



Glenelg Shire Council
Minutes of the Audit and Risk Committee held on
Thursday 7 December 2023 at 1:00 pm at
Glenelg Shire Offices
71 Cliff Street, Portland

1. Invited.....	4
2. Acknowledgement of Country.....	4
3. Receipt of Apologies.....	4
4. Confirmation of Minutes.....	4
5. Declarations of Conflict of Interest.....	5
6. Business arising from the previous meeting.....	5
7. Management Reports.....	6
7.1. Election of Audit and Risk Committee Chairperson.....	6
7.2. Strategic Internal Audit Program Status Update.....	8
7.3. Industry Update.....	11
7.4. Internal Audit Report - Climate Change Adaptation.....	13
7.5. Internal Audit Report - Human Resources Workforce Management.....	16
7.6. Department of Transport and Planning Information Protection Agreement Audit 2022/2023.....	19
7.7. Annual update on defined benefits superannuation vested benefit position	22
7.8. Roads to Recovery 2022/2023.....	25
7.9. Borrowings Policy.....	27
7.10. Glenelg Shire Council Annual Report 2022-2023.....	29
7.11. Organisational Enterprise Resource Program (ERP) update.....	31
7.12. People Matters Survey.....	33
7.13. Audit and Risk Committee Meeting Schedule for 2024.....	34
7.14. Information Asset Register.....	36
7.15. Cyber Crime Action Plan (December 2023).....	38
8. Regular Reports.....	40
8.1. Cyber Incident Report.....	40
8.2. Risk, WorkCover and OHS Quarterly Report.....	42
8.3. Councillors Quarterly Expenditure Report.....	44
8.4. CEO & EA Expenditure - Credit Card and Reimbursements.....	48
8.5. Glenelg Shire Council Financial Report September 2023.....	50
8.6. Internal Audit Action List.....	52
8.7. Audit and Risk Committee Work Plan Year Ending 2024.....	56
9. Confidential Reports.....	59
10. Any other Business.....	59
10.1. Project Update - Power BI Report.....	59
10.2. Attestation Report.....	59

11. Next Audit and Risk Committee Meeting 59

12. Closure of Audit and Risk Committee Meeting 59

1. INVITED

Mr David Stafford (Independent Member), Mr Philip Saunders (Independent Member), Ms Bonnie Holmes (Independent Member) joined via Microsoft Teams, Mr Greg Tremewen (Independent Member), Cr Karen Stephens (Mayor), Cr Michael Carr, Cr John Northcott, Mr Greg Wood (Chief Executive Officer), Mr David Hol (Director Corporate Services), Ms, Ms Kylie Walford (Corporate Governance Coordinator) and Rachael Currie (Executive Assistant Corporate Services).

Mr Brad Ead, AFS & Associates joined the meeting via Microsoft Teams.

2. ACKNOWLEDGEMENT OF COUNTRY

The Chair read the Acknowledgment of Country.

3. RECEIPT OF APOLOGIES

Ms Lauren Easson, Chief Finance Officer.

The Chair welcomed Cr John Northcott and Chief Executive Officer, Mr Greg Wood.

Mr David Hol, Director Corporate Services welcomed Mr Stephen Kingshot, Municipal Monitor.

4. CONFIRMATION OF MINUTES**Recommendation**

That the minutes of the Audit and Risk Committee held on Thursday 14 September, as circulated, be confirmed.

MOTION

MOVED Member Greg Tremewen

That the minutes of the Audit and Risk Committee held on Thursday 14 September, as circulated, be confirmed.

SECONDED Member Philip Saunders

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

5. DECLARATIONS OF CONFLICT OF INTEREST

Nil.

6. BUSINESS ARISING FROM THE PREVIOUS MEETING

Nil.

7. MANAGEMENT REPORTS

7.1. ELECTION OF AUDIT AND RISK COMMITTEE CHAIRPERSON

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

This report seeks the appointment of an Audit and Risk Committee Chairperson for the forthcoming 12 months.

Section 53(4) of the *Local Government Act 2020* states that the Chairperson of an Audit and Risk Committee must not be a Councillor of the Council.

The Temporary Chairperson (Chief Executive Officer) calls for nominations for the position of Audit and Risk Committee Chairperson.

All nominations must be moved and seconded.

Mr Greg Wood, Chief Executive Officer called for nominations for Chairperson.

Member Bonnie Holmes nominated Member David Stafford for position of Chairperson.

The nomination was seconded by Phil Saunders.

There were no further nominations.

The CEO declared that Independent Member David Stafford is elected as Chairperson.

Member David Stafford assumed the Chair.

Background/Key Information:

The Glenelg Shire Council's Audit and Risk Committee Charter states that the Chairperson will be elected on an annual basis.

The adopted Audit and Risk Committee Meeting Plan states that the election of Audit and Risk Committee Chairperson will be conducted at the December Audit and Risk Committee Meeting each year.

In accordance with the Audit and Risk Committee Charter the following responsibilities apply for the Chairperson:

- The Chairperson shall have a casting vote on occasions where there are an equal number of votes on a matter.

- The Chairperson must review all minutes of the Audit and Risk Committee.
- In accordance with section 54(6b) of the Act, the Chairperson may require any report and annual assessments of the Audit and Risk Committee to be listed on the agenda for the next Council Meeting.

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

Section 53(4) of the *Local Government Act 2020* states that the Chairperson of an Audit and Risk Committee must not be a Councillor of the Council.

c. Consultation and/or communication processes implemented or proposed

Not Applicable.

d. Financial Implications and Collaboration

Remuneration for Audit and Risk Committee Independent Members, including the Chairperson are accounted for in the 2023-2024 Annual 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.

Attachment List

Nil

7.2. STRATEGIC INTERNAL AUDIT PROGRAM STATUS UPDATE

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

The purpose of this report is for the Audit and Risk Committee to receive the Strategic Internal Audit Program (SIAP) Status Update presented by AFS & Associates (as attached) and to consider a proposed amendment to the current SIAP.

