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**Glenelg Shire Council**  
**Minutes of the Council Meeting held on**  
**Tuesday 25 July 2023 at 7:00 pm at**  
**Glenelg Shire Offices**  
**71 Cliff Street, Portland**

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## **1. PRESENT**

Cr Scott Martin (Mayor), Cr Jayden Smith (Deputy Mayor), Cr Michael Carr, Cr Chrissy Hawker and Cr Karen Stephens.

Also in attendance were the Chief Executive Officer (Mr Paul Phelan), Director Corporate Services (Mr David Hol), Director Community Services (Ms Jayne Miller), Director Assets (Mr Stuart Husband), Chief Information Officer (Ms Ann Kirkham) and Executive Assistant Corporate Services (Ms Rachael Currie) Executive Assistant Community Services (Ms Laura Van Oosten)

## **2. OPENING PRAYER**

The Mayor opened the meeting with the Council Prayer.

## **3. ACKNOWLEDGEMENT OF COUNTRY**

On behalf of this Glenelg Shire Council, I respectfully acknowledge the traditional lands and waters of the Gunditjmarra, Jardwadjali and Boandik people and their respective culture heritages. I acknowledge the elders past and present here at today's gathering and through them, to all Aboriginal people.

Aboriginal and Torres Strait Islander People provide an important contribution to Australia's cultural heritage and identity. We respectfully acknowledge the Aboriginal and Torres Strait community living throughout the Glenelg Shire and the contribution they make to the Glenelg Shire's prosperity and wellbeing.

## **4. RECORDING OF MEETINGS**

To those present in the gallery today, by attending a public meeting of the Council you are consenting to your image, voice and comments being recorded and published. Council meetings maybe livestreamed and the Chief Executive Officer will enable a copy of the recording to the public.

## **5. RECEIPT OF APOLOGIES**

Cr Gilbert Wilson.

## **6. QUESTION TIME**

### **6.1. QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETING**

#### **5. Budget and Assets**

Mr David Punton of Portland asked the following questions:

- b. The rates that are sent out to ratepayers are unlawful and Council has no legal authority to ask for payment on these rates, can Council produce the documents to advise that this is lawful?*

Mr Paul Phelan, Chief Executive Officer advised that this has been raised by several residents and that Council will take this question on notice and provide supporting documentation that the Local Government properly constructed body with case law to support this.

Mr David Hol, Director Corporate Services has also since provided response to Mr Punton summarising that Local Government has the right to collect rates, the Glenelg Shire Council does exist, created and continued under the *Local Government Act 2020* and the former *Local Government Act 1989* legislation (and before that the *Local Government Act 1958*). As a public authority created by Victorian statute the Glenelg Shire Council is then able to apply powers, duties and discretions imposed upon it through state based legislation. Unless or until any part of that is brought into question through a proper legal challenge, propositions questioning the validity of Local Government are without practical effect

c. *Council has works department how many on the ground employees are there and why are there seven levels of managers above this?*

*Mayor Martin advised that he would take the question on notice.*

Mr Stuart Husband, Director Assets provided the following response to Mr Punton. As per the Council Budget 2023-2024 (p.32), the Assets group full-time equivalent (FTE) staffing number is 83, with a small number of these roles currently vacant. There are three (3) less positions in current budgeted FTE than the 2021-2022 Budget (FTE Assets 86). The employment profile remains a mix of full-time, part time, casual and temporary positions.

Management and oversight of Assets is made up of one (1) director and five (5) functional managers covering: Operations, Projects & Facilities, Works, Local Port Operations and Airport Operations. The number of reporting roles to each of the five (5) manager roles spans from two (2) people to 64 people, spread across key locations within the Shire and based on service delivery required at each location.

The Council's Enterprise Agreement governs skills sets and responsibilities of senior roles such as technical (eg engineering), supervision and management.

## 6.2. QUESTIONS FROM THE GALLERY

### 1. Childcare, Offshore Windfarm and Budget

Mr Gary Humm of Portland asked the following questions:

a. *Childcare services in our region, can Council elaborate on what intervention and advocacy has been done in the last 6 months to support young families through the Shire?*

Mayor Martin advised that Council understands that this is a very important topic, has written to the Minister Ingrid Stitt and a meeting with Shadow Minister Angie Bell regarding this topic.

Ms Jayne Miller, Director Community Services advised Council has six centres across the Shire, 3 in Portland and one in Dartmoor, one in Heywood and one in Casterton. There is waiting lists for long daycare and kinder programs, specifically in the Portland Centres and Casterton complex. Council has written a submission to the productivity commission in May about the childcare issues in the Shire.

Council hosted Shadow Minister for Youth Angie Bell in May and advocacy continues to the Department of Education around the workforce issues and barriers attracting workforce to the Shire. Wait times are not as simply as one thinks as there is a priority of care for more vulnerable children.

- b. Based on the potential damage to Portland and the local economy if the Offshore Windfarm was developed, does this Council commit to protect our lifestyle and intervene on behalf of the Shire residents?*

Point of order Cr Carr, adding dialogue to a question at 7.10pm.

Mayor Martin advised this is a Commonwealth Government consultation process; I encourage you to provide your concerns and questions to this consultation process.

- c. Would the Mayor explain and justify why Glenelg Shire has approved a Budget that is out of step with the social and financial expectations of comparative neighboring Councils, Moyne take 5.7 million less from their ratepayers than Glenelg Shire Council, please explain?*

Mayor Martin advised that he would take this question on notice.

## 2. Heritage Grants

Mr David Punton of Portland asked the following questions:

- a. When heritage money is granted from the Glenelg Shire Council who oversees the Heritage work and who is responsible for the colour used on the church at Tyrendarra?*

Mr David Hol, Director Corporate Services advised that painting of the exterior of the church at Tyrendarra was not funded by a Heritage Grant, Council has provided a Heritage grant to the that facility previously but not for that external painting. Council engages heritage architects to advise on colours associated with Heritage grants.

- b. Who is the Executive Officer of this Council?*

Point of order called by Cr Carr, adding dialogue to a question, at 7.16pm

Mayor Martin advised that the Chief Executive Officer is the Executive Officer of this Council, who carries out daily operational matters of the Council.

- c. Does the Council agree that the federal constitution is irrelevant?*

Mayor Martin advised that Council derive their powers from the *Local Government Act 2020*. Mr David Hol, Director Corporate Services advised the previous response provided was quite clear where the powers from the Local Government fall, if you continue to believe that Council is not a legal entity please provide some legal advice to support this, no further time or Council resources will be spent on this matter until you do so.

Mr Paul Phelan, Chief Executive Officer advised that the statement is only one sentence from a comprehensive response which was provided and drafted by Council's legal team. The Local Government is appointed under the Local Government Act as an instrument of the State Government, and has been tested in law.

### 3. Offshore Windfarm

Mr Michael Byrne from Cape Bridgewater asked the following questions:

- a. *What is the Glenelg Shire Council's position on the proposed Southern Ocean Offshore Windfarm proposal?*

Mayor Martin advised that it's a Commonwealth consultation, I encourage you to provide your concerns and questions to this consultation process.

- b. *Four submissions from the Bass Coast Shire Council and South Gippsland Shire Council, East Gippsland West Council, Wellington Shire Council, does the Glenelg Shire Council intend to provide a submission on this subject?*

Mayor Martin advised as a key stakeholder has been asked to engage as a stakeholder and engage with Council, Council won't provide a submission at this time as Council has not established a position.

- c. *What steps are Glenelg Shire Council taking to ensure all key stakeholders are engaged from Nelson to East Tyrendarra?*

Mayor Martin advised that Council will provide as much information as possible for the community to engage. Mr Paul Phelan, Chief Executive Officer that here is a portal for Council to provide a submission and position if required. Council has shared the consultation with the community to be able to provide feedback via a link from Council's website. Council will reserve their right to a position on the windfarm after hearing all details on the project and after meeting with the relevant Commonwealth department.

### 4. Budget and Customer Service Centre

Mr Matthew Jowett from Portland asked the following questions:

- a. *Considering that this Council is looking to save money and stop waste, when is Council going to stop giving Council money away to the flawed Heritage Grant scheme?*

Mr David Hol, Director Corporate Services advised that Councillors discussed this earlier tonight on the future of the Heritage Grants. The review of the policy is due later this year, around October and will take the opportunity to review and look at the future of Heritage Grants.

*b. Can you please advise on what is happening with Percy Street Customer Service Centre, and Council's plans for the future of this Council leased property?*

Mr David Hol, Director Corporate Service Customer Service advised that Customer Service will be transitioning back to Cliff St in the coming months and communications will be provided to the public on the date of this transition.

