



## REPORT: Independent Investigator

**AUTHOR:** Chief Executive Officer  
**REPORT DATE:** 11 June 2021  
**TRIM REFERENCE:** ID21/864

### EXECUTIVE SUMMARY

This report is provided in response to a resolution from Council at its meeting held 24 May 2021 in relation to the appointment of an Independent Investigator.

The appointment of the Independent Investigator is to ensure that complaints received by Council, in the current term of Council, have been appropriately assessed and handled in accordance with Council's Complaints Management Policy and the Procedures for the Administration of the Dubbo Regional Council Code of Conduct.

This report makes recommendation that Pinnacle Integrity be appointed as the Independent investigator. A company profile is available at **Appendix 2**.

### FINANCIAL IMPLICATIONS

This is expected to cost Council \$38,640 excluding GST plus expenses and be funded from the following source:

COVID-19 Reserve Restricted Asset      \$88,280

### POLICY IMPLICATIONS

There are no policy implications arising from this report.

### RECOMMENDATION

1. That the report of the Chief Executive Officer, dated 11 June 2021, be noted
2. That the Draft Terms of Reference (attached as Appendix 1) be considered, with final Terms of Reference being determined by Council at its Extraordinary meeting on 15 June 2021.
3. That Pinnacle Integrity be engaged to undertake the Independent Enquiry Investigation.

*Murray Wood*  
Chief Executive Officer

## BACKGROUND

Council at its meeting held 24 May 2021 resolved:

- “1. That Council appoints under a contract for services a person, to be called ‘the independent investigator’ to be nominated by the CEO of Local Government NSW.*
- 2. That the independent investigator be tasked to audit past code of conduct complaints over the term of council to ascertain that the processes adopted complied with the relevant code of conduct processes.*
- 3. That the independent investigator seek to interview all councillors, all directors and other staff and community members as they see fit, and prepare a report for the July meeting (or such later meeting as is agreed with council) addressing whether council is and has been over the term of council compliant with its legal and regulatory obligations and to report on any systemic issues arising from the investigation such as might require possible reforms to council policies.*
- 4. That the independent investigator process is to be separate from and not inconsistent with the relevant code of conduct processes.*
- 5. That council reserves its right to promulgate further terms of reference for the independent investigator.*
- 6. That the Chief Executive Officer be requested to liaise with Local Government NSW and provide a report regarding financial implications relating to the appointment of an independent investigator, for the consideration of Council at an Extraordinary meeting to be held not before 14 days from the date of this resolution.”*

## REPORT

As per part 1 of the resolution above, correspondence occurred with the CEO of Local Government NSW and Council where informed that a conflict existed and consequently formal advice of a nomination would not occur.

Council have been referred details of two firms that are suitably qualified and experienced to undertake such investigation. These firms were subsequently approached and one could not assist and declined to quote, due to existing workload.

The Independent Investigator will provide a report on the management of code of conduct complaints received by Council, in the current term of Council, and including any systemic issues that are not consistent with Dubbo Regional Council’s Code of Conduct and supporting procedures.

Terms of Reference for this formal arrangement have been drafted (**Appendix 1**) and include provisions to interview Councillors, directors and other relevant persons in conducting a thorough inquiry and review of Code of Conduct complaints received in this term of Council.

**SUMMARY**

On assessment of documentation received, it is recommended that Pinnacle Integrity be appointed as the Independent investigator. A company profile and consultant profiles are available at **Appendix 2** and **Appendix 3** respectively.

Appendices:

- 1** Draft Terms Of Reference
- 2** Company Profile
- 3** Consultant Profiles

## TERMS OF REFERENCE

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APPOINTED INDEPENDENT INVESTIGATOR: To be Determined

DATE: 31 May 2021

## BACKGROUND

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Council at its meeting held 24 May 2021 resolved, in part;

2. *That the independent investigator be tasked to audit past code of conduct complaints over the term of council to ascertain that the processes adopted complied with the relevant code of conduct processes.*
3. *That the independent investigator seek to interview all councillors, all directors and other staff and community members as they see fit, and prepare a report for the July meeting (or such later meeting as is agreed with council) addressing whether council is and has been over the term of council compliant with its legal and regulatory obligations and to report on any systemic issues arising from the investigation such as might require possible reforms to council policies.*
4. *That the independent investigator process is to be separate from and not inconsistent with the relevant code of conduct processes.*
5. *That council reserves its right to promulgate further terms of reference for the independent investigator"*

In this term of Council, a total of 22 complaints have been received that have been dealt with via the Chief Executive Officer's Delegation.