Recommendation

That the Audit and Risk Committee:

1. Receives the Strategic Internal Audit Program Status Update presented by AFS & Associates.
2. Approves the following amendment to the Strategic Internal Audit Plan 2021 – 2024:
 - Defer Cyber Security – Penetration Testing and Vulnerability Assessment from March Audit and Risk Committee to June Audit and Risk Committee 2024.

MOTION

MOVED Member Philip Saunders

That the Audit and Risk Committee:

1. **Receives the Strategic Internal Audit Program Status Update presented by AFS & Associates.**
2. **Approves the following amendment to the Strategic Internal Audit Plan 2021 – 2024:**
 - **Defer Cyber Security – Penetration Testing and Vulnerability Assessment from March Audit and Risk Committee to June Audit and Risk Committee 2024.**

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

In accordance with the Audit and Risk Committee Charter, Council sets an internal audit plan to direct the activities of the internal audit function. Internal audit provides a review of the effectiveness of governance, risk management and control processes. Whilst a three-year plan exists, the Audit and Risk Committee will retain its ability to recommend amendments as required where circumstances change or new risks present.

There is one amendment to the Strategic Internal Audit Plan this quarter. It is proposed to defer the presentation of the Cyber Security – Penetration Testing and Vulnerability Assessment from March to June 2024 Audit and Risk Committee. The reason for this is due to availability of specialist staff and timing of the testing. It is expected that the testing will be undertaken although the final report will not be available for the March meeting.

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

Section 54 of the *Local Government Act 2020* states Council must prepare and approve an Audit and Risk Charter.

The Audit and Risk Committee Charter requires the Internal Auditor to establish an Internal Audit Plan in conjunction with the Audit and Risk Committee and the Executive Team, and to implement the Plan with regular reports to both the Audit and Risk Committee and Chief Executive Officer.

c. Consultation and/or communication processes implemented or proposed

- AFS & Associates
- Key Personnel

d. Financial Implications and Collaboration

Internal Audits are incorporated in Council's Budget 2023/2024.

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.

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.

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.

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

Attachment List

1. SIAP Status Update 7 December 2023 [7.2.1 - 4 pages]

7.3. INDUSTRY UPDATE

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

The attached Agency Report, presented by AFS & Associates is provided for the information of the Audit and Risk Committee.

Recommendation

That the Audit and Risk Committee receives the Agency Report presented by AFS & Associates.

MOTION

MOVED Mayor Cr Stephens

That the Audit and Risk Committee receives the Agency Report presented by AFS & Associates.

SECONDED Cr Northcott

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

ACTION - Mayor Cr Stephens to distribute the report titled 'Environmental and Sustainability Claims - Draft guidance for business', by Australian Competition & Consumer Commission, July 2023 to committee members.

Background/Key Information:

In accordance with the Audit and Risk Committee Work Plan under Compliance and Performance Management, the Audit and Risk Committee are presented with reports by regulatory and integrity agencies on investigations relevant to Council.

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

These reports relate to a number of legislative provisions of the *Local Government Act 2020*.

Council's internal audit program plays a key role in assisting the organisation in governance, compliance and risk management.

c. Consultation and/or communication processes implemented or proposed

AFS & Associates

d. Financial Implications and Collaboration

Not applicable

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.

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.

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.

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

Attachment List

1. Industry Update 7 December 2023 [7.3.1 - 11 pages]

7.4. INTERNAL AUDIT REPORT - CLIMATE CHANGE ADAPTATION

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Acting Chief Executive Officer

Executive Summary

This report is to present to the Audit and Risk Committee the internal audit findings report on Climate Change Adaptation.

Recommendation

That the Audit and Risk Committee receives the Internal Audit Report – Climate Change Adaptation.

Mr Adam Smith, Environmental Sustainability Coordinator joined the meeting at 1.28pm.

MOTION

MOVED Member Bonnie Holmes

That the Audit and Risk Committee receives the Internal Audit Report – Climate Change Adaptation.

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Mr Adam Smith left the meeting at 1.35pm.

Background/Key Information:

The internal audit for the review of Climate Change Adaptation has been undertaken in accordance with year three of the Strategic Internal Audit Plan 2021 – 2024.

Council's internal auditors AFS & Associates were engaged to complete the audit.

The scope of the review was as follows:

- Identify the framework for managing environmental sustainability and climate change including:
 - strategies in place
 - reporting against strategy, including management oversight

- how environmental sustainability/risk factors are incorporated into decision making
 - roles and responsibilities for implementation
 - the extent of disruption scenario analysis, stress testing, and assumptions reviewed.
- Benchmark the climate change risks identified and assessed within the risk register against other similar organisations/industry guidance.
 - Evaluate the process to assess and identify future risks and impacts.
 - Report on treatment plans and strategies promoted to address the risks and confirm the level of activity that has occurred.

In the final report, under detailed findings, there were seven areas of strength identified, four moderate audit findings, one minor audit finding and one opportunity.

Of the six recommendations all six were agreed to by management and the relevant management comments were applied, with target completion dates assigned.

The full report is attached to this Agenda.

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

b. Legislative, Legal and Risk Management Considerations

Section 54 of the *Local Government Act 2020* states Council must prepare and approve an Audit and Risk Committee Charter.

The Audit and Risk Committee Charter requires the Internal Auditor to establish an Internal Audit Plan in conjunction with the Audit and Risk Committee and the Executive Team, and to implement the Plan with regular reports to both the Audit and Risk Committee and Chief Executive Officer.

c. Consultation and/or communication processes implemented or proposed

- AFS & Associates
- Key personnel.

d. Financial Implications and Collaboration

The Internal Audit Program is incorporated into the 2023/2024 Council Budget.

It is anticipated that the recommendations accepted will be implemented within current operational budgets.

