



---

**Glenelg Shire Council  
Minutes of the Statutory Council Meeting  
Friday 11 November 2016, at 6.00pm at  
Glenelg Shire Municipal Offices – Council Chamber  
71 Cliff Street, Portland**

---

<b><u>Contents</u></b>	<b><u>Page</u></b>
Present:	3
Opening Prayer:	3
Aboriginal Acknowledgement:	3
Receipt of Apologies:	3
<u>A. Management Reports</u>	4
A1. Declaration of Conflict of Interest	4-7
A2. Opportunity for Councillors to address the meeting following the General Election	8
A3. Appointment of a Temporary Chairperson	9
A4. Determination of Mayoral Term of Office	10
A5. Election of the Mayor	11-13
A6. Ordinary Council Meeting – November 2016	14-15
A7. Oath of Office and Councillor Code of Conduct	16-17
<u>Index – Separate Circulations to Reports:</u>	18
<u>Closure of Council Meeting</u>	19

TIME:

6.02 pm

PRESENT:

**Cr Robert Halliday, Cr Chrissy Hawker, Cr Alistair McDonald, Cr Anita Rank, Cr Karen Stephens, Cr Geoff White, Cr Gilbert Wilson.**

**Also in attendance were the Chief Executive Officer (Mr Greg Burgoyne), Group Manager Corporate Services (Ms Karena Prevett), Group Manager Assets and Infrastructure (Mr Paul Healy), Group Manager Planning and Economic Development (Mr Stephen Kerrigan), Group Manager Community and Culture (Ms Edith Farrell) and Council Support Coordinator (Mrs Kylie Walford).**

OPENING PRAYER:

The Chief Executive Officer opened the Meeting with the Council Prayer.

ABORIGINAL ACKNOWLEDGEMENT:

The Chief Executive Officer read the Aboriginal Acknowledgement.

RECEIPT OF APOLOGIES:

Nil.

A. MANAGEMENT REPORTS:**A1. DECLARATION OF CONFLICT OF INTEREST**

Group Manager: Karena Prevett, Group Manager Corporate Services  
 Author: Scott Millard, Corporate Coordinator

Separate Circulations – Non Confidential

No.	Separate Circulation Title, Date and Author as detailed on the separate circulation (where applicable)	ECM
1.	"Conflict of Interest - A Guide for Councillors", October 2012, published by the former Department of Planning and Community Development (Department of Environment, Land, Water and planning – DEWLP)	1335973
2.	Glenelg Shire Council Conflict of Interest Form	1876026

Background

*The Local Government Act 1989* (the Act) contains mandatory requirements for both direct and indirect conflict of interest. The objective of the provisions is to enhance good governance in Victorian Local Government and to improve public confidence in the probity of decision making at Victoria's 79 Councils. Councillors are responsible for ensuring that they comply with the relevant provisions contained in Part 4 – Division 1A of the Act.

The declaration of a conflict of interest by a Councillor ensures transparency in Council decision making. Councillors must be clear and ensure that private interests are not affecting their public duties and that they are not using their position for personal benefit.

Report

Sections 77A to 78E of the Act define specific circumstances that give rise to a conflict of interest and Section 79 of the Act describe the actions that Councillors must take when they have such a conflict, as outlined below:

"Section 77A. Direct and indirect interests

- (1) *A relevant person has a conflict of interest in respect of a matter if the relevant person has a direct interest or indirect interest in the matter.*
- (2) *A relevant person has a direct interest in a matter if the relevant person has an interest of a kind described in section 77B.*
- (3) *A relevant person has an indirect interest in a matter if the relevant person has:*
  - (a) *a close association as specified in section 78; or*
  - (b) *an indirect financial interest as specified in section 78A; or*
  - (c) *a conflicting duty as specified in section 78B; or*

**A1. DECLARATION OF CONFLICT OF INTEREST**

(continued)

- (d) *received an applicable gift as specified in section 78C; or*
  - (e) *become an interested party as specified in section 78D; or*
  - (f) *a residential amenity that may be altered as specified in section 78E.*
- (4) *A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest of the relevant person is so remote or insignificant that the direct interest or indirect interest could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter.*
- (5) *A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest the relevant person holds-*
- (a) *is held as a resident, ratepayer or voter and does not exceed the interests generally held by other residents, ratepayers or voters; or*
  - (b) *is held in common with a large class of persons and does not exceed the interests generally held by the class of persons.*
- (6) *A relevant person does not have a conflict of interest in a matter if the relevant person:*
- (a) *does not know the circumstances that give rise to the conflict of interest; and*
  - (b) *would not reasonably be expected to know the circumstances that give rise to the conflict of interest.*