## **7. DECLARATIONS OF CONFLICT OF INTEREST**

### **Conflict of Interest**

*In accordance with Section 130 (1-8) of the Local Government Act 2020, there is an obligation for Councillors and Officers to declare a conflict of interest in a matter that could come before Council.*

### **Disclosure of Conflict of Interest**

*A Councillor or Officer must make full disclosure of a conflict of interest by advising the class and nature of the interest immediately before the matter is considered at the meeting. While the matter is being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that he or she is doing so.*

## **8. CONFIRMATION OF MINUTES**

### **Recommendation**

That the minutes of the Council Meeting held on Tuesday 27 June 2023, as circulated, be confirmed.

### **MOTION**

**MOVED Cr Hawker**

**That the minutes of the Council Meeting held on Tuesday 27 June 2023, as circulated, be confirmed.**

**SECONDED Deputy Mayor Cr Smith**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

**9. PRESENTATIONS**

Nil.

**10. DEPUTATIONS**

Nil.

**11. NOTICES OF MOTION**

Nil.

**12. PETITIONS**

Nil.

**13. COMMITTEE REPORTS**

Nil.



## **14. MANAGEMENT REPORTS**

### **14.1. COUNCILLOR AND CHIEF EXECUTIVE OFFICER LEAVE OF ABSENCE REGISTER**

Director: Paul Phelan, Chief Executive Officer

#### **Executive Summary**

The purpose of this report is to enable Council to consider the Councillor and Chief Executive Officer Leave of Absence Register.

#### **Recommendation**

That Council approve the Councillor and Chief Executive Officer Leave of Absence Register presented as a confidential circulation under Section 35 (1) (e) (4) (6) of the *Local Government Act 2020*.

## **MOTION**

### **MOVED Deputy Mayor Cr Smith**

**That Council approve the Councillor and Chief Executive Officer Leave of Absence Register presented as a confidential circulation under Section 35 (1) (e) (4) (6) of the *Local Government Act 2020*.**

### **SECONDED Cr Stephens**

### **CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

#### **Background/Key Information:**

In accordance with Section 35 (1) (e), (4), and (6) of the *Local Government Act 2020* Councillors are entitled to take Leave of Absence.

Section 35 (1) (e), (4) and (6) of the *Local Government Act 2020* states:

#### **35 Councillor ceasing to hold office**

- (1) A Councillor ceases to hold the office of Councillor and the office of the Councillor becomes vacant if the Councillor:
  - (e) subject to this section, is absent from Council meetings for a period of 4 consecutive months without leave obtained from the Council.
- (4) The Council must grant any reasonable request for leave for the purposes of subsection (1)(e).

(6) A Councillor is not to be taken to be absent from Council meetings during the period of 6 months after the Councillor or their spouse or domestic partner:

(a) becomes the natural parent of a child; or

(b) adopts a child under the age of 16 years

and the Councillor has responsibilities for the care of the child during that period.

a. Council Plan and Policy Linkage

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b. Legislative, Legal and Risk Management Considerations

Section 35 of the *Local Government Act 2020*.

c. Consultation and/or communication processes implemented or proposed

Councillors are required to submit Leave of Absence requests in writing to the Chief Executive Officer.

The Chief Executive Officer is required to submit his Leave of Absence requests in writing to Council through the Councillor and Chief Executive Officer Leave of Absence Register.

A register will be held by the Chief Executive Officer and reported monthly to Council.

d. Financial Implications and Collaboration

Nil.

e. Governance Principles

The transparency of Council decisions, actions and information is to be ensured.

**Attachment List**

*Separately circulated as Confidential attachment.*

## 14.2. COUNCILLORS QUARTERLY EXPENDITURE REPORT

Director: Paul Phelan, Chief Executive Officer

### Executive Summary

This Quarterly Expenditure Report is presented to the Council Meeting on a quarterly basis in the interests of accountability and transparency.

This report is for Councillor expenditure that has been incurred during the period 1 April 2023 to 30 June 2023.

### Recommendation

That Council receives the Councillors quarterly expenditure report for the period 1 April 2023 to 30 June 2023.

### MOTION

#### **MOVED Cr Carr**

**That Council receives the Councillors quarterly expenditure report for the period 1 April 2023 to 30 June 2023.**

#### **SECONDED Deputy Mayor Cr Smith**

#### **CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

### Background/Key Information:

In accordance with Section 40 of the *Local Government Act 2020*:

- (1) A Council must reimburse a Councillor or a member of a delegated committee for out-of-pocket expenses which the Council is satisfied-
  - (a) Are bona fide expenses; and
  - (b) Have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and
  - (c) Are reasonably necessary for the Councillor or member of a delegated committee to perform that role.

Regulation 14 (db) of the *Local Government (Planning and Reporting) Regulations 2014* requires that expenses, including reimbursements of expenses for each Councillor and member of a Council Committee paid by the Council are to be categorised separately as:

- Travel expenses (Includes remote allowance) – TR;

- Car mileage expenses – CM;
- Childcare expenses – CC;
- Information and communication technology – IC; and
- Conference and training expenses – CT.

Under Section 41(2)(d) of the *Local Government Act 2020*, Council must have particular regard to expenses incurred by a Councillor who is a carer in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*. This is a new requirement under the *Local Government Act 2020*, therefore is not addressed in *Regulation 10e, f & g* of the *Local Government (Planning and Reporting) Regulations 2020*.

Documentation is required to provide evidence of the expense specifying the business purpose for each claim.

Councillors are also required to maintain a logbook with each entry providing a clear description of the business purpose.

Following is a table of expenditure that has been incurred by Councillors during the period 1 April 2023 to 30 June 2023.

*Note: In some instances, journaling of some items may not necessarily appear in the month that they were expended and will appear in the next quarterly report.*

Councillor	TR	CM	CC	IC	CT	Carer	Grand Total	YTD
Carr				\$668			\$668	\$1673
Hawker				\$667			\$667	\$1438
Martin	\$4357			\$1031	\$184		\$5572	\$13754
Rank	\$104			\$667			\$771	\$8166
Smith				\$667			\$667	\$4309
Stephens	\$297	\$982		\$847			\$2126	\$16438
Wilson	\$320	\$161		\$668			\$1149	\$2830
Grand Total	\$5078	\$1143		\$5215	\$184		\$11620	
YTD	\$27137	\$5307		\$12756	\$3408		\$48608	\$48608

In accordance with Section 39 of the *Local Government Act 2020*, Councillors are entitled to receive an allowance whilst performing their duty as a Councillor. The Mayor or a Deputy Mayor are also entitled to receive a higher allowance with the Mayor being provided full use of a vehicle.

Following is a table of Councillor allowances paid for the period 1 April 2023 to 30 June 2023:

Councillor	Amount	YTD
Carr	\$7217	\$27239
Hawker	\$7722	\$30562
Martin	\$24788	\$86026

Rank	\$5154	\$41034
Smith	\$12393	\$44759
Stephens	\$7722	\$30562
Wilson	\$7723	\$28286
Grand Total	\$72713	\$288468

a. Council Plan and Policy Linkage

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b. Legislative, Legal and Risk Management Considerations

- *Local Government Act 2020* – Section 39 Allowances for Mayors, Deputy Mayors and Councillors.
- *Local Government Act 2020* – Section 40 Reimbursement of Expenses of Councillors and members of a delegated committee.
- Regulation 10 e, f & g of the *Local Government (Planning and Reporting Regulations 2020)*.
- *Carers Recognition Act 2012*.

c. Consultation and/or communication processes implemented or proposed

Councillor Expenditure is reported on a quarterly basis to the Council Meeting and Audit and Risk Committee and the quarterly expenditure is accessible via Council's website.

Councillor Expenditure is also reported annually in Council's Annual Report.

d. Financial Implications and Collaboration

Councillor Allowances and Councillor Expenditure are accounted for in the 2022-2023 Annual Council Budget.

e. Governance Principles

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured.

The ongoing financial viability of the Council is to be ensured.

## Attachment List

Nil

### 14.3. CUSTOMER SATISFACTION SURVEY

Director: Paul Phelan, Chief Executive Officer

#### Executive Summary

This report acknowledges the receipt of the 2023 Local Government Community Satisfaction Survey and recommends that Council releases the document as public information.

#### Recommendation

That Council notes the results of the 2023 Local Government Community Satisfaction Survey and authorises the public release of the detailed findings for Glenelg Shire Council.

#### **MOTION**

##### **MOVED Cr Carr**

**That Council notes the results of the 2023 Local Government Community Satisfaction Survey and authorises the public release of the detailed findings for Glenelg Shire Council.**

##### **SECONDED Cr Stephens**

##### **CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

#### Background/Key Information:

The community satisfaction survey program has been undertaken since 1998 providing participating Council's with a snapshot of performance as indicated by residents randomly selected across the municipality. The survey asks the opinions of local people about the place they live, work and play.