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. Final Internal Audit Report Climate Change Adaptation [7.4.1 - 19 pages]

7.5. INTERNAL AUDIT REPORT - HUMAN RESOURCES WORKFORCE MANAGEMENT

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

This report is to present to the Audit and Risk Committee the internal audit findings report on Human Resources Workforce Management.

Recommendation

That the Audit and Risk Committee receives the Internal Audit Report – Human Resources Workforce Management.

Ms Shelley Bourke, Executive Manager Organisational Development joined the meeting at 1.36pm.

MOTION

MOVED Member Philip Saunders

That the Audit and Risk Committee receives the Internal Audit Report – Human Resources Workforce Management.

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Ms Bourke left the meeting at 1.43pm.

Background/Key Information:

The internal audit for the review of Human Resources Workforce Management has been undertaken in accordance with year three of the Strategic Internal Audit Plan 2021 – 2024.

Council's internal auditors AFS & Associates were engaged to complete the audit.

The scope of the review was as follows:

- Review of staff attraction, recruitment and on boarding processes
- Assess employee performance appraisal processes, ensuring basic requirements are met

- Review staff development processes including assessing the existence of a training and skills management program, matrix and ensuring budget is made to allow for this
- Confirm the existence of employee exit procedures and controls including return of Council assets, removal of IT and site access.

In the final report, under detailed findings, there were eight areas of strength identified and six minor audit findings.

Of the six recommendations all six were agreed to by management and the relevant management comments were applied, with target completion dates assigned.

The full report is attached to this Agenda.

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

Section 54 of the *Local Government Act 2020* states Council must prepare and approve an Audit and Risk Committee Charter.

The Audit and Risk Committee Charter requires the Internal Auditor to establish an Internal Audit Plan in conjunction with the Audit and Risk Committee and the Executive Team, and to implement the Plan with regular reports to both the Audit and Risk Committee and Chief Executive Officer.

c. Consultation and/or communication processes implemented or proposed

- AFS & Associates (internal auditor)
- Key personnel.

d. Financial Implications and Collaboration

The Internal Audit Program is incorporated into the 2023/2024 Council Budget.

It is anticipated that the recommendations accepted will be implemented within current operational budgets.

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.

Innovation and continuous improvement is to be pursued.

Attachment List

1. Human Resource Workforce Management Internal Audit Report [7.5.1 - 23 pages]

7.6. DEPARTMENT OF TRANSPORT AND PLANNING INFORMATION
PROTECTION AGREEMENT AUDIT 2022/2023

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

This report is to brief the Audit and Risk Committee on the results of the annual Department of Transport and Planning Information Protection Agreement Audit 2022/2023.

Recommendation

That the Audit and Risk Committee receives the Department of Transport and Planning Information Protection Agreement Audit 2022/2023.

MOTION

MOVED Cr Carr

That the Audit and Risk Committee receives the Department of Transport and Planning Information Protection Agreement Audit 2022/2023.

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

The Glenelg Shire Council has an Information Protection Agreement (IPA) with the Department of Transport and Planning for the provision of vehicle registration information from Department of Transport and Planning. The current IPA is for the period 1 April 2019 to 30 June 2024.

Council requires the Department of Transport and Planning information for the prevention, detection, investigation and prosecution of offences and enforcement of penalties in relation to specified purposes.

The IPA contains provisions where Council must protect the privacy and security of the information and only use the information for the permitted purposes. It also includes provisions for breaches of information.

To provide assurance to Department of Transport and Planning that Council is complying with the IPA obligations, an annual audit is required to be completed by 31 August each year. The Audit Report must fully and accurately respond to the Audit Schedule. The Audit Schedule supplied by Department of Transport and Planning each year varies based on a risk assessment, in the Department of Transport and Planning's discretion.

The Audit Schedule for 2022/2023 included the following scope:

- Privacy and Data Security;
- Records and Change Management;
- Breach Management;
- Working from Home; and
- Subcontractors

Ten questions were responded to relating to the current controls in place for the above scope items. Each question is rated between 0 and 3. Zero being no effective controls and 3 being controls are mature, implemented and effective and on par with best practice.

- Eight controls were assessed with a rating of 3.
 - *Two more than previous year.*
- Two controls were assessed with a rating of 2
 - *Two less than previous year.*
- Nil controls were assessed with a rating of 1
 - *Same as previous year.*

There are two rectification items outlined in this year's Annual Audit. These rectification items will be added to the Audit and Risk Internal Action Plan:

- Rectification Item 1 – That the Department Procedure VicRoads Information Protection Agreement Process and Breach Procedure be revised to address each element/responsibility of the IPA process. This will ensure a seamless handover/transition for any staff changes in the future.
- Rectification Item 2 – That the Organisational Representative conduct bi-annual spot checks (by calendar appointment) to ensure compliance of corresponding entries.

A full copy of the Audit Report is attached to this report.

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

Road Safety Act 1986 Part 7B:

- Section 90K(g) allows VicRoads to use or disclose relevant information to a law enforcement agency.
- Section 90N requires that VicRoads must not release or disclose the relevant information a body in 90K(g) unless an Information Protection Agreement is entered into.

Privacy and Data Protection Act 2014.

c. Consultation and/or communication processes implemented or proposed

Consultation occurred with the Local Laws Unit.

d. Financial Implications and Collaboration

Not Applicable.

e. Governance Principles

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

Attachment List

1. Signed DTP IPA Template Audit Level 1 2022-2023 Glenelg Shire Council October 2023 [7.6.1 - 10 pages]
2. IPA Rectification Report 2022-2023 Sept 2023 [7.6.2 - 2 pages]

7.7. ANNUAL UPDATE ON DEFINED BENEFITS SUPERANNUATION VESTED BENEFIT POSITION

Author: Lauren Easson, Chief Finance Officer
Director: David Hol, Director Corporate Services

Executive Summary

The purpose of this report is to enable the Audit and Risk Committee to monitor the vested benefit position of the Defined Benefits Scheme.

