRGG, in accordance with the MWRRG Board Remuneration and Reimbursement Policy.

To attend this meeting, Cr. Ross completed his work, dropped his trailer at home in Pakenham and travelled from there to attend the meeting that was being held at the MWRGG head office at 16-36 Siddeley Street Southbank. He passed through tolls at 4:06pm on this inbound journey. He parked in paid parking upon arrival. The meeting ran overtime, and after its conclusion Cr. Ross returned home to Pakenham passing through the tolls at 8:00pm.

The Reviewer notes that while there is a reference to 30 October in Cr Ross' response above, it is clear that Cr Ross is referring to 27 November 2019.

MWRRG Information

30 October 2019

The Reviewer requested information from the Ms Riseley, CEO of MWRRG, about whether MWRRG SPAG and TARG meetings were held on 30 October 2019, and if so, the location and start and finish times of the meetings, and whether Cr Ross attended these meetings. Ms Riseley advised as follows:

MWRRG Office, Level 4, Tower 4, 18 – 38 Siddeley Street, Melbourne

.....

SPAG: 10am – 12pm, TARG: 12:30pm– 2:30pm

.....

Yes, Cr Ross attended both of these meetings

Cr Ross had advised that the meetings were scheduled to conclude at 12 noon, much earlier than the 2.30pm time provided by Ms Riseley.

The Reviewer requested information about whether MWRRG has any record of the time Cr Ross left the TARG meeting. The MWRRG response was:

MWRRG does not have any record of the time that Cr Ross departed the TARG meeting held on 30 October 2019.

The Reviewer requested information about the start and finish times of the 30 October 2019 Board meeting attended by Cr Ross. Ms Riseley advised the start and finish times were: *4pm – 8pm*

27 November 2019

The Reviewer requested information from the Ms Riseley, CEO of MWRRG, about whether MWRRG SPAG and TARG meetings were held on 27 November 2019, and if so, the location and start and finish times of the meetings, and whether Cr Ross attended these meetings.

Ms Riseley advised that on 27 November 2019 there was a Forum Annual Review & Planning Meeting and the address and start and finish times of that meeting were as follows:

MWRRG Office, Level 4, Tower 4, 18 – 38 Siddeley Street, Melbourne

.....

9:30am – 11am

The Reviewer sought clarification that there were not a SPAG and TARG meeting on 27 November 2019, and MWRRG advised as follows:

There was not a SPAG and TARG meeting held on the 27 November 2019, however the Forum Annual Review & Planning Meeting was a SPAG and TARG event.

The Reviewer requested information about the start and finish times of the 27 November 2019 Board meeting attended by Cr Ross. Ms Riseley advised the start and finish times were: *5pm – 7pm*

Cr Ross' Second Response

30 October 2019

After considering the Draft Report, Cr Ross revised his response. In his First Response Cr Ross had provided information that he left "At the end of the meeting" which he said was 12 noon. This has now changed to leaving before the end of the meeting. In his Second Response Cr Ross provides the following revised information:

On this particular date Cr. Ross cannot recall the precise time he departed the meeting, however in light of the information provided by the MWRRG he thinks it may have been later than 12:30pm initially estimated, however not significantly later and it would have been before the meeting ended at 2:30pm because of the work he undertook later that day.

Cr. Ross maintains that he left the city to undertake work in his garden and lawn maintenance business, before returning later for the Board meeting, as evidenced by his toll records showing a return to the city at around 3:50pm. As evidence of the work performed, Cr. Ross has an invoice for work undertaken in Pakenham on 30 October 2019 that is annexed to this further response at Annexure B.

In his Second Response Cr Ross provides a photograph of an invoice for the work he says he undertook in Pakenham on 30 October 2019. The invoice describes the work tasks (mowing, brush cutting and blowing pathways) but does not provide the time that the work was undertaken. The invoice does state that the payment was made by direct debit, which should be able to be verified through bank records should that be required.

In his Second Response, Cr Ross noted that he was not provided the meeting times by the Reviewer before he provided his First Response:

The Reviewer has referred to records of the times that the SPAG and TARG meetings were held on 30 October 2019 as being between 10:00am - 12:00pm and 12:30pm - 2:30pm respectively and that Cr. Ross attended both. Cr. Ross was not provided with this information prior to submitting his responses and estimated that these meetings took place between 10:30am-12:00pm.

The Reviewer notes that Cr Ross was not provided with the SPAG and TARG meeting times before he prepared his First Response because the Reviewer did not have this information. The Reviewer obtained this information after Cr Ross provided his First Response, which presented his version of events, including his recollections as to the times he attended the meetings. She did so in order to cross reference the information he had provided.

In the Second Response Cr Ross clarified that he does not attend the TARG meetings as Council delegate:

Cr. Ross has clarified that he only attends the SPAG meeting as a Council delegate, which he was appointed as in 2008. However he will often attend the TARG meeting which follows the SPAG meeting as an observer or to provide a report on SPAG matters, though he often does not stay for the entirety of the meeting.

27 November 2019

After considering the Draft Report, Cr Ross provides the following revised information:

In relation to the attendances on 27 November 2020, the Reviewer has stated that there is an inconsistency between the information provided by the MWRRG and Cr. Ross on the basis that Cr. Ross has said that he attended a SPAG and TARG meeting on this date from 10:30-12:00pm, whereas the MWRRG has said that there was a Forum Annual Review and Planning Meeting, which was a SPAG and TARG event, held from 9:30-11:00am. The event Cr. Ross attended and referred to as a SPAG and TARG meeting was the Forum Annual Review and Planning Meeting. There is no inconsistency. To the extent that there is a difference in timing

recorded, it should be noted that Cr. Ross was not provided with the MWRRG meetings times when he prepared his response and provided his best recollection of the time at which this meeting occurred. This does not change the substance of Cr. Ross' response, which is supported by toll records showing the times he entered and exited the CBD for the meetings held that day.

The Reviewer notes that while there is a reference to 27 November 2020 in Cr Ross' response above, it is clear that Cr Ross is referring to 27 November 2019.

The Reviewer notes that Cr Ross was not provided with the times for the Forum Annual Review and Planning Meeting before he prepared his First Response because the Reviewer did not have this information. The Reviewer obtained this information after Cr Ross provided his First Response, which presented his version of events, including his recollections as to the meetings he attended that day and the times of those meetings. She did so in order to cross reference the information he had provided.

In his Second Response Cr Ross provides a photograph of an invoice for the work he says he undertook in Pakenham on 27 November 2019. The invoice describes the work tasks (mowing, brush cutting and blowing pathways) but does not provide the time that the work was undertaken. The client for the 27 November 2019 work is the same client as for the 30 October 2019 work so presumably could provide evidence that the services were provided on these dates if required. The invoice does state that the payment was made by direct debit, which should be able to be verified through bank records should that be required.

Considerations

In the Report, the Reviewer recommended that the Council make further inquiries about the Claims of 30 October 2019 and 27 November 2019 and seek further information from Cr Ross in order to determine whether they are claims of concern which may require further action.

The potential concern about these claims is whether on two occasions, being 30 October 2019 and 27 November 2019, Cr Ross improperly claimed for travel expenses from Cardinia (in the form of mileage for a 136 km return trip) to the SPAG and TARG meetings held in Melbourne CBD in circumstances where he also made a claim for travel expenses for the same trip to MWRRG for attending the MWRRG Board meeting in the same location. Therefore it is critical whether Cr Ross made two return trips from Pakenham to the CBD that day, or one.

Cr Ross' response to this concern is that, on each of 30 October 2019 and 27 November 2019, he has properly claimed for the 136k return journey to the SPAG and TARG meeting / Forum Annual Review and Planning Meeting on the basis that he made two separate trips to the CBD vicinity from Pakenham on each date. The first trip was claimed with Council and the second trip was claimed with MWRRG. Council must decide whether it accepts this explanation. In order for Cr Ross' explanation to be plausible there must be sufficient time between Cr Ross' departure from the first meetings of the day in the CBD (the SPAG and TARG meetings on 30 October and the Forum Annual Review & Planning Meeting on 27 November) and his arrival at the MWRRG Board meeting for him to undertake all the travels and activities he says he undertook in that time. In the case of 30 October 2019, Cr Ross says he travelled from Melbourne (described by Cr Ross as Southbank) to Pakenham, picked up his trailer and got ready to attend work, completed his work, dropped off his trailer at home in Pakenham, changed and then travelled to the CBD again (described by Cr Ross as Southbank) to attend the MWRRG Board meeting, passing through inbound tolls at 3.51pm. In the case of 27 November 2019, Cr Ross says he travelled from Melbourne (described by Cr Ross as Southbank) to Pakenham, completed his work, dropped off his trailer at home in Pakenham, and then travelled to the CBD again (described by Cr Ross as Southbank) to attend the MWRRG Board meeting, passing through inbound tolls at 4.06pm.

The Reviewer deals with each date in turn.