Now in its twenty-fourth year, this survey provides insight into the community's views on Councils' overall performance, with benchmarking against State-wide and Council group results in the below categories:

- value for money in services and infrastructure
- community consultation and engagement
- decisions made in the interest of the community
- customer service, local infrastructure, facilities, services and
- overall Council direction.

The 2023 edition was undertaken by JWS research and coordinated by the Department of Government Services on behalf of 66 participating Councils from the 79 Municipalities in Victoria. A total of 401 Glenelg Shire residents were interviewed during the survey period from 27 January to 19 March 2023.

A statewide version of the data has previously been released by the Government and placed on the Local Government Victoria website which contains all the aggregated results, analysis and data.

Glenelg Shire Council is classified as a Large Rural Shire. A trend exists where both the large rural group of Councils and the statewide averages all declined in the past year. The survey indicates however that the overall decline experienced by Glenelg was greater than the average over similar Councils.

The top performing survey area according to the survey was Councils response to COVID, whilst Waste Management responses varied greatly in areas across the Shire.

Overall performance was rated as 47 compared to the Large Rural Average of 52, although Casterton residents rated the performance highest at 55 whilst those aged between 50-64 scored Council the lowest at 45.

The Council Customer Service rating at 67 was higher than the average of large rural with the age group 50-64 again providing the lowest outcome, whilst Casterton and the 18-34 age group rated this aspect over 70.

The lowest performing service area was local roads with Heywood residents giving Council the lowest satisfaction in this area. Unfortunately, the survey on this occasion does not list which roads were those affecting this score. Previous reports have indicated that many residents may have been influenced by the condition of state managed roads such as Highways which are not the responsibility of Council.

It is acknowledged that the results of the 2023 Community Satisfaction Survey are in contrast to the results Glenelg Shire Council has experienced for many years. This decline in the perception of Council's performance provides an opportunity for Council to implement a suite of initiatives to rebuild community confidence and ensure our residents are informed and engaged regarding actions undertaken by Council. Throughout the remainder of the 2023-24 financial year, Listening Posts have been reintroduced to improve our community consultation and engagement approach, and a greater emphasis will be placed on the sharing of key information with our community.

It is recommended that Glenelg Shire Council release the Confidential attachment on the detailed findings from the 2023 Community Satisfaction Survey for Glenelg Shire to the public.

a. Council Plan and Policy Linkage

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b. Legislative, Legal and Risk Management Considerations

Whilst there is no legislative aspects of the survey, the results do impact the Local Government Performance Reporting Framework and also affect the reputational risk of Council in the community.

c. Consultation and/or communication processes implemented or proposed

Residents are advised by public release when the survey is being undertaken.

d. Financial Implications and Collaboration

The cost of the survey is included in Council's operational budget

e. Governance Principles

The transparency of Council decisions, actions and information is to be ensured.

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

The municipal community is to be engaged in strategic planning and strategic decision making.

Innovation and continuous improvement is to be pursued.

**Attachment List**

*Separately circulated as a Confidential attachment.*



#### 14.4. COUNCILLOR AND STAFF INTERACTIONS POLICY

Director: David Hol, Director Corporate Services

##### Executive Summary

This report responds to recent findings from the Local Government Inspectorate reviewing newly implemented policies under the *Local Government Act 2020*, across all Victorian Councils. A draft Councillor and Staff Interactions Policy has now been developed for Council consideration in accordance with a recommendation in the report.

##### Recommendation

That Council adopt the Councillor and Staff Interactions Policy.

##### **MOTION**

**MOVED Cr Hawker**

**That Council adopt the Councillor and Staff Interactions Policy.**

**SECONDED Cr Stephens**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

##### Background/Key Information:

The Local Government Inspectorate is the lead integrity agency for Victorian Councils. They are an independent agency that ensures Victoria's councils follow the Local Government Act.

A recent Local Government Inspectorate report "Checking Compliance: a review of Council policies" was undertaken in which all 79 Victorian Councils participated. This project reviewed the policies required under the implementation of the *Local Government Act 2020*.

The full scope of the project was to:

1. Identify which of the new and amended policies required under the Act to review
2. Request that all 79 councils provide the Inspectorate with a copy of the policies covered by the review
3. Test that each of the requested policies was adopted prior to, or on the date required by the Act

4. Randomly sample a range of requested policies to ensure they were compliant with the legislation
5. Publish a selection of example policies on the Inspectorate's website so they can be used as a resource for councils to compare their own policies against

After the review of policies received, the inspectorate provided a report and list of 9 recommendations to Councils.

Glenelg Shire staff have reviewed the recommendations and were compliant with all policy obligations. Some minor improvement recommendations which are not legislative requirements were implemented such as the formal signing of the Audit and Risk Charter.

Although also not a specific regulatory requirement, Recommendation 7 and 8 strongly encouraged Councils to develop policies covering Councillors interactions. Subsequently staff have reviewed the industry examples and similar policies at other Councils and have drafted such a policy and formatted into the Glenelg Shire Council template.

The draft policy is now provided for Council adoption.

a. Council Plan and Policy Linkage

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b. Legislative, Legal and Risk Management Considerations

[Local Government Act 2020 and Local Government Act 1989.](#)

c. Consultation and/or communication processes implemented or proposed

Industry examples, templates and copies of similar policies from other municipalities were referenced for the development of this policy and refined through comments with the Councillor Support Team and the Executive Team.

d. Financial Implications and Collaboration

The adoption of this policy does not have a direct financial implication.

e. Governance Principles

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured.

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

**Attachment List**

1. Checking-compliance-review-of-council-policies- [14.4.1 - 16 pages]
2. Draft Councillor and Staff Interaction Policy OPO CEO GE010 May 2023 1 [14.4.2 - 10 pages]

## 14.5. COUNCILLOR CONDUCT HEARING OUTCOME

Director: David Hol, Director Corporate Services

### Executive Summary

This report provides Council with the determination and statement of reasons received by the Arbiter appointed to consider an allegation of misconduct by a Councillor in accordance with section 147(4) of the *Local Government Act 2020*.

### Recommendation

That Council:

1. Receive the Arbiter decision and statement of reasons on this matter; and
2. Authorise the Arbiter decision and statement of reasons be recorded in the minutes in accordance with the requirements of section 147(4) of the *Local Government Act 2020*.

### MOTION

**MOVED Deputy Mayor Cr Smith**

**That Council:**

- 1. Receive the Arbiter decision and statement of reasons on this matter; and**
- 2. Authorise the Arbiter decision and statement of reasons be recorded in the minutes in accordance with the requirements of section 147(4) of the *Local Government Act 2020*.**

**SECONDED Cr Carr**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

### Background/Key Information:

An application from Councillors Smith, Carr, Hawker, Rank, Stephens and Wilson was lodged on the 27 March 2023 for an internal arbitration process to make a finding of misconduct against Cr Scott Martin relating to his actions whilst attending an alcohol-free twilight cinema event in January 2023.

The application has been examined by the Principal Councillor Conduct Registrar in accordance with section 144 of the *Local Government Act 2020* and an Arbiter was appointed to hear the matter.

A directions hearing was undertaken via Microsoft Teams on the 13 June and the parties agreed that the matter could be conducted by the Arbiter through the receipt of written materials.

The Arbiters decision and statement of reasons was received on the 4 July 2023 and is provided as an attachment to this report.

In accordance with section 147(4) of the *Local Government Act 2020*, a copy of the Arbiters decision and statement of reasons must be tabled at the next Council meeting after receipt of the decision and recorded in the minutes.

a. Council Plan and Policy Linkage

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b. Legislative, Legal and Risk Management Considerations

This report has been prepared in accordance with Division 6 of the *Local Government Act 2020* and the Glenelg Shire Council Councillor Code of Conduct adopted 23 February 2021

c. Consultation and/or communication processes implemented or proposed

Undertaken in accordance with the provisions of the *Local Government Act 2020* relating to Councillor conduct matters.

d. Financial Implications and Collaboration

Costs associated with Councillor Conduct matters are allocated to the operational budget for Corporate Governance.

e. Governance Principles

Council decisions are to be made and actions taken in accordance with the relevant law.

### **Attachment List**

1. Glenelg ( Smith v Martin) Final Reasons [**14.5.1** - 11 pages]

Note: Included in minutes as attachment as per Resolution of Council.

## 14.6. FINANCIAL HARDSHIP POLICY - RATES AND CHARGES

Director: David Hol, Director Corporate Services

### Executive Summary

The purpose of this report is to seek Council adoption of the revised Financial Hardship Policy for Rates and Charges. This Policy demonstrates Council's commitment to assisting ratepayers during difficult financial circumstances by providing options and assistance and ensuring that a transparent and equitable process is applied.