Recommendation

That the Audit and Risk Committee receives that the VBI of 104.1% as at 30 June 2023 satisfies APRA's Superannuation Prudential Standard 160 (SPS 160), and at this stage no action is required.

MOTION

MOVED Mayor Cr Stephens

That the Audit and Risk Committee receives that the VBI of 104.1% as at 30 June 2023 satisfies APRA's Superannuation Prudential Standard 160 (SPS 160), and at this stage no action is required.

SECONDED Cr Carr

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

Council has previously been subject to four "top-up calls" for the defined benefits fund. These four calls had an aggregate value of \$8.206 million and occurred in 1997, 2002, 2010 and 2012.

An internal audit completed in February 2017 reviewing the potential for further Council "top-up" contributions to the Local Authorities Superannuation Fund (Vision Super) Defined Benefits scheme recommended the preparation of a brief annual report to Council's Audit and Risk Committee conveying the latest advice from Vision Super regarding the LASF DB Vested Benefit Index.

Details of this advice for consideration are as follows:

VESTED BENEFIT INDEX (VBI)				
Year	QTR 1 - September (estimated)	QTR 2 - December (estimated)	QTR 3 - March (estimated)	QTR 4 - June (actual)
2012/13	96.6%	97.9%	99.4%	100.7%
2013/14	103.1%	105.1%	104.6%	103.4%
2014/15	102.6%	103.1%	108.5%	105.8%
2015/16	104.0%	104.4%	102.4%	102.0%
2016/17	103.7%	105.4%	106.6%	103.1%
2017/18	103.8%	106.4%	106.2%	106.0%
2018/19	106.9%	101.9%	105.4%	107.1%
2019/20	107.3%	107.7%	102.1%	104.6%
2020/21	104.5%	109.6%	111.5%	109.8%
2021/22	109.9%	111.2%	108.5%	102.2%
2022/23	101.5%	101.7%	104.2%	104.1%

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

Under the superannuation prudential standards, VBIs must generally be kept above a fund's nominated shortfall threshold, currently 97%.

When an actuarial review/investigation is in progress, the fund's VBI must be at least 100%. In the event that the VBI falls below the shortfall threshold, the Fund's Trustee is required under the superannuation prudential standards (SPS 160) to formulate a restoration plan to restore the VBI to 100% within three years.

Vision Super will continue to monitor the sub-plan's VBI at least quarterly and on a daily basis during periods of high market volatility.

Also, in accordance with Division 4, Section 101 of the *Local Government Act 2020*, Council is required to consider the following Financial Management Principles:

Revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans; and

Financial risks must be monitored and managed prudently having regard to economic circumstances.

c. Consultation and/or communication processes implemented or proposed

Report to be prepared for the Audit and Risk Committee meeting.

d. Financial Implications and Collaboration

The resourcing of year-end audit is provided for in the adopted budget.

e. Governance Principles

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

Attachment List

Nil

7.8. ROADS TO RECOVERY 2022/2023

Author: Lauren Easson, Chief Finance Officer
Director: David Hol, Director Corporate Services

Executive Summary

The Department of Infrastructure, Regional Development and Cities is the funding body for Council's 5-year Roads to Recovery scheme. From 2019/2020 to 2023/2024 Council will receive \$11.368M for roads and associated infrastructure projects under this scheme.

Recommendation

That the audit outcomes for the Roads to Recovery Program Funding as at 30 June 2023 be received.

MOTION

MOVED Member Greg Tremewen

That the audit outcomes for the Roads to Recovery Program Funding as at 30 June 2023 be received.

SECONDED Member Bonnie Holmes

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Greg Tremewen Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

It is a funding requirement that at the end of each financial year that Council's income and expenditure under the R2R scheme is audited by Councils' Auditor, who is the Victorian Auditor General (VAGO). VAGO's Glenelg Audit Contractor is RSD for the 2022/2023 with Mahesh Silva being the responsible Audit Partner. For the period 2022/2023 Council incurred expenditure on R2R capital projects amounting to \$2.168M.

The audit has been completed by RSD, and VAGO have issued the Audit Opinion for the 2022/23 financial year.

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

The Audit of the R2R expenditure is required in accordance with the funding agreement and is legislated in accordance with the National Land Transport Act 2014.

c. Consultation and/or communication processes implemented or proposed

Report to be prepared for the Audit and Risk Committee meeting.

d. Financial Implications and Collaboration

The resourcing of Roads to Recovery year-end audit is provided for in the adopted budget.

e. Governance Principles

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

Attachment List

1. Glenelg - R 2 R acquittal 2022-23 [7.8.1 - 6 pages]
2. Glenelg - R 2 R audit report 2022-23 [7.8.2 - 2 pages]

7.9. BORROWINGS POLICY

Author: Lauren Easson, Chief Finance Officer
Director: David Hol, Director Corporate Services

Executive Summary

This report seeks endorsement by the Audit and Risk Committee for the approval of the Borrowings Policy.

Recommendation

That the Audit and Risk Committee endorses the Draft Borrowings Policy and recommends the adoption of this policy to Council at the January 2024 Council Meeting.

MOTION

MOVED Cr Northcott

That the Audit and Risk Committee endorses the Draft Borrowings Policy and recommends the adoption of this policy to Council at the January 2024 Council Meeting.

SECONDED Member Philip Saunders

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

The purpose of this Borrowing Policy is to establish objectives and principles that outline when it is appropriate for Council to undertake borrowings within a sound financial management framework. This Policy provides clear direction on the authority of Council or Council officers to make borrowing decisions and ensure Council keeps within the relevant prudential requirements provided by State Government.

This Policy will be a key document applied to the preparation and determination of any borrowings in the annual budget and 10-year financial plan. It will also be used when considering new borrowings and refinancing existing borrowings.