## PURPOSE

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To ensure that complaints received by council, in the current term of council, have been appropriately assessed and handled in accordance with Council's Complaints Management Policy and the Procedures for the Administration of the Dubbo Regional Council Code of Conduct.

## OBJECTIVES

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The Independent Investigator will provide a report on systemic issues in a way that is consistent with Dubbo Regional Council's Code of Conduct.

## OUTPUTS

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The Independent Investigator will provide a report which seeks to reference the matters listed above.

The independent Investigator in their report will provide recommendations where previous recommendations or determinations have been made that are not consistent with the Procedures for the Administration of the Dubbo Regional Council Code of Conduct.

## SCOPE

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### Part One

The investigator will consider a review of complaints received by council in the current term of council (since September 2017) and assess them against council's complaints management policy and council's procedures for the administration of the Dubbo Regional Council Code of Conduct.

The investigator will make a determination on each of the complaints received, whether;

- The complaint has been assessed and administered appropriately under the complaint management policy.
- The complaint has been assessed and administered appropriately under the procedures for the administration of the Code of Conduct.
- The complaint has been assessed and administered appropriately in the referral to external agencies/authorities.
- Action taken by staff was reasonable and/or lawful.
- The current complaints processes are best approach.

### Part Two

The investigator will as a part of the review of complaints and to determine if council is and has been over the term of council compliant with its legal and regulatory obligations and to report on any systemic issues arising from the investigation, interview at a minimum;

- All Councillors (10)
- All Directors (5)
- Any other staff as deemed necessary
- Any community members as deemed necessary

## THE INDEPENDENT INVESTIGATORS AUTHORITY

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- The independent investigator will be provided with a copy of councils Policies and Procedures; Complaints Management Policy, Code of Conduct, and Procedures for the Administration of the Dubbo Regional Council's Code of Conduct
- The independent investigator will be provided with a copy of any Council minutes and reports referencing code of conduct matters in the current term of council
- The independent investigator will be given access to correspondence relating to the complaints received
- The independent investigator will be given access to any other documentation that is relevant to the investigation
- The independent investigator will be given access to interview Councillors, Directors, and other staff and community members relevant to the investigation

- If the independent investigator needs further authority to gain access to usually restricted information they are to seek assistance from the Chief Executive Officer.

#### THE INDEPENDENT INVESTIGATORS OBLIGATIONS

- Act fairly, without bias
- Disclose any potential conflicts of interest
- Give people who are implicated in the investigation a full opportunity to participate and provide any information to the independent investigator
- Make all reasonable enquiries to gather evidence before making a finding
- Complete review in a timely manner
- Observe confidentiality requirements

#### TIMING

This report, including any recommendation of review is to be presented to the Chief Executive Officer no later than 5 July 2021 to be subsequently provided to the Ordinary Council Meeting to be held 26 July 2021.

#### FEE PROPOSAL INCLUDING SCHEDULE OF RATES

In submitting for consideration a fee proposal, an estimation of hours to perform all tasks associated with investigation through to production of report for all complaints in this term of council is required. Itemisation of known disbursements should be shown. An example table is provided.

Item	Hourly Rate	Estimation of quantity	Total
Professional Fees: Director			
Professional Fees: Associate			
Travel/ Accommodation Expenses			



# Company Profile

Updated May 2021



Established in 2012 Pinnacle Integrity, as Conduct Reviewer, has undertaken over 60 Code of Conduct preliminary assessments and investigations for Local Government organisations and is currently appointed to numerous Code of Conduct panels throughout NSW.

Since its inception, Pinnacle Integrity has grown to a team of 12 highly skilled professionals with a diversity of skills and experience to support organisations in the management of workplace risk and conduct management.