### Recommendation

That Council adopt the revised Financial Hardship Policy for Rates and Charges.

### **MOTION**

#### **MOVED Cr Stephens**

**That Council adopt the revised Financial Hardship Policy for Rates and Charges.**

#### **SECONDED Cr Carr**

#### **CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

### Background/Key Information:

Glenelg Shire Council recognises that ratepayers at times will experience genuine financial hardship and is committed to helping those experiencing financial hardship and are having difficulty meeting obligations to Council.

The Financial Hardship Policy for Rates and Charges has been revised to establish a clear framework for Council to define what support is available for ratepayers who are experiencing financial hardship and the method of managing and collecting unpaid rates.

Whilst not defined in the Act, financial hardship is commonly understood to occur when someone is struggling to pay their financial obligations as and when they fall due. This could be caused for example by loss of employment, unpaid absence from work due to major illness, personal circumstances and sudden unexpected large bills. For this policy to be successful it requires the co-operation of both parties to communicate with each other openly and honestly.

The *Local Government Act 1989 (the Act)* provides for a waiver or deferral of rates, charges and interest under the grounds of financial hardship.

This Policy responds to the new *Local Government Legislations Amendment (Rating and Other Matters) Act 2022* which makes amendments to the *Local Government Act 1989* and commenced operation on 20 June 2023. This new Act requires the Minister for Local Government to set the maximum interest rate that can be charged on unpaid rates and charges, to prescribe more flexible payment plans and to issue Ministerial Guidelines on unpaid rates and charges to ensure greater consistency in how councils deal with ratepayers experiencing financial hardship. There have been no guidelines received to date from the Minister and this policy will again be reviewed following the release of any such Ministerial guidelines.

This Policy has also been revised to consider initiatives implemented by other bodies including other Local Governments and industry leaders.

The Victorian Ombudsman's Report "Investigation into how local councils respond to ratepayers in financial hardship" has also been referred to in developing this revised Policy. The Victorian Ombudsman heard concerns from ratepayers, financial counsellors and community lawyers about the way local councils treat people who cannot afford their council rates.

The revised Financial Hardship Policy is provided as an attachment for councillor consideration.

a. Council Plan and Policy Linkage

Our Voice and Action - A highly engaged and capable local government, leading Glenelg to ensure the needs and aspirations of our community are realised.

b. Legislative, Legal and Risk Management Considerations

Comply with the requirements of the *Local Government Act 1989* especially the provisions relating to the collection of rates and charges and determination of waivers and deferrals.

Section 170 of the *Local Government Act 1989*, enables Council to defer, in whole or in part the payment by a person of any rate or charge which is due and payable for a specified period on the grounds of hardship.

Section 171 of the *Local Government Act 1989*, enables Council to waive a whole or part of any rate or charge or interest on the grounds of financial hardship.

The revised Policy also responds to the *Local Government Legislation Amendment (Rating and Other Matters) Act 2022*.

The *Local Government (General) Amendment Regulations 2023* have also been considered whilst reviewing the Policy document and these changes will impact the content of the notice of rates and charges sent to Ratepayers in July 2023.

c. Consultation and/or communication processes implemented or proposed

The revised Financial Hardship Policy for Rates and Charges will be available on Council's website and advertised on the Rates Notice for 2023/24.

The Rates Notice for 2023/24 will also include the following additional content:

- The ability of a ratepayer to apply for a payment plan
- The manner in which payments will be allocated to rates and charges
- The range of differential rates applied by Council
- The notice must include the name and address of the person who is liable to pay the rate or charge

These changes are set out in the *Local Government (General) Amendment Regulations 2023* and are in accordance with three of the Government's supported recommendations of the 2020 Local Government Rating System Review Final Report.

d. Financial Implications and Collaboration

Rates, charges and levies are a property tax collected by municipalities to fund the services, infrastructure and assets provided to its citizens.

Rate revenue is an important component of the Glenelg Shire's total income (contributing 45% to 50% of total income annually).

As at 30 June 2022, the total value of rates outstanding was \$505,000.

As at 31 May 2023 there were approximately 440 ratepayers on a payment arrangement.

Unpaid rates will have the potential to negatively impact Council's cashflow.

Therefore, it is important that all ratepayers pay their fair contribution, that deferrals or waivers are only approved in circumstances applicable to this Policy and that Council or the ratepayer is not exposed to financial risk in the future by the creation of a rate debt that cannot or may not be repaid.

e. Governance Principles

The ongoing financial viability of the Council is to be ensured.

### **Attachment List**

1. GSC Financial Hardship - Rates Charges Review CPO-CORPS-RV-002 [**14.6.1** - 10 pages]



#### 14.7. HERITAGE GRANT APPLICATION RECOMMENDATION 134-138 HENTY STREET CASTERTON

Director: David Hol, Director Corporate Services

##### Executive Summary

A total of two heritage grant applications were received for the period to 7 July 2023 seeking \$13,000 for projects totaling approximately \$42,400.

A separate report has been submitted for each application.

Council's Heritage Advisor has provided an updated report confirming the eligibility of this application as per the Heritage Support Policy. Council officers have evaluated the application and this report presents the recommendation to support the application.

##### Recommendation

That Council approve the grant application of \$2,000 from the heritage grants and loans restoration fund for the conservation works at 134-138 Henty Street, Casterton in accordance with the recommendations in Council's heritage advisor report and relevant permits.

##### MOTION

##### **MOVED Cr Stephens**

**That Council approve the grant application of \$2,000 from the heritage grants and loans restoration fund for the conservation works at 134-138 Henty Street, Casterton in accordance with the recommendations in Council's heritage advisor report and relevant permits.**

##### **SECONDED Deputy Mayor Cr Smith**

##### **CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

##### Background/Key Information:

On 25 October 2022 Council updated the Heritage Support Policy. Recommendations for grants are evaluated by Council officers in consultation with Council's heritage advisor.

A heritage grant application was submitted on 26 April 2023 for works at 134-138 Henty Street, Casterton which consists of a cottage and two shopfronts. Works to the shop fronts would have been eligible for the Retail Façade Improvement Program but as this program has closed, the property owner was advised to consider applying for a heritage grant. The application has been held over to the new financial year due to lack of funds in the heritage grants and loans restoration budget. The replacement of guttering and reroofing of the cottage and the shop front verandah has an estimated cost of \$6,256.

The cottage and two shops are listed as contributory buildings within the Casterton Township precinct (HO163).

Council's Heritage Advisor inspected the property on 26 March 2023 with a recommendation to provide some assistance subject to available funds and a scope of work being provided. Following the lodgment of the grant application, an updated report (2 June 2023) recommends the project receive a maximum of \$2,000 instead of \$3,000 requested.

The application meets all eligibility requirements of the Heritage Support Policy. It is recommended to approve \$2,000.

a. Council Plan and Policy Linkage

Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.

b. Legislative, Legal and Risk Management Considerations

There are no specific legislative, legal or risk management considerations.

c. Consultation and/or communication processes implemented or proposed

The applicant will be advised of the outcome following the Council Meeting.

d. Financial Implications and Collaboration

The Heritage Grants and Loans restoration fund has an estimated balance of \$11,000 once all grants approved to date are paid. This includes the budgeted amount of \$10,000 allocated for the 2023/24 financial year.

e. Governance Principles

Local, Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured.

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

The ongoing financial viability of the Council is to be ensured.

### **Attachment List**

1. Heritage grant application 134 Henty S Treet Casterton redacted [14.7.1 - 12 pages]

#### 14.8. HERITAGE GRANT APPLICATION RECOMMENDATION 7 JULIA STREET PORTLAND

Director: David Hol, Director Corporate Services

##### Executive Summary

A total of two heritage grant applications were received for the period to 7 July 2023 seeking \$13,000 for projects totaling approximately \$42,400.

A separate report has been submitted for each application.

Council's Heritage Advisor has provided a report confirming the eligibility of these works as per the Heritage Support Policy. Council officers have evaluated the application and this report presents the recommendation to support the application.

##### Recommendation

That Council approve the grant application of \$5,000 from the heritage grants and loans restoration fund for the conservation works at 7 Julia Street, Portland in accordance with the recommendations in Council's heritage advisor report and relevant permits.

##### MOTION

##### **MOVED Cr Stephens**

**That Council approve the grant application of \$2,500 from the heritage grants and loans restoration fund for the conservation works at 7 Julia Street, Portland in accordance with the recommendations in Council's heritage advisor report and relevant permits.**

##### **SECONDED Mayor Cr Martin**

##### **CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith and Cr Stephens

**AGAINST:** Cr Hawker and Cr Carr

##### DIVISION:

Cr Stephens, Cr Martin, Cr Smith voted FOR the motion.