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

In accordance with Division 4, Section 101 of the *Local Government Act 2020*, Council is required to consider the following Financial Management Principles:

1. Revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans;
2. Financial risks must be monitored and managed prudently having regard to economic circumstances.

A Borrowings Policy has been developed to strengthen the management of current and future liabilities of Council. Council will continue to comply with section 104 of the *Local Government Act 2020* by including any proposed borrowings in the relevant Budget.

c. Consultation and/or communication processes implemented or proposed

The Borrowings Policy has been developed taking into account the principles in the Financial Plan 2021-2031, and is closely aligned to several examples from other Local Government bodies.

Council's Executive Team have reviewed the content of this Policy prior to Audit and Risk Committee.

d. Financial Implications and Collaboration

The Policy outlines various financial factors to consider for future proposed borrowings.

e. Governance Principles

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

Attachment List

1. DRAFT Council Policy - Borrowings (A& R Committee) [7.9.1 - 6 pages]

7.10. GLENELG SHIRE COUNCIL ANNUAL REPORT 2022-2023

Director: Jayne Miller, Director Community Services

Executive Summary

The purpose of this report is to present to Council the Glenelg Shire 2022 - 2023 Annual Report including the Financial and Performance Statements.

Recommendation

That Audit and Risk Committee receives the Glenelg Shire Council Annual Report for 2022-2023, including the audited Financial Statements and Performance Statement.

MOTION

MOVED Member Greg Tremewen

That Audit and Risk Committee receives the Glenelg Shire Council Annual Report for 2022-2023, including the audited Financial Statements and Performance Statement.

SECONDED Member Bonnie Holmes

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

Council has a statutory requirement to produce an Annual Report each financial year. The *Local Government Act 2020* outlines the key information that must be included and the process that must be adhered to in the development, authorisation and publication of the Annual Report.

The 2022-2023 Annual Report is a key corporate document of Council. It contains Council's Financial Statements, Performance Statement and the achievements delivered under the Council Plan during the financial year - 1 July 2022 to the 30 June 2023.

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.

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

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

In accordance with section 100(1) of the *Local Government Act 2020*, the Mayor must report on the implementation of the Council Plan by presenting the annual report at a Council meeting open to the public.

c. Consultation and/or communication processes implemented or proposed

The Annual Report will be distributed to a variety of public and private sector organisations and individuals who have requested that their names be placed on the mailing list. The mailing list is reviewed each year.

The Annual Report will also be available on the Council's website and at Customer Service Centre's. A media release will be issued following a resolution of Council to adopt the annual report.

d. Financial Implications and Collaboration

The direct cost of layout and printing of the annual report is forecast annually within the Council Budget.

e. Governance Principles

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

Attachment List

1. Glenelg Shire Council Annual Financial Report 2022-2023 [7.10.1 - 35 pages]
2. Glenelg Shire Council Annual Report 2022-2023 [7.10.2 - 61 pages]

7.11. ORGANISATIONAL ENTERPRISE RESOURCE PROGRAM (ERP) UPDATE

Author: Jason Dean, Business Analyst
Director: David Hol, Director Corporate Services

Executive Summary

This report provides the Audit and Risk Committee with an update on the progress on the Council project to review its current Enterprise Resource Program (ERP) IT platform and corporate software suite used with the majority of operational services.

Recommendation

That the Audit and Risk Committee receives the update of the progress with the Enterprise Resource Program project.

MOTION

MOVED Cr Carr

That the Audit and Risk Committee receives the update of the progress with the Enterprise Resource Program project.

SECONDED Mayor Cr Stephens

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

An external consultancy (Strategic Directions) was selected from the previously reported procurement process.

During the week of 23 October 2023, Strategic Directions conducted six remote workshops (due to holidays and unavailability).

During the week of 30 October 2023 Strategic Directions attended the Portland Office and conducted a further 17 in person sessions with all remaining SMEs (Subject Matter Experts).

These sessions were to ascertain current processes and system use as well as identify potential areas for improvement.

The workshops were extremely productive and as a result the requirements for each Unit were collated (a total of more than 700). These will form the basis of the Tender Documentation.

The Tender Documents are on target for completion by 20 Dec 23 as per the project plan.

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

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

The procurement of the project will be undertaken in accordance with the Procurement Policy. The evaluation of quotations is currently underway to identify and mitigate risks with the project delivery.

c. Consultation and/or communication processes implemented or proposed

The project will involve significant consultation with users of Council's Corporate Suite of Software and with oversight from the Executive Team.

d. Financial Implications and Collaboration

The project has a \$200k financial allocation within the 2023-2024 operational 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.

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.

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

Innovation and continuous improvement is to be pursued.

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

Attachment List

Nil

7.12. PEOPLE MATTERS SURVEY

Director: David Hol, Director Corporate Services

Mr David Hol, Director Corporate Services provided a verbal update to the Audit and Risk Committee on the outcomes of the People Matters Survey.

7.13. AUDIT AND RISK COMMITTEE MEETING SCHEDULE FOR 2024

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

This report seeks the approval of the Audit and Risk Committee for the Committee's meeting schedule for the calendar year 2024.

Recommendation

That the Audit and Risk Committee:

1. Approves the proposed 2024 schedule of meeting dates.
2. Notes that meetings will commence at 1.00pm and will be held either in person or virtually via Microsoft Teams.
3. Notes that scheduled meeting dates and/or commencement times are subject to amendment as required.

MOTION

MOVED Cr Carr

That the Audit and Risk Committee:

1. Approves the proposed 2024 schedule of meeting dates.
2. Notes that meetings will commence at 1.00pm and will be held either in person or virtually via Microsoft Teams.
3. Notes that scheduled meeting dates and/or commencement times are subject to amendment as required.

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

The following dates are proposed for the scheduled Audit and Risk Committee meetings to be held during the 2024 calendar year:

- Thursday 7 March 2024
- Thursday 6 June 2024
- Thursday 12 September 2024
- Thursday 5 December 2024.