**Section 79. Disclosure of Conflict of Interest**

- (1) *If a Councillor or member of a special committee has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or the special committee, the Councillor or member must, if he or she is attending the meeting, disclose the conflict of interest in accordance with subsection (2).*
- (2) *A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest-*
- (a) *by either:*
    - (i) *advising the Council or special committee at the meeting of the details required under paragraphs (b) and (c) immediately before the matter is considered at the meeting; or*

**A1. DECLARATION OF CONFLICT OF INTEREST**

(continued)

- (ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and
  - (b) *classifying the type of interest that has given rise to the conflict as either:*
    - (i) a direct interest; or
    - (ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, 78D or 78E; and
  - (c) *describing the nature of the interest; and*
  - (d) *if the Councillor or member advised the Chief Executive Officer of the details under paragraph (a)(ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.*
- (5) *The Chief Executive Officer must:*
- (a) *keep written disclosures given to him or her under this section in a secure place for 3 years after the date the Councillor or member of a special committee who made the disclosure ceases to be Councillor or member of a committee; and*
  - (b) *destroy the written disclosure when the 3 year period referred to in paragraph (a) has expired.*
- (6) *While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:*
- (a) *leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and*
  - (b) *remain outside the room and any gallery or other area in view or hearing of the room.*
- (7) *The Mayor or the Chairperson of the special committee must cause the Councillor or member of a special committee to be notified that he or she may return to the room after:*
- (a) *consideration of the matter; and*
  - (b) *all votes on the matter.*

**A1. DECLARATION OF CONFLICT OF INTEREST**

(continued)

- (8) *If a Councillor or member of a special committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting:*
- (a) *the declaration of the conflict of interest; and*
  - (b) *the classification of the interest that has given rise to the conflict, and if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.*
- (9) *Unless section 80 applies, a Councillor or member of a special committee who fails to comply with this section is guilty of an offence and liable to a fine not exceeding 120 penalty units.*

It is preferable that all declarations of a conflict of interest be made in writing to the Chief Executive Officer. This should be done by completing a Conflict of Interest declaration form separately circulated with this report. This would meet the requirements of Section 79(2)(a)(ii) of the Act.

The Chairperson of an Ordinary Council Meeting, Special Council Meeting, Special Committee Meeting or Council Advisory Committee will call for the declaration of conflicts of interest at the beginning of the meeting. It is at this point that Councillors should disclose their conflict of interest. Further to this the conflict of interest should be redeclared directly before the item is considered.

It is important to remember that it is the Councillors responsibility as an elected member to identify and disclose any conflicts of interest when required to do so.

A copy of the booklet published by the former Department of Planning and Community Development (Department of Environment, Land, Water and Planning – DEWLP) “Conflict of Interest – A Guide for Councillors (October 2012)” has been separately circulated with this report for Councillors reference and an online copy of the *Local Government Act 1989* is available at [www.localgovernment.vic.gov.au](http://www.localgovernment.vic.gov.au).

**Declaration of Conflict of Interest**

Any ‘Declarations of Conflict of Interest’ for this Statutory Council Meeting should be formally declared at this point. They will be noted within the minutes of the meeting and be formally received.

Nil.

**A2. OPPORTUNITY FOR COUNCILLORS TO ADDRESS THE MEETING FOLLOWING THE GENERAL ELECTION**

Subsequent to the General Election and being the first Council Meeting of the new Council term, each Councillor was given an opportunity to address the meeting.

Each Councillor addressed the meeting.

**A3. APPOINTMENT OF A TEMPORARY CHAIRPERSON**

Group Manager: Karena Prevett, Group Manager Corporate Services  
Author: Scott Millard, Corporate Coordinator

Report

The Chief Executive Officer will call for nominations from Councillors for the appointment of a Temporary Chairperson.

Officer Recommendation

That Cr. \_\_\_\_\_ be appointed as the Temporary Chairperson to conduct the meeting until the Mayor is elected.

OR

That Council authorises the CEO to conduct the meeting until the Mayor is elected.