Cr Carr and Cr Hawker voted AGAINST the motion.

##### Background/Key Information:

On 25 October 2022 Council updated the Heritage Support Policy. Recommendations for grants are evaluated by Council officers in consultation with Council's heritage advisor.

A heritage grant application was submitted on 28 June 2023 for reroofing and the replacement of guttering and downpipes with an estimated cost of works totaling \$34,000 (not including scaffolding hire). The applicant requested \$10,000 in funding but has been advised of the revised policy amount of \$5,000.

The two-storey bluestone building at 7 Julia Street, Portland was erected pre 1853 and is an interesting example of commercial design dating from these times. The prominent local heritage place is an individually State listed heritage property (HO69). Council's Heritage Advisor inspected the property on 21 March 2023 and advised the works were urgently required to conserve and enhance the external features on a prominent Julia Street building.

The application meets all eligibility requirements of the Heritage Support Policy. It is recommended to approve the maximum amount of \$5,000 due to the urgency of the works and the visibility of the building to the public realm.

a. Council Plan and Policy Linkage

Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.

b. Legislative, Legal and Risk Management Considerations

There are no specific legislative, legal or risk management considerations.

c. Consultation and/or communication processes implemented or proposed

The applicant will be advised of the outcome following the Council Meeting.

d. Financial Implications and Collaboration

The Heritage Grants and Loans restoration fund has an estimated balance of \$11,000 once all grants approved to date are paid. This includes the \$10,000 allocated in the budget for 2023/24.

e. Governance Principles

Local, Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured.

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

The ongoing financial viability of the Council is to be ensured.

**Attachment List**

1. Heritage grant application 7 Julia Street Portland redacted [14.8.1 - 15 pages]

14.9. P23042 45 WINDHAM STREET NARRAWONG POST OFFICE SHOP AND PACKAGED LIQUOR

Director: David Hol, Director Corporate Services

Executive Summary

This report request Council determination on planning permit application P23042, which seeks planning approval for use and development for a retail premises (postal agency and sale of packaged liquor), business identification signage and access to Transport Zone 2 at 45 Windham Street, Narrawong.

The application has been referred to Council for determination in line with Council's Planning Delegation and Decision Guidelines Policy. Consultation and deputations to Councillors on this application was conducted on 18 July 2023.

Recommendation

That Council issue a notice of decision to grant a permit for use and development for a retail premises (postal agency and sale of packaged liquor) business identification signage and access to Transport Zone 2 at 45 Windham Street, Narrawong, in accordance with plans circulated in Attachment 1 and Notice of Decision conditions in attachment 6.

MOTION

**MOVED Cr Hawker**

**That Council issue a notice of decision to grant a permit for use and development for a retail premises (postal agency and sale of packaged liquor) business identification signage and access to Transport Zone 2 at 45 Windham Street, Narrawong, in accordance with plans circulated in Attachment 1 and Notice of Decision conditions in attachment 6.**

**SECONDED Cr Carr**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

Background/Key Information:

Application P23042 seeks approval for use and development for a retail premises (postal agency and sale of packaged liquor), business identification signage and access to Transport Zone 2.

The proposal is to relocate the existing Narrawong Post Office to 45 Windham Street, Narrawong. The proposed location will be accessed off Princes Highway (Windham Street), into Cambridge Street with parking available onsite.

Other than signage, parking and landscaping there are no external building works with this application. Full details of the proposal are contained in Attachment 1.

A total of 10 objections have been received for this application and are attached in Attachment 2.

The key issues raised in the objections include:

- Location is not appropriate – needs to be at former Narrawong Store
- Lack of detail on proposal
- Traffic congestion and safety
- Amenity concerns of noise, light spill, signage clutter, licence to sell alcohol, 24/7 access to post boxes

A large number of submissions in support of this proposal have been received, with a total of 65 received at the time of writing this report. Refer to Attachment 3.

The proposal was referred to the Head of Transport, where no objection was provided subject to condition of upgrading the entrance of the Princes Highway. Refer to Attachment 4.

The subject site is zoned Township Zone where the use requires permission under the Zone. Permit triggers also include signage under Clause 52.05, liquor licence under Clause 52.27 and access to a Transport Zone under Clause 52.29.

The Officer report in Attachment 5 details the processing of this application and assessment against the planning scheme. Assessment recommends that the application can be supported.

a. Council Plan and Policy Linkage

Our Education, Employment and Industry - Adapting and growing a diverse economy to embrace employment of the future and educational opportunities.

Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.

Our Access, Transport and Technology - Making it easier for people to connect in and around the Glenelg Shire.

b. Legislative, Legal and Risk Management Considerations

The *Planning and Environment Act 1987* gives a legal basis for the Glenelg Planning Scheme. The Glenelg Planning Scheme sets out policies and provisions for use, development and protection of land. Planning schemes are legal documents prepared by the Council or the Minister for Planning and approved by the Minister.



c. Consultation and/or communication processes implemented or proposed

The application was publicly notified and referred in accordance with the Section 52 of the *Planning and Environment Act 1987*. Ten objections were received in response to this notice.

Deputations to Councillors from all submitters were invited as part of considering this application. Consultation was held on 18 July 2023 with 7 speakers.

d. Financial Implications and Collaboration

The assessment of permit applications is part of regular operations of the Planning Unit of which it receives application fee.

e. Governance Principles

Local, Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured.

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

### **Attachment List**

1. Attachment 1 P 23042 Application Documents [**14.9.1** - 75 pages]
2. Attachment 2 P 23042 Objections [**14.9.2** - 31 pages]
3. Attachment 3 P 23042 Submissions in Support [**14.9.3** - 73 pages]
4. Attachment 4 P 23042 Do T Referral Response [**14.9.4** - 2 pages]
5. Attachment 5 P 23042 Assessment report (2) [**14.9.5** - 19 pages]
6. Attachment 6 P 23042 Notice of Decision [**14.9.6** - 7 pages]

14.10. P22154 PROPOSED CARRIAGEWAY EASEMENT - EAST STREET  
NARRAWONG

Director: David Hol, Director Corporate Services

Executive Summary

This report requests Council determination on planning permit application P22154, which seeks planning approval to create carriageway easements across 18 lots as right of carriageway at Crown Allotments 1-18 Sec, Township of Narrawong, East Street, Narrawong.

The application has been referred to Council for determination in line with Council's Planning Delegation and Decision Guidelines Policy. Consultation and deputations to Councilors on this application was conducted on 18 July 2023.

Recommendation

That Council issue a notice of decision to grant a permit to create easement across 18 lots – right of carriageway, at Crown Allotments 1-18, East Street Narrawong in accordance with plans circulated in Attachment 1 and notice of decision circulated in attachment 5.

**MOTION**

**MOVED Cr Hawker**

**That Council issue a notice of decision to grant a permit to create easement across 18 lots – right of carriageway, at Crown Allotments 1-18, East Street Narrawong in accordance with plans circulated in Attachment 1 and notice of decision circulated in attachment 5.**

**SECONDED Cr Carr**

**CARRIED**

**FOR:** Mayor Cr Martin, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Deputy Mayor Cr Smith

Background/Key Information:

The proposed planning application seeks for the creation of easements in accordance with the plans submitted with the application.

Rights of carriageway are being sought across 18 lots from boundary with (extension of) East Street to the boundary with the road that ends at carpark near the mouth of the Surrey River. The width of the proposed easement on the plan is ten metres and if approved would be an encumbrance on the individual titles of each allotment. The plans showing the proposed easement are on 3 sheets as shown in Attachment 1.

Back in 2009 and 2010 the land was subject to Ministerial intervention. In this process the land was rezoned from Township Zone, that allowed dwellings on each titled, to a Rural Conservation Zone by the Minister with an Incorporated Document that prohibited any new residential development.

In processing this application P22154, it has attracted 17 submissions objecting to the proposal contained in attachment 2. The key issues raised in objections include:

- Opposed to the development of the land for dwellings or large-scale development
- The concern that the creation of a carriageway easement may facilitate the future construction of a road which in turn may be the precursor of developing the land.
- Impacts on the Environment - biodiversity/wildlife, vulnerable species, sensitive coastal dune area, impact on the future floodplain protection
- The easement is not required as the land is in one ownership
- The proposal is contrary to various planning scheme requirements.

In response, a letter of explanation was sent by officers to clarify what the application was actually for, being an application to create a carriageway easement on certificates of Title. It advised that there were no earthworks, roads or buildings proposed and no change of use in proposal.

The land in question is subject to the Rural Conservation Zone schedule 3, Bushfire Management Overlay, Land Subject to Inundation Overlay schedule 1, Environmental Significance Overlay schedule 4 and Special Control Overlay schedule 7 which applies the Incorporated Document controls. The Incorporated Document is contained in Attachment 3.