It is proposed that meetings continue to commence at 1:00pm on the scheduled dates, but may be amended to accommodate business requirements. In accordance with the Audit and Risk Committee Charter 2023 – 2025 the Audit and Risk Committee has the authority to convene additional meetings as circumstances require.

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

In accordance with Section 53 of the *Local Government Act 2020*, a Council must establish an Audit and Risk Committee.

c. Consultation and/or communication processes implemented or proposed

Not Applicable.

d. Financial Implications and Collaboration

The cost of holding Audit and Risk Committee meetings is fully provided for within the 2023/24 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.

Attachment List

Nil

7.14. INFORMATION ASSET REGISTER

Author: Abby Clark, Information and Technology Manager
Director: Ann Kirkham, Chief Information Officer - Glenelg Futures

Executive Summary

The purpose of this report is to provide the Audit and Risk Committee with the Information Asset Register (IAR) biannual report update.

Recommendation

That the Audit and Risk Committee receives the biannual Information Asset Register update.

Ms Ann Kirkham, Chief Information Officer joined the meeting at 2.10pm.

MOTION

MOVED Mayor Cr Stephens

That the Audit and Risk Committee receives the biannual Information Asset Register update.

SECONDED Member Bonnie Holmes

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

Developing and maintaining an IAR is a mandatory requirement of the Victorian Protective Data Security Framework. To ensure the IAR remains up to date, 36 small workshops with Information Stewards and Information Custodians were undertaken across the organisation in September 2023.

Glenelg Shire Council has a total of 330 information assets. Results of the update are below;

- 12 new information assets
- 6 information assets were made inactive
- 2 changes to the business impact level.

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

Section 88 and Section 89 of the *Privacy and Data Protection Act 2014* (PDP Act) outline the compliance obligations of VPS organisations with respect to the Standards and requirements for the Protective Data Security Plan.

c. Consultation and/or communication processes implemented or proposed

To ensure the IAR remains up to date, 40 small workshops with Information Stewards and Information Custodians were undertaken across the organisation in May 2023.

d. Financial Implications and Collaboration

Not applicable.

e. Governance Principles

Innovation and continuous improvement is to be pursued.

Attachment List

1. GSC IAR (1) [7.14.1 - 5 pages]

7.15. CYBER CRIME ACTION PLAN (DECEMBER 2023)

Author: Ann Kirkham, Chief Information Officer - Glenelg Futures
Director: Ann Kirkham, Chief Information Officer - Glenelg Futures

Executive Summary

The purpose of this report is to brief the Audit and Risk Committee on the completion of actions in the Cyber Crime Action Plan identified in the internal audit review of Council's Cyber Security.

Recommendation

That the Audit and Risk Committee acknowledges the completion of the Cyber Crime Action Plan.

MOTION

MOVED Mayor Cr Stephens

That the Audit and Risk Committee acknowledges the completion of the Cyber Crime Action Plan.

SECONDED Cr Northcott

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

A Cyber Crime Action Plan was developed from the following reports undertaken by Crowe and presented to Audit and Risk Committee in March 2022.

Objective 1. Cyber Crime Vulnerability Scorecard
Objective 2. Cyber Risk Report
Objective 3 Cyber Risk Report Cyber Azure 365
Objective 4. Dark Web Credentials Scan

A report has been presented each quarter outlining the status and progress of the Action Plan. From March 2023 this reporting was on outstanding items only. Now that the status of these items is completed ongoing or underway a final report has been provided.

One item from the outstanding report, the Security and Penetration Test is underway. When completed this will be presented to the Audit and Risk Committee along with an Action Plan, which will then inform future work.

In addition to this Council continues to deliver a cyber awareness campaign that includes training and internal phishing campaigns.

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

Privacy and Data Protection Act 2014

c. Consultation and/or communication processes implemented or proposed

Not applicable.

d. Financial Implications and Collaboration

Completed within budget.

e. Governance Principles

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

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

Innovation and continuous improvement is to be pursued.

Attachment List

1. Cyber Crime Action Plan Outstanding Items Dec 2023 [7.15.1 - 1 page]

8. REGULAR REPORTS

8.1. CYBER INCIDENT REPORT

Author: Abby Clark, Information and Technology Manager
Director: Ann Kirkham, Chief Information Officer - Glenelg Futures

Executive Summary

The purpose of this report is to provide the Audit and Risk Committee with the quarterly Cyber Security Incident Report update.

Recommendation

That the Audit and Risk Committee receives the quarterly Cyber Security Incident Report update.

MOTION

MOVED Mayor Cr Stephens

That the Audit and Risk Committee receives the quarterly Cyber Security Incident Report update.

SECONDED Member Philip Saunders

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Ms Ann Kirkham left the meeting at 2.25pm.

Background/Key Information:

A Cyber Security Incident Response Log has been created in the newly formed SharePoint site 'Glenelg Data Hub'. This log records all cyber security incidents. Council has had two cyber security incidents in this current quarter:

Incident – Phishing Email

Control – Staff members account was locked down as a suspicious email was received attempting to steal an authentication token from their browser. Users' password was changed and account logs were monitored.

Incident – Malware

Control – Device was investigated to check if it had become infected. Nothing unusual was detected. Council's software Microsoft Defender had successfully blocked the attempt.

Council has also partnered with Phriendly Phishing to deliver Council Cyber Awareness and Security Training. Through this training staff have flagged 153 suspicious emails which have now been blocked from the Council network.

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

The *Privacy and Data Protection Act 2014* outlines an organisation's obligation regarding privacy and information security.