30 October 2019 - Considerations

The Reviewer notes the following:

- In the First Response, Cr Ross advised that the SPAG and TARG meetings were scheduled for 10:30am-12:00pm and he recalls that he left at the end of these meetings (12.00pm). In the Second Response, Cr Ross advises he left later than 12.30pm, but not significantly later, and before the meeting ended at 2.30pm.
- In the Second Response Cr Ross appears to accept that MWRRG has provided the correct meeting times.
- MWRRG provided information that Cr Ross attended both meetings, but has no record of the time he left the second meeting.
- Council will need to consider whether Cr Ross had sufficient time to undertake a return trip to Pakenham and the work activities he says he undertook on the afternoon of 30 October 2019. According to Cr Ross' timeline he left the meeting in the city later than 12.30pm, but not significantly later, then travelled from the city to Pakenham without using tolls, picked up his trailer, got ready to attend work, undertook work at an address in Pakenham (the work consisted of mowing, brushcutting and blowing pathways), he then dropped off his trailer at home in Pakenham, changed and returned to the CBD crossing the Monash Fwy/Toorak Rd toll gate on his inward (city-bound) journey at 3.50pm. As to whether Cr Ross had sufficient time to undertake his work and related activities depends on the time and duration of his work engagement, and its location. The location is near to his home in Pakenham however the remaining details are not known to the Reviewer. It is possible that Cr Ross may have recorded the details of the time and duration of his work engagement in a work record such as a diary which he may be willing to produce.
- If Cr Ross left at the end of the meetings (as provided in his First Response), and if Ms Riseley is correct about the meeting times then Cr Ross would not have enough time between (a) his departure from the TARG meeting at about 2.30pm, and (b) his 3.50pm crossing of the Monash Fwy/Toorak Rd toll gate on his inward (city-bound) journey to the MWRRG Board meeting, to have travelled Melbourne-Pakenham-Melbourne (a journey of not less than approximately 136km as claimed by Cr Ross) and have picked up his trailer, gotten ready to attend work, completed his work, dropped off his trailer at home in Pakenham, changed and returned to the CBD. However Cr Ross no longer maintains that he left at the end of the meetings, but rather that he left before the second meeting ended.
- The 3.50pm crossing of the Monash Fwy/Toorak Rd toll gate on an inward (city-bound) journey demonstrates that Cr Ross (assuming he was the driver that undertook this journey) is likely to have travelled into the CBD for a second time that day. However, it does not demonstrate from where he travelled, and relevantly whether he had travelled in again from Pakenham as claimed.

Council will need to decide whether it accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD from Pakenham (of not less than 136km as claimed) on 30 October 2019. If Council does not accept Cr Ross' explanation, or if it requires more information in order to make a decision, then it may wish to obtain legal advice about the options available to it for dealing with its concern. For example, one option that may be available is an investigation to determine what time Cr Ross departed the TARG meeting. This could involve interviewing witnesses who attended the meeting or reviewing documents such as meeting minutes or Cr Ross' work records which may provide information about the time he commenced the Pakenham gardening work. The investigation could also include gathering evidence from the client for whom Cr Ross completed work regarding the date and times this work was completed. Council may also have other options for dealing with its concerns (if any) and legal advice could be obtained about that.

Council may also wish to obtain advice about whether travel expenses for attending the SPAG and TARG meetings are properly claimable under the Cardinia Expenses Policy, which may involve an examination of whether Cr Ross was the appointed Council delegate for the SPAG and TARG meetings. Cr Ross has advised that he was the Council delegate for the SPAG meetings but not the TARG meetings. The Reviewer makes no finding about this and recommends Council obtain legal advice if this is a question it would like answered.

In the Second Response Cr Ross has offered to repay his travel expense claims for 30 October 2019 without admission of any wrong doing as follows:

It is Cr. Ross' view that the claims were made in accordance with the Policy, however he is and always has been willing to rectify any errors in his claims by way of repayment to the Council. In the interests of resolving this matter and any concern Council may have we confirm Cr. Ross is willing to repay the travel expenses claimed in relation to 27 November and 30 October 2019, without any admission of liability to do so.

Council should consider whether Cr Ross repaying the expense claims he claimed from Council for this travel without any admission of wrongdoing would satisfy Council and conclude the matter from the Council's perspective, or whether, despite the offer to repay these monies, the Council still has concerns about Cr Ross' expense claims that it wishes to have addressed.

In the Response Cr Ross refers to claims for parking costs and tolls that he made to MWRRG and claims for parking costs he made to Cardinia. This is correct and the Reviewer amends her finding to insert this detail.

30 October 2019 – Conclusion

Findings

The Reviewer has revised Finding 5 to create a new Finding 5.1 which deals with 30 October 2019 only and also refers to claims for tolls and parking.

Finding 5.1:

On one occasion, being 30 October 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and tolls, by MWRRG, for his attendance at a paid Board meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at unpaid meetings, the MWRRG SPAG and TARG meetings, on the same date.

Finding 5.1 should be read in conjunction with Recommendations 3.4, 3.5 and 3.6.

Recommendations

Recommendation 3.4:

In relation to finding 5.1, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the MWRRG SPAG and TARG meetings on 30 October 2019 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 3.5:

In relation to finding 5.1, and subject to Recommendation 3.4, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.6:

In relation to finding 5.1, and subject to Recommendation 3.4, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, then the Reviewer recommends that Council obtain legal advice about whether travel expenses to the MWRRG SPAG and TARG meetings are properly claimable under the Cardinia Expenses Policy.

27 November 2019 - Considerations

The Reviewer notes the following:

- In his First Response Cr Ross advised that he attended SPAG and TARG meetings on the morning of 27 November 2019. MWRRG advised that there were no such meetings that day but that Cr Ross attended the Forum Annual Review & Planning Meeting that morning which is a SPAG and TARG event. In his Second Response Cr Ross has clarified that the event he attended and referred to as a SPAG and TARG meeting was in fact the Forum Annual Review & Planning Meeting. While the description has changed, this does not affect whether Cr Ross undertook two return trips to the Melbourne CBD that day.
Cr Ross passed through outbound toll gates at 11.22am and passed through inbound toll gates at 4.06pm, which would have provided sufficient time to travel Melbourne-Pakenham-Melbourne as he has claimed. As to whether it allowed sufficient time for him to undertake his work activities as described by him would depend on the time and duration of his work engagement, and its location. The photograph of the invoice provides that the location of the work was Pakenham, which is nearby to his home. The time of the work and its duration is not known to the Reviewer. It is possible that Cr Ross may have recorded the details of the time and duration of his work engagement in a work record such as a diary which he may be willing to produce. =
- The client named on the invoice for the 30 October 2019 work is the same client named on the invoice for this 27 November 2019 work.
- The 4.06pm crossing of the Monash Fwy/Toorak Rd toll gate on an inward (city-bound) journey demonstrates that Cr Ross (assuming he was the driver that undertook this journey) is likely to have travelled into the CBD for a second time that day. However, it does not demonstrate from where he travelled, and relevantly whether he had travelled in again from Pakenham as claimed.

Council will need to decide whether it accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD from Pakenham (of not less than 136km as claimed) on 27 November 2019. If Council does not accept Cr Ross' explanation, or if it requires more information in order to make a decision, then it may wish to obtain legal advice about the options available to it for dealing with its concern. For example, one option that may be available is an investigation to determine whether Cr Ross returned to Pakenham to undertake work obligations as claimed. This could involve reviewing documents such as Cr Ross' work records for the recorded time of the work or interviewing the client named on the invoice. Council may also have other options for dealing with its concerns (if any) and legal advice could be obtained about that.

If Council does accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 27 November 2019, then Council may wish to obtain advice about whether travel expenses for attending the Forum Annual Review & Planning Meeting are properly claimable under the Cardinia Expenses Policy, which may involve an examination of whether Cr Ross was the appointed Council delegate. The Reviewer makes no finding about this and recommends Council obtain legal advice if this is a question it would like answered.

In the Second Response Cr Ross has offered to repay his travel expense claims for 30 October 2019 without admission of any wrongdoing as follows:

It is Cr. Ross' view that the claims were made in accordance with the Policy, however he is and always has been willing to rectify any errors in his claims by way of repayment to the Council. In the interests of resolving this matter and any concern Council may have we confirm Cr. Ross is willing to repay the travel expenses claimed in relation to 27 November and 30 October 2019, without any admission of liability to do so.

Council should consider whether Cr Ross repaying the expense claims he claimed from Council for this travel without any admission of wrongdoing would satisfy Council and conclude the matter from the Council's perspective, or whether, despite the offer to repay these monies, the Council still has concerns about Cr Ross' expense claims that it wishes to have addressed.

In the Response Cr Ross refers to claims for parking costs and tolls that he made to MWRRG. This is correct and the Reviewer amends her finding to insert this detail.

27 November 2019 – Conclusion

Findings

The Reviewer has revised Finding 5 to create a new Finding 5.2 which deals with 27 November 2019 only and also refers to claims for tolls and parking.

Finding 5.2:

On one occasion, being 27 November 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and tolls, by MWRRG, for his attendance at a paid Board meeting; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council, for his attendance at unpaid meetings, the MWRRG SPAG and TARG meetings (which Cr Ross says is the Forum Annual Review and Planning Meeting, a SPAG and TARG event), on the same date.

Finding 5.2 should be read in conjunction with Recommendations 3.7, 3.8 and 3.9.

Recommendations

Recommendation 3.7:

In relation to finding 5.2, the Reviewer recommends Council consider Cr Ross' offer to repay the expense claims paid to him by Council for the MWRRG SPAG and TARG meetings (which he says is the Forum Annual Review and Planning Meeting, which is a SPAG and TARG event) on 27 November 2019 and if Council accepts repayment as the conclusion of the matter, then no further action is recommended.

Recommendation 3.8:

In relation to finding 5.2, and subject to Recommendation 3.7, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 27 November 2019, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.9:

In relation to finding 5.2, and subject to Recommendation 3.7, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 27 November 2019, then the Reviewer recommends that Council obtain legal advice about whether travel expenses to the Forum Annual Review & Planning Meeting are properly claimable under the Cardinia Expenses Policy.

Finding 6 and corresponding recommendation

Background

The Reviewer refers to pages 13-18 of the Report for the observations that resulted in Finding 6.