The zones and overlays however do not trigger the permit application, instead it is Clause 52.02 of the Glenelg Planning Scheme that requires a permit to create an easement.

The Officer report in Attachment 4 details the processing of this application and assessment against the planning scheme. Assessment recommends that the application can be supported.

a. Council Plan and Policy Linkage

Our Natural Environment – Striving towards a carbon neutral future to protect and enhance the natural environment for future generations.

Our Education, Employment and Industry - Adapting and growing a diverse economy to embrace employment of the future and educational opportunities.

Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.

Our Access, Transport and Technology - Making it easier for people to connect in and around the Glenelg Shire.

b. Legislative, Legal and Risk Management Considerations

The *Planning and Environment Act 1987* gives a legal basis for the Glenelg Planning Scheme. The Glenelg Planning Scheme sets out policies and provisions for use, development and protection of land. Planning schemes are legal documents prepared by the Council or the Minister for Planning and approved by the Minister.

c. Consultation and/or communication processes implemented or proposed

The application was publicly notified and referred in accordance with the Section 52 of the *Planning and Environment Act 1987*. Seventeen objections were received in response to this notice.

Deputations to Councillors from all submitters were invited as part of considering this application. Consultation was held on 18 July 2023 with 3 speakers.

d. Financial Implications and Collaboration

The assessment of permit applications is part of regular operations of the Planning Unit of which it receives application fee.

e. Governance Principles

Local, Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

### **Attachment List**

1. Attachment 1 P 22154 Application Documents [**14.10.1** - 34 pages]
2. Attachment 2 P 22154 Submissions [**14.10.2** - 52 pages]
3. Attachment 3 SC O 7 Incorporated Document [**14.10.3** - 2 pages]
4. Attachment 4 P 22154 Assessment Report (2) [**14.10.4** - 21 pages]
5. Attachment 5 P 22154 Notice of Decision [**14.10.5** - 3 pages]

14.11. RECREATIONAL RESERVES AND RECREATIONAL FACILITIES ACCESS  
POLICY CPO-COM-REC-004 AND PRICING POLICY CPO-COM-REC-005  
REVIEW

Director: Jayne Miller, Director Community Services

Executive Summary

The purpose of this report is to seek Council adoption of two revised Council Policies relating to Recreational Reserves and Recreational Facilities Access (CPO-COM-REC-004) and Pricing (CPO-COM-REC-005), in addition to setting casual hire fees for the new Alexandra Park Pavilion function room.

Recommendation

That Council:

1. Adopts the amended Recreational Reserves and Recreational Facilities Access Policy CPO-COM-REC-004.
2. Adopts the amended Recreational Reserves and Recreational Facilities Pricing Policy CPO-COM-REC-005.
3. Adopts the proposed casual hire fees for the Alexandra Park Pavilion function room for 2023-2024 as outlined within the attachment, and these fees be added into Council's Fees and Charges Schedule.

MOTION

**MOVED Cr Stephens**

**That Council:**

1. **Adopts the amended Recreational Reserves and Recreational Facilities Access Policy CPO-COM-REC-004.**
2. **Adopts the amended Recreational Reserves and Recreational Facilities Pricing Policy CPO-COM-REC-005.**
3. **Adopts the proposed casual hire fees for the Alexandra Park Pavilion function room for 2023-2024 as outlined within the attachment, and these fees be added into Council's Fees and Charges Schedule.**

**SECONDED Cr Hawker**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

Background/Key Information:

At the 22 March 2022 Council Meeting, Council endorsed the Recreational Reserves and Recreational Facilities Access Policy CPO-COM-REC-004 and Recreational Reserves and Recreational Facilities Pricing Policy CPO-COM-REC-005. These two policies were developed to provide clear guidance and structure for Council Officers to determine access and charges. These policies have also increased equitable usage and provided opportunities for fee concession that aligns to the Glenelg Municipal Public Health and Wellbeing Plan 2021–2025 goals and objectives, as well as the Active Your Way Glenelg Sport and Active Recreation Plan 2019–2029.

Following a recent review of both policies, it has been identified that some minor amendments are required to ensure the policies are inclusive and remain relevant to current usage levels and facility conditions.

The key amendments within the Access Policy are as follows:

- Reference list updated;
- Realignment of section 4.1 to separate casual access applications and new Licence or Lease access applications;
- Addition of applications assessment criteria relating to whether the applicants recreation activities are deemed inclusive, or encourage activities that align with both the *Gender Equality Act 2020* and the State Governments Fair Access Policy roadmap; and
- Inclusion of Appendix B – Application for a Licence to use a Recreational Reserve and / or Recreational Facility.

With the upcoming scheduled completion of a new multi-purpose facility at Alexandra Park, it has been recommended that an additional pavilion/clubrooms/building classification, 'Premier Level', be added into pricing policy to appropriately reflect the quality and amenities available at this type of facility. The introduction of this classification will ensure that users of this facility are equitably charged for use in comparison to other recreation facilities users across various Council owned venues with varying levels of amenities.

In addition, other key amendments within the Pricing Policy are as follows:

- Reference list updated;
- Realignment of section 4.1 to separate the determination of Licence and / or Lease fees from casual usage fees; and
- An update to the access fees annual review process.

Casual hire fees for the Alexandra Park function room are also proposed to be introduced to ensure that casual hire may be charged in line with Council's existing annual fees and charges for hire of Council venues. The proposed casual fees specifically for the Alexandra Park Pavilion function room (attached) have been proposed to align with other venue hire fees of a similar size, quality, and amenities. It is recommended that the remainder of Alexandra Park facilities (changerooms etc.) be charged at the existing recreational reserves and facilities casual hire fee rates per the current Council Fees and Charges Schedule.

a. Council Plan and Policy Linkage

Our Health and Wellbeing - Supporting the Glenelg community to thrive by being healthy, inclusive and well.

b. Legislative, Legal and Risk Management Considerations

As this is a new facility that does not fit within the current facility categorisation and fee structure, the addition of the 'Premier Level' facility category ensures that there is equity and consistency in pricing in comparison to other facilities within the Shire.

c. Consultation and/or communication processes implemented or proposed

Research and consultation with local sports clubs regarding access and pricing was completed during the development of the Active Your Way Glenelg Sport and Active Recreation Plan 2019–2029.

A Gender Impact Assessment was also undertaken for each policy in May 2023, with minor amendments implemented into both policies as a result of the assessments.

d. Financial Implications and Collaboration

The introduction of the new fee model implemented at the start of the 2022-2023 financial year, with an objective to assist in the increase of participation in recreation activities in accordance with the Public Health and Wellbeing Plan. This resulted in a significant reduction in income which was forecasted, and budgeted for within the 2022-2023 financial year, and future financial years budgets moving forward.

e. Governance Principles

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

### **Attachment List**

1. Glenelg Shire Council Recreational Reserves and Recreational Facilities Access Policy CPO-COM-REC-004 [14.10.1 - 14 pages]
2. Glenelg Shire Council Recreational Reserves and Recreational Facilities Pricing Policy CPO-COM-REC-005 [14.10.2 - 8 pages]
3. Alexandra Park Function Room Proposed 2023/2024 Casual Hire Fees [14.10.3 - 1 page]
4. *Separately circulated as confidential attachment.*

#### 14.12. ARTS & CULTURE ACTION PLAN 2023/2024

Director: Jayne Miller, Director Community Services

##### Executive Summary

The Arts and Culture Action Plan 2023-2024 is attached for adoption.

The Arts & Culture Action Plan 2023-2024 is an action item of the Council Plan 2021-2025, and a 'road map' for delivery of the Arts & Culture Strategy 2022-2026, which was developed after community consultation and engagement.

This one-year action plan provides an outline of expected achievements for the 23/24 Financial Year and is designed to be a document to communicate shared direction for Council and community. It will be available on the Glenelg Shire Council website.

##### Recommendation

That Council adopts the Arts & Culture Action Plan 2023/2024.

##### **MOTION**

**MOVED Deputy Mayor Cr Smith**

**That Council adopts the Arts & Culture Action Plan 2023/2024.**

**SECONDED Cr Stephens**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

##### Background/Key Information:

The Council Plan 2021-2025 describes 'Arts & Culture Strategy Implementation' as one of its priority projects. An Action Plan has been developed to activate the Strategy and foster greater transparency and relationships with the community.

The Arts & Culture Strategy (2022-2026) identifies six focus areas, and the Action Plan outlines 21 deliverables based on these focus areas. A confirmed measure is outlined, with an anticipated measure provided for the following year to indicate potential future development. The Action Plan will be refreshed in preparation of each new financial year, aligning the plan to the annual budget cycle for delivery.