**MOTION**

**MOVED Cr Wilson**

**That Cr. Halliday be appointed as the Temporary Chairperson to conduct the meeting until the Mayor is elected.**

**SECONDED Cr Stephens**

**CARRIED**

**A4. DETERMINATION OF MAYORAL TERM OF OFFICE**

Group Manager: Karena Prevett, Group Manager Corporate Services  
Author: Scott Millard, Corporate Coordinator

**Background**

Section 71(1) of the *Local Government Act 1989* provides that 'At a meeting of the Council that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.'

**Report**

In addition to the above, Section 71(2) of the *Local Government Act 1989* states *'that before the Mayor is elected the Council may resolve to elect a Mayor for a term of 2 years* and Section 71(3) provides that:

- (3) The Mayor is to be elected-
- (a) after the fourth Saturday in October but not later than 30 November in each year; or
  - (ab) if under subsection (2), the Mayor is elected for a term of 2 years, the next election of Mayor is 2 years after the fourth Saturday in October but not later than 30 November in the second year after the election; or
  - (b) as soon as possible after any vacancy in the office of Mayor occurs.

The Glenelg Shire Council Governance Local Law 2013 Council Meeting Procedure incorporates a document titled 'Glenelg Shire Council Election of the Mayor Procedure'. Clause 3.2 of this procedure states that the term of office for the Mayor can be for either one or two years.

The term of office for previous Mayors of the Glenelg Shire Council has traditionally been a one year term

**Officer Recommendation**

That Council elects a Councillor to the position of Mayor for a term of one year.

OR

That Council elects a Councillor to the position of Mayor for the term of two years.

**MOTION**

**MOVED Cr White**

**That Council elects a Councillor to the position of Mayor for a term of one year.**

**SECONDED Cr Hawker**

**CARRIED**

**A5. ELECTION OF THE MAYOR**

Group Manager: Karena Prevett, Group Manager Corporate Services  
 Author: Scott Millard, Corporate Coordinator

**Separate Circulation/s – Non Confidential**

No.	<i>Separate Circulation Title, Date and Author as detailed on the separate circulation (where applicable)</i>	ECM
1.	Departmental Procedure titled 'Election of the Mayor' as incorporated in the Glenelg Shire Council Governance Local Law 2013, Council Meeting Procedure.	1970097

**Background**

Section 71(1) of the *Local Government Act 1989* provides that: 'At a meeting of the Council that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.'

**Report**

The Departmental Procedure titled 'Election of the Mayor', separately circulated with this report, specifies the way in which the Election of the Mayor is to be conducted and is outlined in summary below:

1. **Procedure for voting for the election of Mayor – "Show of Hands"**
  - a. Temporary Chairperson calls for nominations for the position of Mayor.
  - b. All nominations must be moved and seconded to be accepted by the Temporary Chairperson, viz;
    1. That Cr \_\_\_\_\_ be nominated for the position of Mayor.
    2. That Cr \_\_\_\_\_ be nominated for the position of Mayor.  
(etc)
  - c. If only two nominations are received, the Temporary Chairperson proceeds by asking the Council to vote on the first nominated candidate and then the second nominated candidate. If one candidate has a majority of votes, that candidate is duly elected as the Mayor. If both candidates have the equal number of votes, the candidate to be duly elected is determined by lot (see item no. 2 of this report).
  - d. If more than two nominations are received, the Temporary Chairperson proceeds by asking the Council to vote on each candidate in the order of the nominations received.

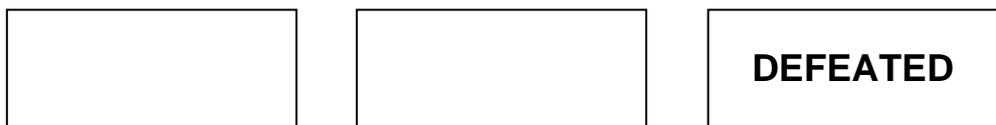
**A5. ELECTION OF THE MAYOR**

(continued)

- e. When item 1(d) is completed, the candidate with the fewest number of votes cast must be eliminated (and if more than one of the candidates have the same amount of the least number of the votes cast, the candidate for exclusion is determined by lot (see item no. 2 of this report).
- f. The names of the remaining candidates must be put to the vote again. This "exclusion process" must continue until there are only two candidates remaining.
- g. When there are only two candidates remaining, the same procedure is conducted as specified in item 1(c) of this report.