Finding 6 in the Report:

Where Councillor Ross has travelled to VLGA meetings according to either his Example 1 route, or his Example 2 route, his claim for a return journey of 136km is for a shorter distance than the actual distance he says he has travelled.

Corresponding recommendation in the Report:

No recommendation.

Cr Ross Response

Cr Ross did not provide any response to Finding 6.

Considerations

In the Report, at page 14, the Reviewer sets out the explanation provided by Cr Ross for how he came to claim mileage with Council for a consistent distance of 136km, for each of his return trips to the CBD vicinity, whether they were to VLGA in Carlton or MWRRG in Siddeley Street, Melbourne, and whether they involved taking tolls or not. In summary, Cr Ross has advised that approximately 12 years ago he was advised by other Councillors that it was sufficient to use an average distance when making expense claims (rather than recording the actual distance). He then set about claiming for a consistent 136km, which is an average he had ascertained at that time over approximately 3 trips to VLGA and MWRRG meetings. He later noticed that "more often than not" he travelled a further distance than 136km but was happy to continue to claim for the shorter distance of 136km. Council may wish to consider whether it accepts this explanation or not.

Also at page 14 of the Report, the Reviewer observed the following:

The Reviewer notes that when Cr Ross has made travel expense claims with MWRRG for Board and committee meetings, he consistently claims for a 136km return journey. The MWRRG expense claim forms contain a section for odometer readings. In the period 18 July 2017 to 26 September 2018, Cr Ross inserted 22 odometer readings into the MWRRG expense claim forms. Those readings consistently show a return journey of 136km. It is unclear why Cr Ross continued to monitor and record odometer readings for his MWRRG claims as late as September 2018, but not his Cardinia Shire Council claims, or why the actual odometer readings for his MWRRG claims are consistently 136km when Cr Ross uses routes to meetings that are in excess of 136km. Due to the timeframes required for this report, the Reviewer did not have the opportunity to raise these matters with Cr Ross and notes that he should be given an opportunity to address this.

Cr Ross did not address the above observation in the First Response. The Reviewer acknowledges that as the above observation was not identified separately in a specific recommendation Cr Ross may have considered that there was no need to respond to this observation.

The example routes that Cr Ross provided to the Reviewer for his trips to VLGA meetings ranged from 143.45km to 148.55km, in excess of the 136km claimed. The example routes provided by Cr Ross for his trips to MWRRG were very similar, save for the first (or last) leg when entering or exiting the Monash Fwy close to the CBD. The indirect part of the route, being the route taken between Pakenham and the Monash Fwy entry or exit, is always the same.

Cr Ross has stated that for the last 12 years he has claimed an average distance of 136km with Council, when he had noticed that "more often than not" he had travelled a further distance. In the Draft Report the Reviewer queried this response because she observed that when making claims with MWRRG Cr Ross has, as late as September 2018, continued to monitor and record odometer readings for his MWRRG claims and these were a consistent distance of 136km. In the Draft Report the Reviewer queried this apparent inconsistency and noted that it goes to the plausibility

of Cr Ross' explanation as to the routes he takes to VLGA and MWRRG meetings and the distances that he says travels.

In the Second Response Cr Cross explained that whilst he recorded odometer readings on his MWRRG claim forms the odometer reading for the end point of the journey is in fact not an odometer reading at all, but rather an estimate only:

Cr. Ross did not include any information about odometer readings in his council claim forms because the forms did not ask for this information. In terms of the MWRRG forms, for the reasons set out in his previous response Cr. Ross utilised an average distance to make these claims. Because the MWRRG form called for the odometer reading Cr. Ross would input the reading at the commencement of his journey and add on 136kms. He did this so that he did not claim travel expenses for other incidental travel undertaken over the course of the journey and in circumstances where he was confident he was claiming less than the actual distance travelled. Cr Ross ceased including this detail in the MWRRG forms from around September 2018 because it was unnecessary.

The Reviewer notes for completeness that she was not questioning why Cr Ross was not inputting odometer readings into the Cardinia Claim Forms, which has never been a requirement, but rather, why he ceased monitoring actual distances travelled and instead adopted an averaging system for his Council expense claims, but not for his MWRRG expense claims (as it appeared that he was still monitoring actual distances travelled for MWRRG claims because he was recording odometer readings). Cr Ross has provided his explanation above and Council may wish to consider whether it accepts this explanation or not.

As noted in the Report at page 15, the most direct route to VLGA meetings is a return journey of 121.9km. The 136km return journey claimed by Cr Ross is approximately 14.1 km longer than the most direct route (the Reviewer says approximately because the 121.9km distance does not include driving around looking for a car parking space). Cr Ross provided details of his most commonly used routes to and from VLGA meetings, being Example 1 route and Example 2 route, which are examined at pages 16 and 17 of the Report. Cr Ross' Example 1 Route of 148.55km is approximately 26.65 km longer than the direct route of 121.9km. Cr Ross' Example 2 Route of 143.45km is approximately 21.55 km longer than the direct route of 121.9km.

As to why Cr Ross' commonly takes the longer routes that he takes, he has explained as follows:

When travelling to meetings of the MWRGG or the VLGA, Cr. Ross instructs that he always try to take the quickest and shortest route possible in accordance with the Councillor Expenses and Entitlements Policy 2016. The quickest and shortest route possible varies from day to day depending on a number of factors, such as what time the meeting is being held at, and any road works, traffic incidents, and general traffic conditions. Any one of these variables can mean the shortest route may not be the fastest route, or vice versa. Cr. Ross plans his journey to take these matters into account and ensure that he takes the most time and cost efficient route in all of the circumstances.

After considering the Draft Report, Cr Ross has addressed the apparent inconsistency between the system he used for Council claims and the system he used for MWRRG claims. However, in the Reviewer's opinion, concerns about Cr Ross' explanation as to the routes he takes to VLGA meetings, and the distances that he says travels, could still remain. Council however may or may not have this concern, and if Council does not have this concern then that should be the end of the matter. Council may wish to consider whether it accepts Cr Ross' evidence of what are his most commonly used routes and his explanation for why he regularly takes routes that are over 20 km longer than the most direct route. In this respect, the Reviewer refers the Councillors to pages 13-18 of the Report.

If Council accepts Cr Ross' evidence about the routes he commonly takes to VLGA meetings and his explanation for why he takes them, then no further action is recommended. If the Council does not accept Cr Ross' evidence and explanations, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

ConclusionFindings

Finding 6 is unchanged and remains as follows.

Finding 6:

Where Councillor Ross has travelled to VLGA meetings according to either his Example 1 route, or his Example 2 route, his claim for a return journey of 136km is for a shorter distance than the actual distance he says he has travelled.

Finding 6 should be read in conjunction with Recommendation 7.

Recommendations

The Reviewer makes new Recommendation 7 as follows.

Recommendation 7:

In relation to Finding 6, if Council accepts Cr Ross' evidence about the routes he commonly takes to VLGA meetings (being his Example 1 route and his Example 2 route) and his explanation for why he takes them, then no further action is recommended. If the Council does not accept Cr Ross' evidence and explanations, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendations 4, 5 and 6**Background**

The Reviewer refers to pages 13 and 18 of the Report for the observations that resulted in Recommendations 4, 5 and 6.

Recommendations 4, 5 and 6 in the Report:

Recommendation 4:

Council should consider its position with respect to reimbursement of travel expenses for a meeting (meeting 1), where a Councillor attends another meeting in the same or similar location on the same day (meeting 2), and is reimbursed by another organisation for that meeting (meeting 2). If Council considers a reimbursement from Council for a meeting (meeting 1) in these circumstances would be a breach of Council policy (or another source of Councillor obligations), then the Reviewer recommends that Council undertake a broader review of Cr Ross' Claims to Council, cross referenced against claims to MWRGG with respect to all meetings, to determine whether Cr Ross has claimed two 136km return journeys to the CBD on the same date, one with each organisation.

Recommendation 5:

The Reviewer recommends that Council officers review the expense claim forms and consider whether any amendments to the forms may be advisable.

Recommendation 6:

The Reviewer recommends that Council officers review the expense claim processes and consider whether any amendments to the process should be made, particularly in relation to forms that do not comply with requirements.

Cr Ross Response

Cr Ross provided the following response in relation to Recommendation 4 in his First Response:

However, for completeness in relation to recommendation 4, we note that as set out in the response below, Cr. Ross has often been required to make return journeys to the city twice on particular dates to meet all of his work, council and family responsibilities. He has made claims for expenses incurred on such occasions in accordance with all relevant policies, and we do not presently understand there to be any allegation that his claims in this regard are improper. If there is any such allegation, Cr. Ross should be given an opportunity to respond to it.

Cr Ross did not provide any response to Recommendation 5 and 6.

Considerations

Cr Ross's response is noted but does not affect Recommendation 4.

The Reviewer has slightly modified Recommendation 4 in light of the fact that Council has already spent time and resources reviewing Cr Ross' Claims to Council. Council should consider whether it wishes to undertake a broader review or not.

ConclusionRecommendations

Revised Recommendation 4 is as follows.

Recommendation 4:

The Reviewer recommends that Council consider its position with respect to reimbursement of travel expenses for a meeting (meeting 1), where a Councillor attends another meeting in the same or similar location on the same day (meeting 2), and is reimbursed by another organisation for that meeting (meeting 2). If Council considers a reimbursement from Council for a meeting (meeting 1) in these circumstances would be a breach of Council policy (or another source of Councillor obligations), then Council may wish to consider whether to undertake a broader review of Cr Ross' Claims to Council, cross referenced against claims to MWRGG with respect to all meetings, to determine whether Cr Ross has claimed two 136km return journeys to the CBD on the same date, one with each organisation. Council may wish to obtain legal advice about undertaking such a review, or any alternatives to it, before embarking upon such an exercise.