To support additional Council strategies overseen by the Arts & Culture unit, a Cultural Collections Action Plan and Public Art Action Plan have been proposed, which would be completed in a comparable manner to the Arts & Culture Action Plan.



The separation of these subject areas into three action plans aligns with the existing three council strategies and future proofs the activities of the Arts & Culture unit for subsequent industry-standard developments.

a. Council Plan and Policy Linkage

Our Education, Employment and Industry - Adapting and growing a diverse economy to embrace employment of the future and educational opportunities.

Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.

b. Legislative, Legal and Risk Management Considerations

N/A

c. Consultation and/or communication processes implemented or proposed

This Action Plan has been prepared to activate the Arts & Culture Strategy (2022-2026) which was developed in line with the Glenelg Shire Council Community Engagement Policy.

d. Financial Implications and Collaboration

All financial implications have been considered in the 23/24 budget with existing staffing levels.

e. Governance Principles

The transparency of Council decisions, actions and information is to be ensured.

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The municipal community is to be engaged in strategic planning and strategic decision making.

Innovation and continuous improvement is to be pursued.

### **Attachment List**

1. GSC A&C Action Plan 2023-2024 [**14.12.1** - 13 pages]

14.13. MAV NPN CONTRACT 1.17 FUEL AND LUBRICANTS EXTENSION

Director: Stuart Husband, Director Assets

Executive Summary

This report seeks Council approval to extend the current contractual arrangements with WEX Motorpass via the MAV Contract NPN 1.17 Fuels and Lubricants.

Recommendation

That Council:

1. Extends the contractual arrangements with WEX Motorpass via the MAV Contract NPN 1.17 Fuels and Lubricants; and
2. Authorises the Director Assets to complete all financial payments and documents relating to this contract.

**MOTION**

**MOVED Cr Carr**

**That Council:**

- 1. Extends the contractual arrangements with WEX Motorpass via the MAV Contract NPN 1.17 Fuels and Lubricants; and**
- 2. Authorises the Director Assets to complete all financial payments and documents relating to this contract.**

**SECONDED Cr Stephens**

**CARRIED**

**FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

**AGAINST:** Nil

Background/Key Information:

In August 2018 Council entered into a three (3) year initial contract plus extension options of two (2) by one (1) year for fuel and lubricants. The commencement date being 1 February 2017 with an expiry date of 31 January 2022.

A special extension will be applicable for Municipal Association of Victoria (MAV), up until the 31 January 2024 or until the scheduled tender is finalised and the new contract commences, whichever is the earliest.

Subsequently, the extension of the current arrangement has been sought to enable MAV Procurement and Council staff sufficient opportunity to analyze and report on any new contract outcomes over the next financial year.

Under the current procurement legislation, the aggregate spend of \$993k, now requires Council resolution to continue with the Fuels and Lubricants contract with WEX Motorpass.

Council operates and maintains various light fleet, plant and specialist machinery to deliver services within the Shire. This machinery relies on petroleum, distillate and lubricants for overall functionality.

a. Council Plan and Policy Linkage

Our Access, Transport and Technology - Making it easier for people to connect in and around the Glenelg Shire.

b. Legislative, Legal and Risk Management Considerations

All legal and legislative requirements have been considered.

c. Consultation and/or communication processes implemented or proposed

Councils Director of Assets, Works Manager and Contracts units have been consulted as part of the contract review process.

d. Financial Implications and Collaboration

Cost for the provision of the services for this contract will be incorporated within adopted budgets.

e. Governance Principles

The transparency of Council decisions, actions and information is to be ensured.

Collaboration with other Councils (section 109 *Local Government 2020*) and Governments and statutory bodies is to be sought along with Financial and Resource Implications and Opportunities.

### **Attachment List**

Nil

**15. CONFIDENTIAL REPORTS**

Nil.

**16. URGENT BUSINESS**

Nil.

**17. CLOSURE OF COUNCIL MEETING**

THERE BEING NO FURTHER BUSINESS, THE MAYOR DECLARED THE MEETING CLOSED AT 8:10 pm.

**I HEREBY CERTIFY THAT PAGES 1 TO 44 CONFIRMED AND ARE A TRUE AND CORRECT RECORD.**

CR SCOTT MARTIN  
MAYOR

22 AUGUST 2022

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**IN AN INTERNAL ARBITRATION PROCESS FOR GLENELG SHIRE COUNCIL  
UNDER SECTION 143 OF THE *LOCAL GOVERNMENT ACT 2020***

**LGA IAP REF:** IAP 2023-3  
**APPLICANTS:** Crs Jayden Smith (representative), Michael Carr, Chrissy Hawker, Anita Rank, Karen Stephens, Gilbert Wilson  
**RESPONDENT:** Cr Scott Martin  
**HEARING TYPE:** On the papers  
**BEFORE:** Arbiter J Silver  
**DATE:** 4 July 2023

Orders

1. The application is dismissed.

**APPEARANCES**

The hearing was conducted on the papers as permitted under sub-reg 11(3)(a) of the *Local Government (Governance and Integrity) Regulations 2020*.

## STATEMENT OF REASONS

### A. Overview

1. On 20 January 2023, Cr Scott Martin, the Mayor of Glenelg Shire, attended a screening of “Minions: The Rise of Gru” at the “grassed area next to the Portland Library” (which is the location described in the event marketing).
2. “Minions: The Rise of Gru” is a 2022 animated feature film, produced by Illumination and distributed by Universal Pictures, the latest in a franchise which began with the 2010 film “Despicable Me”.
3. “Gru” is an anti-hero voiced by the actor Steve Carell, while “the Minions” are a fictional species, defined by their unintelligible language, yellow colour, and lack of any sort of nose (amongst other things). As those characters featured in the event marketing, images of both “Gru” and “the Minions” are also contained in these reasons.
4. The screening was organised by Council’s Youth Team, with the support of partner community groups. Councillors were not officially invited, in the sense they were not sent an official invitation, and it does not seem that any official proceedings were involved. Of the Councillors, only Cr Martin attended.
5. The screening was officially a "blue light" event, meaning alcohol was not allowed. That is in contrast (I am told by Cr Martin) to other, similar events that Council had previously held or coordinated.
6. To what extent the "blue light" condition of entry was clearly communicated in the event advertising, or on the evening, is a matter I considered in these reasons.
7. On 28 February 2023, the effect of the allegations was ventilated in public question time at that day's Council Meeting.

8. On or about 23 March 2023, the applicants lodged an application concerning Cr Martin under section 143 of the *Local Government Act 2020* (**‘the Act’**) with the Principal Councillor Conduct Registrar.
9. At the next Council Meeting on 28 March 2023, Cr Martin made a statement, explaining that he brought alcohol (specifically, a prosecco bottle) to the screening, unaware the event was alcohol-free, and that he did not drink it once he became aware.
10. The applicants maintained their application.
11. On 18 May 2023, the Principal Councillor Conduct Registrar appointed me as arbiter to hear the application under sections 144 and 149 of the *Local Government Act 2020* (**‘the Act’**). On 6 June 2023, I convened a direction hearing for 13 June, the parties attending from Council premises, while I participated via Microsoft Teams.
12. The parties agreed with me that the hearing could appropriately be conducted in-writing, as the facts were largely agreed, with no real challenge mounted to Cr Martin's version of events, and no intention by the applicants to call opposing witnesses.
13. The standard of conduct in schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020* relied on by the applicants was the following:<sup>1</sup>

***4. Councillor must not discredit or mislead Council or public***

*(1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.*

14. The applicants, represented by Cr Jayden Smith (the Deputy Mayor), agreed that the application and supporting materials would be their evidence and submissions, with Cr Martin to file materials in response. I made orders to that effect, which also referred the

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<sup>1</sup> Although a breach of sub-s 3(c) of the standards of conduct was also raised in the application, at the directions hearing, Cr Smith agreed with my view that because no failure to follow Council's Governance Rules was being alleged (which is what that standard of conduct concerns), I did not need to consider that issue further.

parties to past reasons from internal arbitrations conducted under the Act that explained the phrase '*role of a Councillor*'.<sup>2</sup>

15. Having considered all of the materials, I find that that Cr Martin was *not* performing his role as a Councillor on 20 January 2023: in other words, the standards of conduct do not apply, and I will dismiss the application for that specific reason.
16. But to avoid any suggestion the application has *only* been dismissed on a technicality (that is, I would otherwise have found misconduct), I note that **even if I had decided that the standards of conduct applied** (in other words, if I am wrong in my primary conclusion), I have also reached the following conclusions:
  - (a) I am not satisfied that Cr Martin has brought Council into discredit;
  - (b) I would not have found otherwise if Cr Martin had also consumed any prosecco (rather than just bringing a bottle), as there is no evidence to suggest that he engaged in bad behaviour at the screening; and
  - (c) even if, contrary to those two observations, I instead found that Cr Martin had contravened the standards of conduct, I would not have imposed any sanction.
17. As other members of the Arbiter Panel List have taken to doing, I note the dismissal of the application is no criticism of the Principal Council Conduct Registrar appointing an arbiter to hear this application under section 144, given the fairly narrow parameters in which the Registrar must consider an application.
18. The dismissal also does not indicate that the application had no utility, or should have been withdrawn: the public nature of the allegations against Cr Martin meant that this internal arbitration process was the appropriate way of determining them.