The Victorian Protective Data Security Framework (VPDSF) and the Victorian Protective Data Security Standards (VPDSS) establish mandatory requirements to protect public sector data and provide for governance across the four domains of information, personnel, ICT and physical security. Under the VPDSS, agencies must have effective business continuity processes in place to enable them to respond to and recover from any event that affects the confidentiality, integrity and availability of public sector data.

c. Consultation and/or communication processes implemented or proposed

This update is provided to the Executive Team for information prior to it being presented to the Audit and Risk Committee

d. Financial Implications and Collaboration

The cyber incident security log and report supports Council's commitment to report back to the Audit and Risk Committee in the event of a cyber security breach or incident.

e. Governance Principles

Innovation and continuous improvement is to be pursued.

Attachment List

1. Cyber Incident [8.1.1 - 1 page]

8.2. RISK, WORKCOVER AND OHS QUARTERLY REPORT

Author: Lynne Thompson, Risk & Safety Manager
Director: David Hol, Director Corporate Services

Executive Summary

The reports provide an overview of Occupational Health and Safety, Risk and Workcover matters for the period 1 July 2023 to 30 September 2023.

Recommendation

That the Audit and Risk Committee receives the Risk, WorkCover and OHS Quarterly Reports.

MOTION

MOVED Member Greg Tremewen

That the Audit and Risk Committee receives the Risk, WorkCover and OHS Quarterly Reports.

SECONDED Cr Northcott

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

The reports provide an overview of Occupational Health and Safety, Risk, Workcover and Insurance for the period 1 July to 30 September 2023.

Some notable points include:

- All Risk and OHS Policies, Procedures and Guidelines are up to date.
- WorkSafe Dangerous Goods notifications were completed.
- Hearing tests completed – over 70 employees assessed.
- All reported incidents (injuries) were investigated.
- Schedule of audits and inspections completed.
- No new Workcover claims, last claim Dec 2022.
- Council received a Workcover premium discount of 5% for early payment.
- Public Liability final settlement of 2 properties.
- Final Payment for storm damage claim Jan 2022.

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

Compliance monitoring and improvements are undertaken in accordance with the *Occupational Health and Safety Act 2004*, and Regulations, and any relevant legislation when undertaking Risk, Workcover and Injury Management

c. Consultation and/or communication processes implemented or proposed

Consultation processes are undertaken in accordance with the OHS Act and Regulations and Council's policies and procedures

d. Financial Implications and Collaboration

OHS, Risk Management and Insurance Management is undertaken to ensure the best outcome and within budget requirements.

e. Governance Principles

Innovation and continuous improvement is to be pursued.

Attachment List

1. OHS Quarterly Report From 1 July to 30 September 2 [**8.2.1** - 11 pages]
2. Risk Management Quarterly Report 1 July to 30 September 2023 2 [**8.2.2** - 15 pages]
3. Confidential Work Cover Quarterly Report 1 July to 30 September [**8.2.3** - 6 pages]

8.3. COUNCILLORS QUARTERLY EXPENDITURE REPORT

Director: Greg Wood, Chief Executive Officer

Executive Summary

This Quarterly Expenditure Report is presented to the Audit and Risk Committee 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 July 2023 to 30 September 2023.

Recommendation

That the Audit and Risk Committee receives the Councillors quarterly expenditure report for the period 1 July 2023 to 30 September 2023.

MOTION

MOVED Member Philip Saunders

That the Audit and Risk Committee receives the Councillors quarterly expenditure report for the period 1 July 2023 to 30 September 2023.

SECONDED Member Bonnie Holmes

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

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 July 2023 to 30 September 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				\$239			\$239	\$239
Hawker				\$239			\$239	\$239
Martin	\$4,219			\$239	\$695		\$5,153	\$5,153
Northcott				\$239			\$239	\$239
Smith				\$239			\$239	\$239
Stephens	\$3,294	\$4,636		\$472			\$8,402	\$8,402
Wilson				\$239	\$408		\$647	\$647
Grand Total	\$7,513	\$4,636		\$1,906	\$1,103		\$15,158	\$15,158
YTD	\$7,513	\$4,636		\$1,906	\$1,103		\$15,158	\$15,158

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 July 2023 to 30 September 2023:

Councillor	Amount	YTD
Carr	\$7,217	\$7,217
Hawker	\$8,335	\$8,335
Martin	\$26,754	\$26,754
Northcott	\$5,674	\$5,674
Smith	\$13,377	\$13,377
Stephens	\$8,335	\$8,335
Wilson	\$8,335	\$8,335
Grand Total	\$78,027	\$78,027

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

- *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 2023-2024 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

8.4. CEO & EA EXPENDITURE - CREDIT CARD AND REIMBURSEMENTS

Author: Rebecca Campbell, Acting Chief Finance Officer
Director: David Hol, Director Corporate Services

Executive Summary

This report provides the Audit and Risk Committee with a report on Chief Executive Officer (CEO) and CEO Executive Assistant (EA) Expenditure. This report is required as a result of the actions resulting from an audit undertaken by VAGO on Fraud and Corruption Control in Local Government.

Recommendation

That the Audit and Risk Committee receives the report on CEO & EA Expenditure for the period 1 August to 31 October 2023.

MOTION

MOVED Member Philip Saunders

That the Audit and Risk Committee receives the report on CEO & EA Expenditure for the period 1 August to 31 October 2023.

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

In June 2019 the Victorian Auditor-General tabled its report to Parliament on *Fraud and Corruption Controls – Local Government*. Council undertook a self-assessment of the VAGO Report findings and identified a number of areas for improvement. The actions from this assessment were considered by the Audit and Risk Committee at the meeting held on 5 December 2019.

In this report VAGO identified limitations in fraud and corruption controls over staff expenditure, particularly CEO expenditure. The following statement was included in the VAGO report for CEO expenditure:

We consider better practice would be for the councils' CFOs or equivalent to approve CEO expenditure and for councils to refer the full transaction history to their ARC or council for periodic review. This increases financial scrutiny and ensures that mayors are not involved in daily council business, which is not their role.