Recommendations 5 and 6 remain the same as follows.

Recommendation 5:

The Reviewer recommends that Council officers review the expense claim forms and consider whether any amendments to the forms may be advisable.

Recommendation 6:

The Reviewer recommends that Council officers review the expense claim processes and consider whether any amendments to the process should be made, particularly in relation to forms that do not comply with requirements.

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Annexure A

Response to Findings and Recommendations

Finding and recommendation 1:

Finding

Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 2 December 2019.

Recommendation

In relation to finding 1 above, as the VLGA Board sitting fees are inclusive of expenses such as travel, the Reviewer recommends Council make further inquiries of Cr Ross and obtain legal advice as to whether there has been any breach of legislation, code of conduct or policy. As part of any process, Council should provide Cr Ross with an opportunity to respond to any concerns relating to Claims made in respect of these four meetings.

Response:

1. Cr. Ross commenced acting as a VLGA Board member in around June/July 2019.
2. At the time that he commenced attending VLGA meetings as a Board member it was communicated to Cr. Ross that he would be paid a sitting fee or allowance in respect of attending VLGA meetings. We are instructed that Cr. Ross does not recall receiving any additional information about which meetings the allowance would be paid for, and in particular whether that allowance incorporated reimbursement for travel and out-of-pocket expenses incurred in relation to attending meetings.
3. At the time, Cr. Ross' understanding was that the sitting fee was paid in respect of the time spent attending meetings, and did not also cover out of pocket expenses for travel. Because of this, Cr. Ross thought that he could claim those expenses from the Council, in addition to receiving the sitting fee from the VLGA. This understanding was based on the following:
 - a. At the time Cr. Ross commenced acting on the VLGA Board he had been a board member of the MWRGG for approximately 2 years. In relation to attendances at those meetings, Cr. Ross was paid a sitting fee as well as being able to claim for travel and out of pocket expenses. This led him to believe that he would also be able to claim these expenses in relation to the VLGA Board meetings;
 - b. Cr. Ross' membership of the VLGA Board is inextricably linked to his role as a councillor at Cardinia Shire Council. A person is not able act as a Board

member of the VLGA unless they are a councillor. This is different to the role at the MWRGG, where a person can continue on the board even if they stop being a councillor. Because of this, Cr. Ross understood that whilst performing functions and duties as a VLGA Board member he was performing duties as a councillor. As such, the expenses he incurred in attending these meetings were supplemental or incidental to or consequent of the exercise of council functions, meaning they were captured by and claimable under the Cardinia Shire Council Expenses and Entitlements Policy 2016; and

- c. Based on Cr. Ross' experience, as both a paid board member and as an attendee of meetings for which he was entitled to claim expenses from the Council over a period of 12 years, it did not seem reasonable that a sitting fee of the same amount, paid to all board members, would also cover out of pocket expenses for travel, in circumstances where many other board members travelled less than 20km to and from the meetings without the need for toll roads, and Cr. Ross travelled approximately 136km and often needed to pay for use of toll roads.
4. Furthermore, at the time that he commenced attending VLGA meetings, it was not clear to Cr. Ross which meetings sitting fees were paid for and which were not. There was no process around applying for or receiving payments for attending meetings, and often the sitting fee payments for meetings were delayed and Cr. Ross would only receive notification of a payment being made up to 6 weeks after the relevant meeting. By this point Cr. Ross often would have already submitted any expense claims for the same period to the Council. Over the period August – December 2019 Cr. Ross instructs that he attended approximately 14 VLGA meetings and events. As set out in the Review, the vast majority of these attendances were not paid. As we understand it, there is no dispute that Cr. Ross is able to claim travel expenses from the Council in relation to VLGA attendances that are not paid.
5. We are instructed that Cr. Ross does not recall seeing a copy of the document titled "VLGA Board Sitting Fees (effective 1 July 2019)" (**the VLGA Sitting Fees Document**) which has been provided in the course of this audit process at the time that he commenced acting as a VLGA Board member and he does not know if it was given to him by the VLGA at that time.
6. As a result of the above, in the period of August 2019 – December 2019, which was Cr. Ross' first 4 months as a board member of the VLGA, Cr. Ross received sitting fee payments from the VLGA in relation to attending certain meetings and also claimed travel expenses from the Council for mileage, tolls and parking expenses incurred in relation to attending those meetings. Cr. Ross made those claims pursuant to the Cardinia Shire Council Expenses and Entitlements Policy 2016, because he thought he was entitled to do so.
7. All of those claims were approved by the Council and Cr. Ross was not aware that there was any issue in relation to claiming those expenses.
8. We are instructed that in late 2019, there was a discussion at a VLGA Board meeting attended by Cr. Ross about longer distance travel around the state in relation to VLGA Board duties. As part of this discussion, a fellow VLGA Board member Cr. Cynthia Watson, Mayor of the City of Boroondara, asked how Board members could make expense claims from the VLGA in relation to this longer distance travel, on the basis that this should not be a cost incurred by their respective councils. The CEO of the VLGA Ms Katherine Arndt responded to the effect that all travel expenses were

covered by the sitting fee paid by the VLGA, and that no additional payments should be made on top of this by anyone.

9. We are instructed that Cr. Watson disputed this assertion. She argued that, or words to the effect that, the position taken by the VLGA was not correct, that travel expenses to attend meetings were claimable on top of the sitting fee as part of the duties of a councillor in accordance with the Local Government Act and that it was unfair and unreasonable to assert that a single sitting fee, paid at the same rate to all board members, constituted reimbursement for both time and out of pocket expenses when a number of Board members were subject to significant additional time and cost expenditures in attending meetings by virtue of their location. The discussion concluded with Cr. Watson indicating she would seek further advice in relation to the expense claims.
10. At a VLGA meeting attended by Cr. Ross following this, still in or around late 2019, Cr. Watson told the VLGA Board that she had received advice from the legal and governance team at Boroondara council to the effect that reimbursement for travel expenses to VLGA meetings could be claimed by councillors from their respective councils in accordance with section 75 of the Local Government Act and their own council expense policies. Cr. Ross instructs that Ms Arndt responded by reference to the VLGA Sitting Fees document, and noted that it contained the following:

*“*NB: Sitting fees assist with the costs associated with travel to VLGA meetings and forums, as well as travel around the state on behalf of VLGA. If applicable, and subject to approval in advance, reasonable accommodation costs may be reimbursed for rural/regional based councillors to attend Board meetings.”*
11. Cr Watson disputed that this statement overrode the provisions of the Local Government Act in relation to reimbursement and her own council’s policy. However the VLGA maintained its position that because of this reference, out of pocket expenses in relation to travel were covered by the sitting fee.
12. At the time, whilst Cr. Ross agreed with the position taken by Cr. Watson for reasons that will be explained in more detail below, we are instructed that out of an abundance of caution Cr. Ross decided to cease claiming out of pocket expenses in relation to attendances at VLGA Board meetings from the Council from December 2019. Cr. Ross has not made any such claims since this time.
13. The *Local Government 1989 (Vic) (the LG Act)*, as it applied at the time, provided the following in relation to the reimbursement of expenses to councillors:

75 Reimbursement of expenses of Councillors

- (1) A Council must reimburse a Councillor for expenses if the Councillor—
 - (a) applies in writing to the Council for reimbursement of expenses; and
 - (b) establishes in the application to Council that the expenses were reasonable bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor.
- (2) In this section, duties as a Councillor means duties performed by a Councillor that are necessary or appropriate for the purposes of achieving the objectives of a Council having regard to any relevant Act, regulations, Ministerial guidelines or Council policies.

75A Reimbursement of expenses of members of council committees

A Council may reimburse members of council committees for necessary out-of-pocket expenses incurred while performing duties as a committee member.

75B Councillor reimbursement policy

(1) A Council must adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council committees.

(2) A policy adopted by Council under this section must be consistent with—

(a) the prescribed types of Councillor out-of-pocket expenses that must be reimbursed if the expenses are reasonable and bona fide; and

(b) the prescribed procedures to be followed by Councils in relation to the reimbursement of out-of-pocket expenses.

(3) A Council must keep a copy of the policy adopted and maintained under this section available for inspection at the office of the Council.

14. In accordance with section 75 of the LG Act, the Cardinia Shire Council Expenses and Entitlements Policy 2016 provides that councillors will be reimbursed for out of pocket expenses incurred whilst performing their duties as councillor. We are instructed that Cr. Ross understood that in attending VLGA meetings he was performing duties as a councillor and was therefore entitled to claim out of pocket expenses from the Council pursuant to the policy.
15. We consider the expense claims Cr. Ross made in relation to the VLGA Board attendances from August 2019 to December 2019 were made in accordance with section 75 of the LG Act, because he made the application in writing and in that application, by setting out the nature of the expenses, established that they were reasonable and bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor. Those expenses were approved and paid by the Council, in circumstances where the council was aware that Cr. Ross was receiving a sitting fee for his attendance at the VLGA Board meetings. In those circumstances, there is no basis to assert that Cr. Ross has improperly claimed these amounts and they have instead been claimed and approved in accordance with the LG Act and the policy.
16. Furthermore, we do not agree that the VLGA Sitting Fees document displaces Cr. Ross' entitlement to claim these expenses from the council for the following reasons:
- a. Firstly, this document only notes that these sitting fees "assist" with costs associated with travel to VLGA meetings, and does not say that these fees are an exhaustive reimbursement in relation to travel expenses incurred.
 - b. Secondly, the document states that the sitting fees have been set in accordance with Victorian State Government published guidelines which outline the standard processes and principles for appointing and remunerating board members of non-departmental entities in Victoria. We have reviewed the Guidelines relied upon in preparing this document, and note that the guidelines state that "all appointees, whether remunerated or unremunerated, are eligible to be reimbursed for reasonable out-of-pocket expenses such as

travelling, accommodation, meals and other incidental expenses associated with attendance at meetings, overnight absence from home or absence from the normal work location in the course of field duties”.