Pinnacle Integrity professionals have extensive experience in Local Government. Pinnacle Integrity's current General Manager has held previous appointments at executive levels in Local Government and senior commercial appointments managing risk management functions for Local Governments across Australia. Our specialist investigation professionals have also held executive appointments across the public sector with extensive experience working directly with Local Governments throughout Australia. Many of our professionals also have higher degree qualifications in public administration, law and corporate governance with an intimate knowledge of Council governance and regulatory frameworks.

Pinnacle Integrity's footprint across the Local Government Sector is extensive. Our professionals have worked closely with Council's executive and elected representatives dealing with high-risk integrity, workplace and governance matters on a regular and ongoing basis. Pinnacle Integrity has Local Government specialists who have been trained in, and have a comprehensive understanding of, Local Government Act and Regulations, NSW Model Code of Conduct and Procedures for Administration of the Code, Practice Notes issued by OLG, NSW Councillor Handbook and the governance framework of Councils.

The following is a summary of some of the NSW Councils that have, and continue, to utilise our specialist services, either through appointment on Code of Conduct Review Panel or through direct engagement under NSW PPMS Prequalification Scheme;



Hornsby Shire Council	Ku-ring-gai Council	Willoughby City Council
Hawkesbury City Council	Newcastle City Council	Liverpool City Council
Centroc (Central NSW Councils)	Snowy Monaro Regional Council	Hunter Joint Organisation (of Councils)
Glen Innes Severn Council	Camden City Council	Penrith City Council
City of Sydney	Moree Plains Shire Council	Ballina Shire Council
Sutherland Shire Council	Central Coast Council	Cessnock City Council
Richmond Valley Council	Parramatta City Council	

Pinnacle Integrity has undertaken Code of Conduct assessments including but not limited to, abuse of office/authority; corrupt conduct; fraud (procurement); media policy breaches, development and planning, harassment; racism, conflict of interests, discrimination, bullying, and theft.

In recent years Pinnacle Integrity has been relied upon to undertake over sixty (60) Code of Conduct assessments for Councils across NSW, many of which have resulted in formal investigations.

A summary of these include, but are not limited to;

- Sutherland - conflict of interest and non-disclosure of COI
- Snowy Monaro – conflict of interest in procurement based on public interest disclosure.
- Gosford – abuse of authority and alleged corruption
- City of Sydney – investigation into a fatality as a result of a workplace incident
- Lake Macquarie – breach of confidentiality involving high profile media personnel and alleged bribery
- Hornsby – multiple alleged corruption matters published in the media
- Upper Hunter – repeated breach of reasonable directions / unauthorised public comments
- Moree Plains – abuse of authority, harassment.

- Newcastle City – conflict of interest, meeting practice / protocol breaches
- Hawkesbury City – bullying / unauthorised comments

The objective of Pinnacle Integrity in undertaking these assessments is to evaluate the available evidence, review and make recommendations in accordance with the Procedures for the Administration, and the principles of, the Model Code of Conduct.

Pinnacle Integrity has been successful in restoring the effective and efficient governance of Council through improving compliance, education and enhancing professional relationships through alternative resolutions and/or recommendations.

In some cases, Pinnacle Integrity has progressed matters to formal investigation where issues cannot be resolved at the assessment stage. These matters are conducted expeditiously and through ongoing dialogue with complaints co-ordinators and other nominated Council officials, including the General Manager / CEO.

In addition to its professional reputation as a Code of Conduct Reviewer for Local Government, Pinnacle Integrity has built an enviable reputation assisting other tiers of Government and ASX 100 listed corporations in managing high level workplace investigations, cultural reviews, code of conduct matters and reviewing critical workplace incidents. Each year, Pinnacle Integrity undertakes over 200 high level investigations, regulatory, and cultural reviews across the NSW Government Clusters and their agencies including; Health, Communities and Justice, Customer Service, and Transport clusters.



# Consultant Profiles

Updated March 2021



## David Cushway

David was appointed General Manager of Pinnacle Integrity in early 2021. David's appointment sees him bring over 30 years of investigations, human resource management and senior executive knowledge to the business.