**2. Procedure for Draw of Lot****a. Three or more candidates in Draw of Lot - conducted to determine who will not progress**

1. Each candidate gets one draw.
2. Candidates will draw in alphabetical order of surnames. If two surnames are in identical order those candidates first names will determine order of the draw.
3. Identical pieces of paper for the number of candidates are to be placed in the voting receptacle. One of these pieces of paper is to have 'DEFEATED' written on it.

*Example*

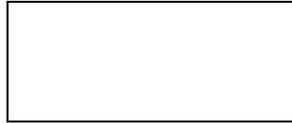
4. The candidates each draw their piece of paper. The candidate who draws the paper with the word 'DEFEATED' on it shall be declared as defeated.
  5. A further vote shall then be conducted by show of hands on the remaining candidates.
- b. Two candidates only in Draw by Lot - conducted to determine who will be elected**

1. Each candidate gets one draw.
2. Candidates will draw in alphabetical order of surnames. If two surnames are in identical order those candidates first names will determine order of the draw.

**A5. ELECTION OF THE MAYOR**

(continued)

3. Identical pieces of paper for the number of candidates are to be placed in the voting receptacle. One of these pieces of paper is to have 'ELECTED' written on it.



4. The candidates each draw a piece of paper. The candidate who draws the paper with the word 'ELECTED' on it shall be declared duly elected.

That Cr \_\_\_\_\_ is duly elected to the position of Mayor for a term of one year.

OR

That Cr \_\_\_\_\_ is duly elected to the position of Mayor for a term of two years.

- 1. Cr White nominated Cr Rank for the position of Mayor for the 2016/2017 mayoral term.**

**The nomination was seconded by Cr Hawker.**

**Those voting for Cr Rank: Cr White, Cr Hawker, Cr McDonald, Cr Rank**

- 2. Cr Wilson nominated Cr Stephens for the position of Mayor for the 2016/2017 mayoral term.**

**The nomination was seconded by Cr Stephens.**

**Those voting for Cr Stephens: Cr Wilson, Cr Stephens, Cr Halliday**

**The Temporary Chairperson declared Cr Rank duly elected to the position of Mayor for 2016/2017 mayoral term.**

*The Temporary Chairperson Cr Halliday presented Mayor Cr Rank with the Mayoral Regalia.*

*Mayor Cr Rank assumed the chair and provided an acceptance address.*

*Each Councillor congratulated Mayor Cr Rank.*

**A6. ORDINARY COUNCIL MEETING – NOVEMBER 2016**

Group Manager: Karena Prevett, Group Manager Corporate Services  
Author: Scott Millard, Corporate Coordinator

**Background**

Section 83 of the *Local Government Act 1989* provides that:

The Council may hold-

- (a) ordinary meetings at which general business of the Council may be transacted;  
and
- (b) special meetings at which the business specified in the notice calling the meeting may be transacted.

**Report**

In accordance with previous Council decisions, Ordinary Council Meetings have been held on the fourth Tuesday of each month except for December and subject to public holidays and commencing at 7.00pm.

This report recommends that this practice is maintained for the November 2016 Ordinary Council Meeting with a report to be prepared for the November 2016 Ordinary Council Meeting for consideration of the Council meeting dates, times and locations from December 2016 to December 2017.

This will allow for consideration of the meeting schedule following determination of the term of Mayor and move to a calendar year rather than a mayoral year schedule.

**Officer Recommendation**

1. That an Ordinary Council Meeting be held on Tuesday 22 November 2016 at the Portland Council Chambers commencing at 7.00pm.
2. That public notice of the date, time and location of the Ordinary Council Meeting be placed in the Portland Observer, Casterton News and on Council's website at least 7 days before the meetings are held.