- c. Thirdly, we note that no portion of the sitting fee paid by the VLGA was directly attributed to travel expenses, and those Board members that incurred significant travel expenses, such as Cr. Ross, received the same sitting fee as those board members that incurred very little or no travel expenses. The Cardinia Shire Council Expenses and Entitlements Policy 2016 provides that travelling expenses will be paid to councillors under the LG Act “to attend meetings of a group, organisation or statutory authority to which the Councillor has been appointed Council delegate. The reimbursement by Council is to be diminished by however much the body pays travelling expenses directly.” As Cr Ross did not receive any direct payment of travelling expenses from the VLGA, his expense claims pursuant to the policy were not relevantly diminished.

17. As a result of the above, we consider that Cr. Ross claimed the travel expenses in relation to the VLGA meeting attendances from August to December 2019 in accordance with the Cardinia Shire Council Expenses and Entitlements Policy 2016 and the LG Act. Furthermore, based on the above and Cr. Ross’ decision not to claim these expenses after December 2019, we consider Cr. Ross may have in fact under-claimed his entitlements in relation to these expenses.

18. On this basis, we consider that no finding should be made in relation to this matter, and no further action should be taken in relation to this matter.

19. However, if notwithstanding the above the Council considers that Cr. Ross should not have claimed those expenses, we confirm that Cr. Ross is willing, as he always has been, to address any concern in relation to his expense claims by way of repayment to the Council. To this end, we confirm the relevant amounts claimed from the council as follows:

- a. Council expense claims in relation to meeting on 8 August 2019:

- i. Mileage of 136km x 113.346 cents = \$153.68
- ii. Tolls of \$16.38
- iii. Parking of \$24.00

Total: \$194.06

- b. Council expense claims in relation to meeting on 29 August 2019:

- i. Mileage of 136km x 113.346 cents = \$153.68
- ii. Parking of \$15.00

Total: \$168.68

- c. Council expense claims in relation to meeting on 28 November 2019:

- i. Mileage of 136km x 113.346 cents = \$153.68

Total: \$153.68

d. Council expense claims in relation to meeting on 12 December 2019:

- i. Mileage of 136km x 113.346 cents = \$153.68
- ii. Tolls of \$5.08
- iii. Parking of \$15.00

Total: \$173.76

Total expense claim for VLGA meetings August – December 2019: \$690.18

20. We are instructed that Cr. Ross is willing to take this step despite his position that the amounts were not improperly claimed. We also note that as recorded in the Report, Cr. Ross has generally under-claimed on mileage for council related events and attendances. In totality, even including the claims set out in the paragraph above, we think it is likely that as a whole Cr. Ross has under-claimed his travel expenses from the Council.

Finding and recommendation 2:

Finding

Cr Ross has received a sitting fee of \$426 for a VLGA Board meeting on 22 August 2019 and has been reimbursed by Council for a Claim for travel expenses (i.e. mileage only) to a "VLGA Event/MWRRG Event" on the same date, where the reference to "VLGA event" is a reference to the VLGA Board meeting.

Recommendation:

In relation to finding 2 above, the Reviewer recommends that Council make further inquiries about the joint claim of 22 August 2019 and seek further information from Cr Ross in order to determine whether it is a claim of concern which may require further action.

Response

21. We are instructed that on 22 August 2019 Cr. Ross attended a VLGA Board meeting at 60 Leicester Street Carlton. Cr. Ross cannot recall the time of this meeting, save that it was conducted in the early afternoon. Cr. Ross travelled to this meeting from his home in Pakenham and parked in paid parking. He recalls that he had to leave this meeting to collect an immediate family member from his home in Pakenham and drop them to an extracurricular activity in Mt Waverley. To the best of his recollection, having regard to the usual start times of the extra-curricular activity, we are instructed by Cr. Ross that this would have been at around 5-5:30pm that evening. Cr. Ross did not use toll roads on the route to or from this meeting.

22. Cr. Ross made no claims for the out of pocket expenses incurred in relation to mileage and parking for attending this meeting from the council. As set out above, he did not use toll roads on the way to or from this meeting and made no claim for toll

expenses accordingly. Whilst Cr. Ross' claim for mileage on 22 August 2019 in his council expense claim forms refers to "VLGA event / MWRGG Event" we are instructed that the reference to the VLGA event in this entry is an error, and that this claim was only in relation to attendance at an MWRGG event, as will be explained further below.

23. Later on 22 August 2019, Cr. Ross instructs that he was also scheduled to attend an event for the MWRGG in his capacity as a council delegate. This event related to the impending departure of the CEO of the MWRGG, who had been with the organisation for 16 years. The event was a presentation about the organisation and all it had achieved over the period of the CEO's involvement. All current and former council delegates, current and former staff, department heads and even some members of parliament were invited and many attended. The event was held in Southbank, near to the MWRGG head office at 16-36 Siddeley Street Southbank. Cr. Ross cannot recall precisely what time that the event was scheduled to start, but instructs that to the best of his recollection it would have been around 6:00-6:30pm. After he had dropped his immediate family member off to their extra-curricular activities, as set out above, Cr. Ross travelled to attend the event in Southbank and found paid parking. He did not use toll roads on the journey there. Cr. Ross recalls that he arrived a little bit late, at around 6:30pm.
24. At the end of the event Cr. Ross travelled home to Pakenham, passing through tolls at 8:05pm.
25. Cr. Ross' attendance at this MWRGG event was not paid. Cr. Ross is entitled to claim for travelling expenses to MWRGG events attended in his capacity as a council delegate under the Cardinia Shire Council Councillor Expenses and Entitlements Policy 2016. This includes claims for mileage, parking and toll expenses, which Cr. Ross did make in relation to attending this event. In his mileage claim in the expense claim form for this date, Cr. Ross has entered "VLGA Event / MWRGG Event". We are instructed that this may be an error, and Cr. Ross meant only to refer to the MWRGG event. This is because the VLGA attendance earlier that day was a meeting, not an event, and Cr. Ross had travelled to and from each of these meetings by separate journeys as set out above, meaning there was no basis for there to be a joint claim for mileage. This explanation is consistent with the claims Cr. Ross made for parking and tolls on the same date, which are clearly listed as relating only to attendance at the MWRGG event.
26. It is clear from the above that Cr. Ross has appropriately claimed expenses in accordance with all relevant policies in relation to his attendance at the VLGA meeting and MWRGG event on 22 August 2019. No finding and no further action should be taken in relation to this matter.

Finding and recommendation 4:

Finding:

(4) On one occasion, being 15 February 2018, Cr Ross:

- was paid sitting fees of \$364 by MWRGG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by MWRGG, for his attendance at a paid AFRM Committee meeting; and

- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.

Finding 4 should be read in conjunction with Recommendation 3.

Recommendation

In relation to findings 4 and 5 above, the Reviewer recommends that Council make further inquiries about the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 and seek further information from Cr Ross to determine whether they are claims of concern which may require further action.

Response

27. We confirm that Cr. Ross received a sitting fee from the MWRGG in relation to attendance at the Audit Risk and Finance Management Committee meeting conducted on 15 February 2018 (**the 15 February 2018 MWRGG AFRM Meeting**), in accordance with the MWRRG Board Remuneration and Reimbursement Policy. Cr. Ross received this payment because he attended this meeting in his capacity as a Board member of the MWRGG.
28. The 15 February 2018 MWRGG AFRM Meeting was held at the MRWGG head office at 16-36 Siddeley Street Southbank between approximately 3:30pm and 5:00pm. To attend this meeting we are instructed Cr. Ross travelled from his home address in Pakenham to the meeting location, passing through tolls at 3:11pm. He parked in paid parking on arrival.
29. That day Cr. Ross was required to leave the meeting early at around 4:30pm to pick an immediate family member up from Pakenham and take them to an extra-curricular activity in Mt Waverley. Cr. Ross did not take the toll roads on his journey from the meeting to pick up his immediate family member, because the traffic at the time meant that the toll roads were not the most efficient route available.
30. That night Cr. Ross was also scheduled to attend a meeting of the MWRGG Forum from 7:00pm – 8:30pm. To the best of his recollection, Cr. Ross instructs this meeting was being held at the Marriott Hotel on Exhibition Street in the city. Cr. Ross attended this Forum as a Council delegate, and it was not an attendance for which he was paid a sitting fee by the MWRGG (**the 15 February 2018 MWRGG Forum**). We are instructed that the Forum is usually conducted by way of a dinner for attendees being held from around 7:00pm-7:45pm and a forum meeting from around 7:45pm-8:30pm, though often the meeting can run over.
31. We are instructed that Cr. Ross departed from Mt Waverley to attend the 15 February 2018 MWRGG Forum meeting, having dropped his immediate family member as set out above. Cr. Ross did not take toll roads on this route. As a result of the travel back and

forth necessitated by his family responsibilities between these meetings, Cr. Ross recalls that he arrived late to the Forum meeting at around 7:30pm and missed the dinner. He parked his car in paid parking. At the end of the meeting, which Cr. Ross recalls ran beyond 8:30pm, Cr. Ross drove home to Pakenham, passing through tolls at 9:05pm.