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<sup>2</sup> Those reasons being *Morgan & Lew* (IAP 2021-19 and IAP 2021-23) (Stonnington, tabled 2 May 2022) (Arbiter Blacher) and *Newton & Laurence* (IAP 2022-5 and IAP 2022-6) (Darebin, tabled 14 November 2022) (Arbiter Silver)



## B. The 'role of a Councillor'

19. The phrase 'role of a Councillor' in sub-standard 4(1) also appears in section 28 of the Act, where it is defined with reference to Councillors' decision-making functions.

20. But as I stated in *Newton & Laurence* [IAP 2022-5; 2022-6], I agree with Arbitrator Blacher's view in *Morgan v Lew* [IAP 2021-19; 2021-23] that section 28 does not exhaustively define the circumstances when a Councillor is 'performing' their role.

21. It is useful to recite what I observed in *Newton & Laurence*:

*23. In practice, a Councillor fulfils their role whenever they engage in activities in connection with their role as Councillor, which includes publicly commenting on matters in relation to Council (including interactions with their colleagues)...*

*25. Given the expansive meaning of the phrase 'role of a Councillor' in the standards, it follows that a Councillor can do much that might 'bring discredit' upon Council for the standards' purposes.*

*26. 'Bring discredit' includes behaviour that harms Council's reputation.*

*27. Examples of that would include using vulgar language in the Council chamber, or drunken behaviour at a Council function: however, if engaged in during a Councillor's morning walk, the same behaviour is probably not within their role (even if the deleterious effect on Council is just the same).*

22. Having used the underlined, hypothetical example of misconduct, it was perhaps inevitable that an alcohol-related allegation would come before me.

## C. The evidence

23. In the orders of 13 June 2023 made following the directions hearing, I included the following notes under the heading "Other matters" (which the parties have not challenged):

*Based on discussion with the parties at the directions hearing, I summarise the dispute as follows:*

- (a) It is not disputed that Cr Martin brought alcohol to an alcohol-free event, nor [is it] suggested that he was drunken, disorderly, or otherwise acted improperly;*
- (b) According to Cr Martin (which Cr Smith does not dispute), the Councillors were not invited to the event officially, but Cr Martin attended informally. No other Councillors were in attendance;*
- (c) Cr Martin says he attended with his family after seeing a Council social media post... His position is that in learning of the event on social media, he was not made aware that it was alcohol free;*
- (d) As it was a Council event, Cr Smith says, and even though Cr Martin attended in a private or "family" capacity (as no official invitations were sent to Councillors), it should be dealt with under the Standards.*
- (e) Cr Martin says that in attending, he was not performing the "role of a Councillor".*

24. In his public statement at the 28 March 2023 Council Meeting, Cr Martin made the following comments (which I have taken from the written statement included in his submissions, rather than transcribing the as-read statement):

*In January there was an outdoor cinema event that my family attended. This one, like previous ones, were touted as family events where the community is invited to come along and enjoy the night. Previous outdoor cinemas here and throughout the shire allowed alcohol at the events to enjoy with family picnics, in fact local wineries and beer clubs had stalls set up at these great family events.*

*On the evening of the event, we checked the event site on Facebook before we left home, specifically the event details section which is where one would assume the*

*details would be. There was no mention of blue light or freezer involvement in the event details section. Nothing to indicate that it was different from previous events.*

*So, we attended the outdoor cinema, set up our picnic and cheese board, popped the bottle of prosecco to go with the cheese board and whilst in that process noticed there were no wineries set up, no stalls. So... I approached one of the event staff to check if it was alcohol free or not. They were unsure if it was, went away to check and came back informing us that it was.*

*Upon receiving the information, we opened up our soft drinks and we all used our fancy picnic glasses to drink the lemonade and water brought along throughout the night. At the end of the night, we proceeded to tip the bottle of now warm prosecco out.*

25. It was not suggested to me that this explanation was untruthful or unreliable, which I would have found difficult to accept, in any event: it is not commonsense for a public figure to bring alcohol to an event they know is alcohol-free.
  
26. The applicants primarily referred on an event poster which contained the words "Alcohol and Smoke Free Event" (**'the Gru Poster'**), which is shown below:



How could Cr Martin have missed this? The answer is "rather easily," because the Gru Poster was not readily visible on the Facebook event page, and the conditions of entry were not stated in the event description on that page.

27. In his response submissions, Cr Martin attached a "screengrab" of the Facebook event page. Based on what was shown, I identified and located the page,<sup>3</sup> which was set up by the page "Glenelg Shire Youth" on about 15 December 2022.

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<sup>3</sup> Accessible at the URL [https://www.facebook.com/events/1595417610919486?active\\_tab=about](https://www.facebook.com/events/1595417610919486?active_tab=about)

28. The Facebook event page comprised two “tabs.” The "default" tab that first appears when clicking on a link to the page, or by entering the URL into an Internet browser, is the “About” tab, which contained the following description (graphics omitted):

Presenting The Minions: Rise of Gru  
FREE FAMILY FRIENDLY EVENT  
~Free popcorn and drinks available~  
~Dont (sic) forget your picnic rug~

A movie graphic of the Minions appears immediately above this tab, simply titled “minions: THE RISE OF GRU,” as shown below:



On this information, it is clear that the “About” tab did not identify the screening as an alcohol-free event.

29. The second tab on the Facebook event page was the “Discussion” tab, which only opens if the user chooses to click on the tab.

30. I located three posts in the "Discussion" tab. Two were identical posts, "re-sharing" the event page (on 21 and 23 December 2023) by the "Glenelg Libraries" and "Glenelg Shire Youth" pages, clicking which sends the user to the "About" tab.
31. The third post on the "Discussion" tab was of the Gru Poster (posted on 15 December 2022). Without scrolling, the Gru Poster was not visible immediately. Even if a user *were* to scroll down, the size and formatting of the Gru Poster made some wording difficult to read, without clicking to enlarge the image.
32. In other words, because the alcohol-free status of the screening was not clearly communicated by Council on the Facebook page, I do not accept that Cr Martin should be criticised for failing to see the Gru Poster.
33. It was not suggested to me that Council erected signage on the evening reminding attendees of the alcohol-free conditions of entry, and no evidence was presented of steps taken to enforce those conditions.
34. It is also not suggested that Cr Martin was, for example, discovered by Council staff "mid-sip" and refused to discard the alcohol, or that he refused a direction by Council staff to leave due to a breach of the conditions of entry. That would be a serious matter.
35. These observations are not intended as criticisms of Council staff, but merely confirm the circumstances in which Cr Martin made his mistake.

D. Why the standards of conduct do not apply, and Cr Scott Martin's conduct would not be misconduct in any event

36. The application raises an interesting question, which is: can a Councillor attend a Council-run event or a Council facility, without performing the role of a Councillor?
37. In my view, the answer is "yes."

38. The evidence is clear that Cr Martin had no role at the screening, official or otherwise, (for example, helping Council staff set up, or addressing attendees). He was simply there with his family, watching a movie with food and drink brought from home.
39. As Cr Martin had no role, I am unconcerned that the event was "Council run," or occurred on Council land or premises: those facts alone are not determinative.
40. Without wanting to state a rule, for a Councillor to be performing their role, it seems to me that the relevant conduct should be sufficiently connected with the decision-making functions or other associated duties, as informed by section 28 of the Act.
41. To illustrate with hypothetical examples, a Councillor is not performing "the role of a Councillor" when watching their child's Auskick game in a Council park, or attending Council premises to pay property rates.
42. While connected to Council more generally, there is no specific connection in those examples with the performance of the Councillor's role, in contrast, for example, to commenting on matters that Council may make decisions upon (which is why social media posts can come under the standards of conduct).
43. If Cr Martin had also introduced the film beforehand (as Mayor), I may have found that the standards of conduct applied, but not made a misconduct finding.
44. I say that because on the evidence, I am not satisfied that Cr Martin has brought *'discredit upon the Council.'*
45. He was not drunk, disorderly, or otherwise poorly behaved. He made an inconsequential mistake, which has not discredited Council.
46. The application is accordingly dismissed.

**J A SILVER**

ARBITER