**A6. ORDINARY COUNCIL MEETING – NOVEMBER 2016**

**MOTION**

**MOVED Cr Stephens**

- 1. That an Ordinary Council Meeting be held on Tuesday 22 November 2016 at the Portland Council Chambers commencing at 7.00pm.**
- 2. That public notice of the date, time and location of the Ordinary Council Meeting be placed in the Portland Observer, Casterton News and on Council's website at least 7 days before the meetings are held.**

**SECONDED Cr Halliday**

**CARRIED**

**A7. OATH OF OFFICE AND COUNCILLOR CODE OF CONDUCT**

Chief Executive Officer: Greg Burgoyne, Chief Executive Officer  
 Author: Scott Millard, Corporate Coordinator

**Separate Circulation – Non Confidential**

No.	<i>Separate Circulation Title, Date and Author as detailed on the separate circulation (where applicable)</i>	ECM
1.	Signed Oaths and Affirmations of Office witnessed by the Chief Executive Officer on 4 November 2016 and 8 November 2016.	2196228

**Background**

Section 63 of the *Local Government Act 1989* states that a person elected to be a Councillor is not capable of acting as a Councillor unless he or she has:

- taken the Oath of Office specified in subsection (1A) and in accordance with Division 2 of Part IV of the *Evidence (Miscellaneous Provisions) Act 1958*; and
- read the Councillor Code of Conduct and made a written declaration in front of the Chief Executive Officer stating that they will abide by the Councillor Code of Conduct.

**Report**

In accordance with the provisions of Section 63 of the *Local Government Act 1989* (the Act) and with Division 2 of Part IV of the *Evidence (Miscellaneous Provisions) Act 1958* each Councillor has to either taken the 'Oath' or 'Affirmation' of Office.

All Councillors have made an Oath or Affirmation of Office before the Chief Executive Officer on Friday, 4 November 2016 or Tuesday, 8 November 2016

In accordance with section 63(2)(c) of the Act these Oaths and Affirmations are hereby tabled for incorporation in the minutes of this meeting.

In accordance with section 63(3) of the Act all Councillors have made a written declaration and witnessed by the Chief Executive Officer stating that they will abide by the Councillor Code of Conduct.

**A7. OATH OF OFFICE AND COUNCILLOR CODE OF CONDUCT**

(continued)

Officer Recommendation

That Council:

1. Note the tabling of the Oaths and Affirmations of Office, made by Councillors before the Chief Executive Officer on 4 November 2016 and 8 November 2016.
2. Record the Oaths and Affirmations of Office in the minutes of this meeting.
3. Note that each Councillor has made a written declaration and witnessed by the Chief Executive Officer stating that they will abide by the Councillor Code of Conduct.

**MOTION**

**MOVED Cr Wilson**

1. **Note the tabling of the Oaths and Affirmations of Office, made by Councillors before the Chief Executive Officer on 4 November 2016 and 8 November 2016.**
2. **Record the Oaths and Affirmations of Office in the minutes of this meeting.**
3. **Note that each Councillor has made a written declaration and witnessed by the Chief Executive Officer stating that they will abide by the Councillor Code of Conduct.**

**SECONDED Cr White**

**CARRIED**

INDEX – SEPARATE CIRCULATIONS TO REPORTSSeparate Circulation to Councillors, CEO, Group Managers and available to the Public

- A1. “Conflict of Interest - A Guide for Councillors”, October 2012, published by the former Department of Planning and Community Development (Department of Environment, Land, Water and planning – DEWLP)
- A1. Glenelg Shire Council Conflict of Interest Form
- A5. Departmental Procedure titled ‘Election of the Mayor’ as incorporated in the Glenelg Shire Council Governance Local Law 2013, Council Meeting Procedure.
- A7. Signed Oaths and Affirmations of Office witnessed by the Chief Executive Officer on 4 and 8 November 2016.

Officer Recommendation

The documents separately circulated to Councillors, CEO, Group Managers and available to the Public, as listed above, be received.

**MOTION****MOVED Cr Stephens**

**The documents separately circulated to Councillors, CEO, Group Managers and available to the Public, as listed above, be received.**

**SECONDED Cr Wilson****CARRIED**

THERE BEING NO FURTHER BUSINESS, THE MAYOR DECLARED THE MEETING CLOSED AT 6.28PM.

**I HEREBY CERTIFY THAT PAGES 1 TO 19 ARE CONFIRMED AND ARE A TRUE AND CORRECT RECORD.**

**CR ANITA RANK**

MAYOR

**22 November 2016**

### **Victorian State Legislation Copyright Acknowledgement**

*Extracts from legislation of the Parliament of the State of Victoria, Australia, are reproduced with the permission of the Crown in right of the State of Victoria, Australia. The State of Victoria accepts no responsibility for the accuracy and completeness of any legislation contained in this publication.*

*© State of Victoria, Australia. Copyright of legislation referenced in this publication is owned by the Crown in right of the State of Victoria, Australia.*