32. We confirm that in relation to attending the paid MWRGG Board meeting as set out above, Cr. Ross claimed out of pocket expenses from the MWRGG in relation to mileage travelled to attend the meeting, parking to attend the meeting and tolls incurred to attend the meeting, in accordance with the MWRRG Board Remuneration and Reimbursement Policy.
33. We confirm that in relation to attending the MWRGG Forum, Cr. Ross claimed expenses from the Council in relation to mileage to and from the meeting and parking for attendance at the meeting. Cr. Ross is entitled to claim these travelling expenses from the council for attendances at MRWGG Forum meetings, which are not paid meetings and are attended within his capacity as a council delegate, under the Cardinia Shire Council Councillor Expenses and Entitlements Policy 2016. We note that from the records provided Cr. Ross does not appear to have made a claim for the toll expenses incurred on his journey home from this meeting, notwithstanding his entitlement to do so, and in doing so he have in fact under claimed his expenses.
34. It is clear that Cr. Ross has appropriately claimed expenses in accordance with all relevant policies in relation to his attendance at MWRGG meetings on 15 February 2018. In fact it appears he has under-claimed his expenses from the Council. No finding should be made and no further action should be taken in relation to this matter.

Finding and recommendation 5

Finding

On two occasions, being 30 October 2019 and 27 November 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by MWRRG, for his attendance at paid Board meetings; and
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD by Council for his attendance at unpaid meetings, the MWRRG SPAG and TORG meetings, on the same dates.

Finding 5 should be read in conjunction with Recommendation 3.

Recommendation

In relation to findings 4 and 5 above, the Reviewer recommends that Council make further inquiries about the Claims of 15 February 2018, 30 October 2019 and 27 November 2019 and seek further information from Cr. Ross to determine whether they are claims of concern which may require further action.

Response in relation to 30 October 2019 Meeting

35. On 30 October 2019 Cr. Ross attended a MWRGG SPAG and TARG meeting that was scheduled for 10:30am-12:00pm. The MWRGG SPAG meeting stands for a meeting of the MWRGG Strategy Policy Advisory Group. The MWRGG TARG meeting stands for a meeting of the MWRGG Technical Advisory Reference Group. These meetings are usually run one after another. Cr. Ross attends these meetings in his capacity as a council delegate to the MWRGG and does not receive a payment for his attendance at these meetings.
36. We are instructed that Cr. Ross travelled to the MWRGG SPAG and TARG meeting which was being held at the MWRGG head office at 16-36 Siddeley Street Southbank from his home in Pakenham. He parked in paid parking. At the end of the meeting he travelled back to Pakenham to pick up his trailer and get ready to attend work. Cr. Ross did not use toll roads on his journey to or from this meeting.
37. Cr. Ross is entitled to claim for travelling expenses to MWRGG SPAG and TARG meetings under the Cardinia Shire Council Councillor Expenses and Entitlements Policy 2016. This includes claims for mileage, parking and toll expenses. We confirm that Cr. Ross made a claim for mileage for travel to and from the meeting and for paid parking at the meeting as set out above. Cr. Ross did not make a claim for tolls because he did not use toll roads on this journey.
38. On 30 October Cr. Ross was also scheduled to attend a MWRGG Board meeting from 5:00pm-7:00pm. This is a paid meeting for which Cr. Ross received a sitting fee from the MWRGG, in accordance with the MWRGG Board Remuneration and Reimbursement Policy.
39. Before attending this meeting, we are instructed that Cr. Ross completed his work, dropped his trailer and got changed at home in Pakenham, and travelled from there to the MWRGG head office at 16-36 Siddeley Street Southbank where the meeting was being held. Cr. Ross passed through tolls on this inbound journey at 3:51pm. We are instructed that when he arrived, Cr. Ross parked in paid parking. The meeting ran overtime, and after its conclusion Cr. Ross returned home to Pakenham passing through the tolls at 8:25pm.
40. We confirm that in relation to attending this meeting, Cr. Ross claimed out of pocket expenses from the MWRGG in relation to mileage travelled to attend the meeting, parking to attend the meeting and tolls incurred to attend the meeting. Cr. Ross made this claim in accordance with the MWRGG Board Remuneration and Reimbursement Policy.
41. It is clear from the above that Cr. Ross has appropriately claimed expenses in accordance with all relevant policies in relation to his attendance at MWRGG meetings on 30 October 2018. No finding should be made and no further action should be taken in relation to this matter.

Response in relation to 27 November 2019 Meetings

42. On 27 November 2020 Cr. Ross attended a MWRGG SPAG and TARG meeting that was scheduled for 10:30am-12:00pm. As set out above, this is an unpaid meeting that Cr. Ross attends in his capacity as a council delegate to the MWRGG.
43. We are instructed that Cr. Ross travelled to the meeting which was being held at the MWRGG head office at 16-36 Siddeley Street Southbank from his home in Pakenham. Upon arrival he parked in paid parking. At the end of the meeting, Cr.

Ross departed the meeting and drove back to his home in Pakenham to collect his trailer and get ready for work. Cr. Ross used toll roads on this journey as set out in his Linkt History print out, annexed to his claim forms for the relevant period. This shows that Cr. Ross went through inbound tolls at 8:18am on Wednesday 27 November 2019 and outbound tolls at 11:22am on Wednesday 27 November 2019. Cr. Ross instructs that on occasion he will need to leave these meetings early to get back to Pakenham to start work.

44. Cr. Ross is entitled to claim for travelling expenses to MRWGG SPAG and TARG meetings under the Cardinia Shire Council Councillor Expenses and Entitlements Policy 2016. This includes claims for mileage, parking and toll expenses. We confirm that Cr. Ross made a claim for mileage, parking and toll expenses incurred from the Council as set out above and in accordance with the policy.
45. On 30 October Cr. Ross was also scheduled to attend a MWRGG Board meeting from 5:00pm-7:00pm. This is a paid meeting for which Cr. Ross received a sitting fee from the MWRGG, in accordance with the MWRGG Board Remuneration and Reimbursement Policy.
46. To attend this meeting, Cr. Ross completed his work, dropped his trailer at home in Pakenham and travelled from there to attend the meeting that was being held at the MWRGG head office at 16-36 Siddeley Street Southbank. He passed through tolls at 4:06pm on this inbound journey. He parked in paid parking upon arrival. The meeting ran overtime, and after its conclusion Cr. Ross returned home to Pakenham passing through the tolls at 8:00pm.
47. We confirm that in relation to attending this meeting, Cr. Ross claimed out of pocket expenses from the MWRGG in relation to mileage travelled to attend the meeting, parking to attend the meeting and tolls incurred to attend the meeting. Cr. Ross made this claim in accordance with the MWRGG Board Remuneration and Reimbursement Policy.
48. It is clear from the above that Cr. Ross has appropriately claimed expenses in accordance with all relevant policies in relation to his attendance at MWRGG meetings on 27 November 2018. No finding should be made and no further action should be taken in relation to this matter.

Response to the Draft Supplementary Report

Finding 1 and corresponding recommendation:

1. The Draft Supplementary Report finds and recommends that:

Finding 1:

Cr Ross has received a sitting fee of \$426 per meeting from VLGA, in addition to being reimbursed for Claims by Council for VLGA meetings on the following dates: 8 August 2019, 29 August 2019, 28 November 2019 and 12 December 2019.

Recommendation 1:

In relation to finding 1 above, as the VLGA Board sitting fees are inclusive of expenses such as travel, the Reviewer recommends Council consider the Response and Cr Ross' offer to repay the expense claims paid to him by Council for the VLGA meetings of 8 August 2019, 29 August 2019, 28 November 2019 and 12 December 2019. If Council is satisfied with Cr Ross' response and/or accepts repayment of the travel expenses as the conclusion of the matter, then no further action is recommended. If Council is not satisfied with Cr Ross' response or requires additional information to form a view, then the Reviewer recommends Council consider whether it wishes to take further action such as obtaining legal advice as to whether there has been any breach of legislation, code of conduct or policy.

2. In reaching this finding and recommendation the Reviewer purports to summarise Cr. Ross' response to the initial findings and the information provided by VLGA and set out their consideration of these matters. We note the following in response:
 - a. The summary of Cr. Ross responses is incomplete. The Reviewer fails to reference matters that are critical to Cr. Ross response in her summary of the response and the more detailed considerations of the report including that:
 - i. The expenses claims in issue relate only to the first 4 months that Cr. Ross was a member of the VLGA Board and that his understanding of the sitting fee payment was based on the matters set out at paragraph 3 to his response;
 - ii. That in this period there was a dispute raised about the attribution of those fees by another member of the Board, who claimed that the sitting fees were not inclusive of travel expenses;
 - iii. That in the course of this dispute the CEO of the VLGA confirmed that it was her view that travel expenses were included in the sitting fee; and
 - iv. Following this Cr. Ross ceased claiming travel expenses in relation to these meetings and did not claim any further travel expenses for attendances at these meetings. Cr. Ross made the decision to cease making these claims of his own volition and out of an abundance of caution to ensure that he did not claim any more than he was entitled to under relevant policies.