David's experience is underpinned by a 25-year career in law enforcement where he led investigations into serious crime, organised crime and workplace misconduct. He also led the development of strategic responses to improve the safety of communities. Having reached senior ranks in the NSW Police, David was appointed to senior executive roles in Local Government and Higher Education. He was later recruited to a multinational risk management firm where he held the role of State Head of Local Government, supporting local governments across NSW, Queensland and the Northern Territory. Most recently David was appointed to lead a NSW Premier's Priority program supporting children and families across NSW.

David's experience in workplace relations and conduct management is extensive. He holds qualifications in Human Resources and has led workplace reforms in Local Government and Higher Education. He has led investigations into systemic corruption, major workplace conflict and undertaken cultural reviews of major corporations. He has also led negotiations in significant enterprise agreements, mediated significant disputes and led organisational restructures.

David is passionate about workplace equity, applying natural justice principles in workforce management, resolving conflict, and improving workplace culture.

### Qualifications

- Bachelor of Business (Human Resource Management) *Charles Sturt University*
- Master of Public Administration (with Merit) *University of Sydney*
- Graduate Company Director's Course *Australian Institute of Company Directors*

## Peter Gallagher

Peter brings over 40 years investigation and human resource experience and knowledge to Pinnacle Integrity. As Director Human Resources for the NSW Police, Peter was responsible for a workforce of over 20,000 employees where he led significant reforms in the workplace relations

space, negotiated major industrial disputes, and oversaw scores of hearings held in state industrial jurisdictions.

Peter is a highly skilled investigator having held the role as Commander, Professional Integrity Branch undertaking major investigations working in hand with oversight agencies including the NSW Ombudsman and the Police Integrity Commission. Peter has also worked at the Independent Commission Against Corruption where he was responsible for investigations into State and Local Government authorities. He also worked with the Northern Territory Police in the development of policy reforms to improve work practices and integrity.

Peter's experience has enabled him to bring his technical knowledge to investigations concerning workplace disputes, whilst at the same time providing an empathetic approach to complainants, respondents, and witnesses. He has been involved in many investigations concerning allegations of bullying, harassment, intimidation, and discrimination.

Peter has independent investigations on behalf of Government agencies, Local Councils, Higher Education, and major corporate clients

Peter is particularly experienced in Human Resource Management and investigating complaints which involve alleged breaches of policies and procedures. He is able to provide sound, evidence-based advice to clients regarding proportional and defensible responses to issues.

He is currently undertaking PhD studies around workplace motivation and assisting employees to thrive, not just survive, in their work environments.

Peter has been awarded the Australian Police Medal and holds a current Commercial and Private Inquiry Agents licence.

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### Qualifications

- Master of Arts (Terrorism, Safety & Security).
- Master of Leadership and Management.
- Graduate Diploma in Executive Leadership.
- Graduate Certificate in Business Communication

## Danielle Fish

Danielle has over 30 years' experience as a Human Resource leader working with organisations to effectively manage workplace risk and build positive and engaging work environments. She has held executive roles in Human Resources, Workplace Relations and Safety with organisations such as Coca-Cola Amatil, KPMG and Ausgrid during a significant privatisation program.

Danielle now provides investigative, consulting and advisory services to organisations of various sizes and has operated in a broad range of industries including financial services, consumer goods, manufacturing, health, education, community services and all levels of the public sector.

Danielle has been conducting workplace investigations, inquiries and advisory for Pinnacle Integrity since 2018, and prior to this, led the investigation process and employee relations teams in several organisations.

Danielle's investigative experience includes matters in the areas of workplace bullying, harassment, discrimination, serious misconduct, unprofessional behaviour, employee grievances, serious safety incidents and external complaints. This has included developing expertise in government codes of conduct, Workplace Health and Safety across industry sectors, academic conduct and research matters, child protection, government planning and development regulation and complex industrial relations matters.

Danielle is a Member of Australian Institute of Human Resources and a member of the Peter Faber Law and Business Faculty, teaching undergraduates at the ACU.

### Qualifications

- Master of Business Administration
- Bachelor of Arts.