- b. It should be noted that Cr Ross was not given the information referred to by the VLGA prior to preparing his response.
- c. The Reviewer appears to have made a finding that Cr. Ross was not entitled to claim travel expenses for attendance at VLGA meetings, by stating in the recommendation that “the VLGA Board sitting fees are inclusive of expenses such as travel”. In making this finding, the Reviewer has not addressed the matters raised in paragraphs 13-17 of the further response submitted by Cr. Ross, and has instead seemingly only accepted the assertion made by the CEO of the VLGA. If the Reviewer considers that travel expenses are included in the policy, the Reviewer should set out the basis for this finding including how it has been made notwithstanding the matters raised at paragraphs 13-17 of the Further Response. If the Reviewer is not in a position to make a finding about those matters, then no such finding should be made and the report should be amended to reflect that this finding cannot be made by the Reviewer.
- d. The Reviewer has excluded Cr. Ross’ responses in relation to the dispute about travel claims made by another member of the VLGA Board and his decision to cease making those claims as a result of that dispute. This is unsatisfactory in circumstances where the Reviewer appears to impugn the credibility of Cr. Ross’s explanation in the considerations section of the Draft Supplementary Report. The Reviewer refers to a chain of emails that had not been provided to Cr. Ross at the time of his response (that were sent over a year ago and contain an arguably ambiguous policy description), the VLGA CEO’s statement regarding the inclusion of travel expenses that does not appear to have been tested and the accessibility of a policy on the intranet to call into question the plausibility of Cr. Ross’ explanation, stating:

“These considerations go to the knowledge that Cr Ross had and the plausibility of his argument that he made the expense claims to Council because he understood that he was entitled to do so. Council may or may not be willing to accept that, despite the information provided and made accessible to Cr Ross by VLGA, he was still unclear about the sitting fee.”

The fact that other members of the VLGA Board were uncertain of the inclusion of travel expenses in the sitting fee is a relevant consideration that goes to the plausibility of Cr. Ross’s explanation. The fact that Cr. Ross decided to cease claiming these expenses once he was on notice of the VLGA’s position is a relevant consideration that goes to the plausibility of Cr. Ross’ explanation. These matters show that this was not a scheme of deliberate double dipping. Rather, Cr. Ross was a new board member and recipient of the sitting fee, he made 4 claims related to his first attendances at meetings based on his previous experience and understanding of the sitting fees, other Board members were unsure of whether travel fees could also be claimed, in part due to an unclear and seemingly unfair policy, a dispute about this very issue arose and Cr. Ross was told that the VLGA considered travel expenses to be included in the sitting fee, as a result and out of an abundance of caution Cr. Ross ceased claiming those fees in relation to his attendances. In those circumstances the extract above questioning the plausibility of Cr. Ross is misleading and damaging and should be removed from the Supplementary Report. The considerations should be amended to properly detail and take into account Cr. Ross’ responses as referred to above.

Finding 2 and corresponding recommendation:

3. The Supplementary report finds and recommends that:

Findings

The Reviewer has revised Finding 2 (now Finding 2.1) to note that Cr Ross may have misdescribed the event that he has claimed travel expenses for (in the form of mileage) and also made a finding with respect to the tolls claim (new Finding 2.2) as follows.

Finding 2.1:

Cr Ross has received a sitting fee of \$426 for a VLGA Board meeting on 22 August 2019 and has been reimbursed by Council for:

- a Claim for travel expenses (i.e. mileage only) to a “VLGA Event/MWRRG Event” on the same date (which Cr Ross says is a claim for the MWRRG event only); and*
- a Claim for parking and tolls to an “MWRRG event” on the same date.*

Finding 2.1 should be read in conjunction with Recommendations 2.1, 2.2 and 2.3.

Finding 2.2:

The Claim made by Cr Ross for tolls in relation to the MWRRG event of 22 August 2019 is \$16.38, however the cost of the toll was \$8.19.

Recommendations

Recommendation 2.1:

In relation to finding 2.1, if Council does not accept Cr Ross’ explanation that the Claim for “VLGA Event/MWRRG Event” is a Claim for the MWRRG event only, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 2.2:

In relation to finding 2.1, if Council does not accept Cr Ross’ explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 22 August 2019 to attend the VLGA Board meeting and the MWRRG event, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 2.3:

In relation to finding 2.1, if Council accepts Cr Ross’ explanation that the Claim for “VLGA Event/MWRRG Event” is a Claim for the MWRRG event only and also accepts Cr Ross explanation that he undertook two return

trips to the Melbourne CBD vicinity from Pakenham on 22 August 2019 to attend the VLGA Board meeting and the MWRRG event, then the Reviewer recommends that Council obtain legal advice about (a) whether travel expenses to the MWRRG event are properly claimable under the Cardinia Expenses Policy and if they are, (b) whether Cr Ross' claim for travel expenses for a journey to pick up his immediate family member and drop them at extra-curricular activities, in circumstances where he later continued on to a MWRRG event, is a breach of any Council policy, code of conduct or legislation.

Recommendation 2.4:

In relation to finding 2.2, if Cr Ross was reimbursed \$16.38 for tolls by Council in relation to travel on 22 August 2019, then the Reviewer recommends that Council take whatever steps it considers necessary to deal with this overpayment.

4. The Reviewer has obtained information from the VLGA that the meeting on 22 August 2019 started at 4:00pm and concluded at 6:07pm and that the MMWRG event started at 6:00pm and ended at 8:00pm. Cr. Ross was not provided with this information prior to submitting his response to the report. In his response Cr. Ross indicated that he could not recall the start and finish times of the meetings/events, the times that he arrived at and left those meetings/events or the time that he collected his immediate family member and returned to the city. Cr. Ross based his response on his best recollection of the events and gave an estimate having regard to the approximate times at which this (being the meetings and his immediate family member's extra-curricular activities) has previously occurred. This should be made clear in the Supplementary Report.
5. Cr. Ross instructions are still that he left this meeting to go and collect his immediate family member, though he accepts the time he did this and the time that he returned late to attend the MMWRG function may have been later than the time estimated in his initial response. Cr. Ross cannot recall whether he left the VLGA meeting early or at the time it is listed as concluding in the minutes. However Cr. Ross has instructed that he has never had dinner with Cr. Watson or Cr. Sipek and therefore did not do so after this meeting.
6. The Reviewer has queried whether Cr. Ross' claims for travel from Pakenham to Mt Waverly in relation to his family responsibilities may be a personal trip and therefore not in accordance with the relevant policy, code of conduct or legislation. The Reviewer has recommended that Council obtain legal advice about whether Cr. Ross' claim for travel expenses for a journey to pick up his immediate family member, drop them at their extra-curricular activity and travel on to an MWRRG is a breach of any code, policy or legislation. We consider that these findings and recommendations incorrectly characterise the travel claim Cr. Ross made on 22 August 2021 for attendance at the MWRRG function.
7. Cr. Ross made a claim for travel from his home to the MWRRG event and back. He did not claim for the journey from the city to Pakenham to collect his immediate family member. In making the claim in relation to travel to and from the MWRRG Forum Meeting Cr. Ross claimed the 136km average he utilises for claims for VLGA and MWRRG attendances, which is generally less than the actual distance travelled, and does not incorporate any other incidental travel (as relevant here, travel to drop off his immediate family member). Cr. Ross' reliance on this average distance is in part intended to avoid claiming for travel that is not related to council duties but is interspersed with travel that is related to council duties.

8. The Reviewer has queried whether the function was an event for which Cr. Ross could claim the travel expenses under the policy and whether it was in accordance with the policy, in circumstances where Cr. Ross was in the vicinity of the meeting prior to the event but left to attend to family responsibilities. The Reviewer has made no finding in relation to this, and has instead recommended the Council obtain advice about this matter. Cr. Ross made these claims of the understanding he was entitled to do so under the Policy. Those claims were approved by the Council at the time that they were made.
9. Whilst Cr. Ross is still of the view that these claims were properly made, we confirm he is and always has been willing to rectify any error in expense claims by way of repayment to the Council. To finalise matters and assist the Council, we confirm Cr. Ross is willing to repay the amount claimed in respect of this travel, without any admission of wrongdoing on his part.
10. Cr. Ross confirms that the claim in respect of the tolls on 22 August 2019 must have been an error, caused by him writing down the incorrect amount in the claim form as compared to the toll record which was also submitted. Cr. Ross will rectify this payment additional payment of \$8.19 subject to confirmation from the Council as to how he should do so.

Finding 3 and corresponding recommendation

11. Finding 3 should make clear that Cr Ross provided no further response to this finding or recommendation because no finding or recommendations has been made against him and that is it has been determined Cr. Ross has not made any claims in relation to MWRRG that are considered to be in breach of any policy or legislation.

Finding 4 and corresponding recommendation

12. In relation to finding 4, the Supplementary Report states:

Findings

The Reviewer has revised Finding 4 to refer to claims for tolls and parking. Otherwise Finding 4 remains the same. Revised finding 4 is as follows.

Finding 4:

On one occasion, being 15 February 2018, Cr Ross:

- *was paid sitting fees of \$364 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and a toll, by MWRRG, for his attendance at a paid AFRM Committee meeting; and*
- *also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at an unpaid meeting, the MWRRG Forum, on the same date.*

Recommendations

Recommendation 3.1:

In relation to finding 4, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 15 February 2018 to attend the AFRM Committee meeting and the MWRRG Forum, or if it requires more information in order to make a decision, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.2:

In relation to finding 4, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 15 February 2018 to attend the AFRM Committee meeting and the MWRRG Forum, then the Reviewer recommends that Council obtain legal advice about (a) whether travel expenses to the MWRRG Forum are properly claimable under the Cardinia Expenses Policy and if they are, (b) whether Cr Ross' claim for travel expenses for a journey to pick up his immediate family member and drop them at their extra-curricular activities, in circumstances where he later continued on to the MWRRG Forum, is a breach of any Council policy, code of conduct or legislation.

13. The Reviewer has obtained information from the MWRRG that the AFRM meeting on 15 February 2018 was held from 4:30-5:30pm and the MWRRG Forum from 6:00pm-8:30pm. Cr. Ross was not provided with this information at the time that he prepared his response, and recalled AFRM meeting took place between 3:30-5:30pm and the Forum from 7:00pm-8:30pm. He based this estimation on his best recollection of these events, which occurred over 2.5 years ago. Whilst Cr. Ross maintains that he did leave the AFRM meeting to collect his immediate family member, he accepts the time that he did this may have been later than the 4:30pm time initially estimated, in light of the meeting times provided by the MWRRG.
14. Cr. Ross' maintains that he arrived late to the MWRRG Forum and missed the dinner event.
15. The Reviewer has queried whether Cr. Ross was appointed to the MWRRG as the Council delegate at the time of the meeting. We confirm that Cr. Ross has been a council delegate to MWRRG since he was first elected to Council in around 2008.
16. The Reviewer has noted that she has not reviewed the toll records referred to by Cr. Ross in respect of those dates. These records have been provided to the reviewer.
17. In the recommendations, the Reviewer states that the Council may wish to seek advice about whether Cr Ross' is entitled to claim for travel expenses related to attendance at the MWRRG Forum and for a journey to pick up and drop off his immediate family member, in circumstances where he later continued on to the MWRRG Forum, is a breach of any Council policy, code of conduct or legislation. First, this statement does not properly describe the travel expense claim Cr. Ross made. Cr. Ross made a claim in respect of his travel to and from the MWRRG Forum meeting. He did not make a claim for travel to Pakenham to collect his immediate family member. He claimed the 136km average he usually claims in relation to these attendances, which does not incorporate any incidental travel and is generally less than the actual distance travelled. Secondly, Cr. Ross made these claims of the understanding he was entitled to do so under the Policy. Those claims were approved by the Council at the time that they were made.

18. Whilst Cr. Ross, is still of the view that these claims were properly made, we confirm he is and always has been willing to rectify any error in expense claims by way of repayment to the Council. To finalise matters and assist the Council, we confirm Cr. Ross is willing to repay the amount claimed in respect of this travel, without any admission of wrongdoing on his part.

Finding 5 and corresponding recommendations

19. In relation to claims for attendances at meetings on 30 October 2019, the Draft Supplementary Report makes the following findings and recommendations:

Findings

The Reviewer has revised Finding 5 to create a new Finding 5.1 which deals with 30 October 2019 only and also refers to claims for tolls and parking.

Finding 5.1:

On one occasion, being 30 October 2019, Cr Ross:

- was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and tolls, by MWRRG, for his attendance at a paid Board meeting; and*
- also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at unpaid meetings, the MWRRG SPAG and TARG meetings, on the same date.*

Finding 5.1 should be read in conjunction with Recommendations 3.3 and 3.4.

Recommendations

Recommendation 3.3:

In relation to finding 5.1, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, or if it requires more information in order to make a decision,, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.4:

In relation to finding 5.1, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, then the Reviewer recommends that Council obtain legal advice about whether travel expenses to the MWRRG SPAG and TARG meetings are properly claimable under the Cardinia Expenses Policy.

20. The Reviewer has referred to records of the times that the SPAG and TARG meetings were held on 30 October 2019 as being between 10:00am – 12:00pm and 12:30pm – 2:30pm respectively and that Cr. Ross attended both. Cr. Ross was not provided with this information prior to submitting his responses and estimated that these meetings took place between 10:30am-12:00pm. Cr. Ross has clarified that he

only attends the SPAG meeting as a Council delegate, which he was appointed as in 2008. However he will often attend the TARG meeting which follows the SPAG meeting as an observer or to provide a report on SPAG matters, though he often does not stay for the entirety of the meeting. On this particular date Cr. Ross cannot recall the precise time he departed the meeting, however in light of the information provided by the MWRRG he thinks it may have been later than 12:30pm initially estimated, however not significantly later and it would have been before the meeting ended at 2:30pm because of the work he undertook later that day.

21. Cr. Ross maintains that he left the city to undertake work in his garden and lawn maintenance business, before returning later for the Board meeting, as evidenced by his toll records showing a return to the city at around 3:50pm. As evidence of the work performed, Cr. Ross has an invoice for work undertaken in Pakenham on 30 October 2019 that has been provided to the Reviewer.
22. The documentary material (including the toll records and the invoice referred to above) clearly shows that Cr. Ross travelled into the city twice to attend two separate meetings, and only made travel claims in respect of one attendance for which he was not paid, in accordance with the Policy. The findings and recommendations should be updated to reflect this.
23. In relation to claims for attendances at meetings on 27 November 2020, the Draft Supplementary Report makes the following findings and recommendations:

Findings

The Reviewer has revised Finding 5 to create a new Finding 5.1 which deals with 30 October 2019 only and also refers to claims for tolls and parking.

Finding 5.1:

- *On one occasion, being 30 October 2019, Cr Ross: was paid sitting fees of \$388.11 by MWRRG, and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking and tolls, by MWRRG, for his attendance at a paid Board meeting; and*
- *Also claimed and was reimbursed travel expenses (i.e. mileage) for a 136km return journey to the CBD, as well as parking, by Council for his attendance at unpaid meetings, the MWRRG SPAG and TARG meetings, on the same date.*

Recommendations

Recommendation 3.3:

In relation to finding 5.1, if Council does not accept Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, or if it requires more information in order to make a decision,, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

Recommendation 3.4:

In relation to finding 5.1, if Council accepts Cr Ross' explanation that he undertook two return trips to the Melbourne CBD vicinity from Pakenham on 30 October 2019 to attend the MWRRG Board meeting and the MWRRG SPAG and TARG meetings, then the Reviewer recommends that Council obtain legal advice about whether travel expenses to the MWRRG SPAG and TARG meetings are properly claimable under the Cardinia Expenses Policy.

Finding 5.1 should be read in conjunction with Recommendations 3.3 and 3.4.

25. In relation to the attendances on 27 November 2020, the Reviewer has stated that there is an inconsistency between the information provided by the MWRRG and Cr. Ross on the basis that Cr. Ross has said that he attended a SPAG and TARG meeting on this date from 10:30-12:00pm, whereas the MWRRG has said that there was a Forum Annual Review and Planning Meeting, which was a SPAG and TARG event, held from 9:30-11:00am. The event Cr. Ross attended and referred to as a SPAG and TARG meeting was the Forum Annual Review and Planning Meeting. There is no inconsistency. To the extent that there is a difference in timing recorded, it should be noted that Cr. Ross was not provided with the MWRRG meetings times when he prepared his response and provided his best recollection of the time at which this meeting occurred. This does not change the substance of Cr. Ross' response, which is supported by toll records showing the times he entered and exited the CBD for the meetings held that day.
26. The Reviewer has said that notwithstanding the fact that the toll records show that Cr Ross entered and exited the city twice on 27 November 2019 to attend the relevant meetings, this material does not show whether Cr. Ross travelled from where he claimed. The Reviewer notes that the Council may be able to review Cr. Ross' work records in order to determine whether he returned to Pakenham to undertake work obligations as claimed. An invoice for the work undertaken by Cr. Ross in Pakenham on 27 November 2019 has been provided to the Reviewer to address this issue.
27. The material clearly shows that Cr. Ross travelled into the city twice to attend two separate meetings, and only made travel claims in respect of one attendance for which he was not paid, in accordance with the Policy. The findings and recommendations should be updated to reflect this.
28. Cr. Ross has submitted claims for travel expenses in relation to attendances at the MWRRG of the understanding that these were made in accordance with the Policy. Those claims were accepted by the Council, and until now no issue has been raised with Cr. Ross as to his entitlement to make those claims. It is Cr. Ross' view that the claims were made in accordance with the Policy, however he is and always has been willing to rectify any errors in his claims by way of repayment to the Council. In the interests of resolving this matter and any concern Council may have we confirm Cr. Ross is willing to repay the travel expenses claimed in relation to 27 November and 30 October 2019, without any admission of liability to do so.

New recommendations 7 and 8

29. The Supplementary Report includes 2 new recommendations as follows:

Recommendation 7:

The Reviewer recommends that Council invite Cr Ross to provide an explanation as to why he continued to monitor and record odometer readings for his MWRRG claims as late as September 2018, but not his Cardinia Shire Council claims, and why the actual odometer readings for his MWRRG claims are consistently 136km when Cr Ross has informed the Reviewer that 136km is an average only.

Recommendation 8:

If Council does not accept Cr Ross' explanation as to why he claims a consistent 136km for return trips to the CBD vicinity with Council, then the Reviewer recommends that Council obtain legal advice about the options available to deal with its concerns.

30. In making these recommendations, the Reviewer notes that Cr. Ross claimed the 136km average by reference to odometer readings in his MWRRG travel expense claim forms. The Recommendation queries why Cr. Ross did not record this information in his Council claim forms and why if the 136km distance is an average, it is recorded by reference to odometer readings in the MWRRG forms.
31. Cr. Ross did not include any information about odometer readings in his council claim forms because the forms did not ask for this information. In terms of the MWRRG forms, for the reasons set out in his previous response Cr. Ross utilised an average distance to make these claims. Because the MWRRG form called for the odometer reading Cr. Ross would input the reading at the commencement of his journey and add on 136kms. He did this so that he did not claim travel expenses for other incidental travel undertaken over the course of the journey and in circumstances where he was confident he was claiming less than the actual distance travelled. Cr Ross ceased including this detail in the MWRRG forms from around September 2018 because it was unnecessary.