One of the recommendations from Internal Audit was to report CEO and CEO Executive Assistant expenditure, including petty cash, credit card and reimbursement expenditure, to the Audit and Risk Committee commencing at the March 2020 meeting. These transactions are documented in the separate circulation and a summary is provided in the table below:

CEO and EA Expenditure for the period 1 August 2023 to 31 October 2023

Employee	Credit Card	Other
CEO	\$ 4,120.38	\$ 283.79
Executive Assistant to the CEO	\$ 2,905.00	\$ -
Total Expenditure	\$ 7,025.38	\$ 283.79

Other expenditure accounts for employee reimbursements either through petty cash or the creditor system.

These expenditure transactions are now approved by the CFO or Director Corporate Services, rather than the Mayor.

a. Council Plan and Policy Linkage

Leading Glenelg - Create shared visions within the Community, ensuring agreed outcomes

b. Legislative, Legal and Risk Management Considerations

In June 2019 the Victorian Auditor-General tabled its report to Parliament on Fraud and Corruption Controls – Local Government. In this report VAGO identified limitations in fraud and corruption controls over staff expenditure, particularly CEO expenditure. Council have prepared this report on credit card and reimbursement expenditure for the CEO and CEO EA to improve these controls.

c. Consultation and/or communication processes implemented or proposed

The VAGO Report on Fraud and Corruption Control has been presented to Councillors, Audit and Risk Committee and the Executive Team.

d. Financial Implications and Collaboration

It is not possible to quantify the financial or resource implications relating to any improvements in internal controls.

e. Governance Principles

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

Attachment List

1. CEO and EA Credit Card Expenditure August to October 2023 [8.4.1 - 12 pages]

8.5. GLENELG SHIRE COUNCIL FINANCIAL REPORT SEPTEMBER 2023

Author: Lauren Easson, Chief Finance Officer
Director: David Hol, Director Corporate Services

Executive Summary

The Financial Report is a key document in assuring responsible and responsive governance and decision making. This high-level report is provided to give Council the ability to monitor Glenelg Shire's financial performance.

Recommendation

That the Audit and Risk Committee receives the financial report for the period ending September 2023.

MOTION

MOVED Member Philip Saunders

That the Audit and Risk Committee receives the financial report for the period ending September 2023.

SECONDED Member Greg Tremewen

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

The 2022/2023 Annual Budget was adopted by Council on 27 June 2023.

This report provides information on the current status of Council's financial position and performance and includes:

- Comprehensive Income Statement
- Balance Sheet
- Statement of Cash Flows
- Statement of Capital Works.

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

This report is prepared monthly and is in addition to the requirements set out in the *Local Government Act 2020* Division 2, Section 97 where Council is required to prepare a quarterly budget report to be submitted to Council.

Also, in accordance with Division 4, Section 101 Council is required to consider the following Financial Management Principles:

- (a) Revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans
- (b) Financial risks must be monitored and managed prudently having regard to economic circumstances.

c. Consultation and/or communication processes implemented or proposed

The finance report is prepared monthly for Council and submitted to the Audit and Risk Committee quarterly.

d. Financial Implications and Collaboration

The resourcing of the preparation of the financial report and year-end audit of the financial statements is provided for in the adopted budget.

The financial report is a key document that is required to monitor Council's budget and financial result.

The Financial Report provides commentary on all material variances (Greater than 10% or \$500K) to the adopted 2023/2024 budget.

The information in this report contributes to various strategic planning documents under Council's strategic planning framework, including the Annual Budget, Financial Plan and Revenue and Rating Plan.

e. Governance Principles

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

Attachment List

1. Financial Statements 2023 2024 - September 2023 FINAL [8.5.1 - 7 pages]

8.6. INTERNAL AUDIT ACTION LIST

Author: Kylie Walford, Corporate Governance Coordinator
 Director: David Hol, Director Corporate Services

Executive Summary

The purpose of this report is to brief the Audit and Risk Committee on the current status of the Internal Audit Action List.

Recommendation

That the Audit and Risk Committee receives the Internal Audit Action List Report.

MOTION

MOVED Member Philip Saunders

That the Audit and Risk Committee receives the Internal Audit Action List Report.

SECONDED Member Bonnie Holmes

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

In accordance with the Audit and Risk Committee Annual Workplan under ‘Internal Control Environment’, the Audit and Risk Committee is to receive a quarterly report on the status of the Internal Audit Action List.

The Internal Audit Action List details each recommendation from prior internal audits conducted, as well as external financial audits which contain recommendations requiring action.

Once items have been completed, they are removed from the list and documented in this report.

Management comments have been updated for items in progress and seven items have been completed in the last quarter, which is reflected in this report.

No	Title	Audit Recommendation
ceo2.3	Internal Audit Review of Payroll (excluding Data Analytics)	<u>Access to Payroll Files before being imported</u> Management need to ensure that the pay run files for community support workers, the payroll payment file, the GL file, the PAYG payment file and Superannuation excel report are not inappropriately altered before they are imported. This should include:

		<ul style="list-style-type: none"> • ensure that the files are saved into a secure drive with limited access • undertake periodic data analytics to compare the data exported from one system and imported into the other • investigate locking down payroll files
<p>Management Comments: Payroll file saved in a secure location with restricted access. Sign off process is in place. Council ceased Home and Community Services on 30 September 2023.</p>		
No	Title	Audit Recommendation
ceo.2.4	Internal Audit Review of Payroll (excluding Data Analytics)	<p><u>Sending Superannuation Reports to Vision Super</u> Superannuation is managed via an excel spreadsheet, which we were advised needs to remain editable. Before the superannuation excel report is sent to Vision Super, it is saved into the following location - C:\Glenelg Shire Council\Files - Groups\Corporate Finance\6 Payroll\PK payroll. As listed above an excessive number of people have read/write access. Without restricting the editability of payroll files and restricting access to these files there is a risk of inappropriate changes being made to the files, in particular bank account changes and amounts.</p>
<p>Management Comments: Access has been reviewed and restricted access has been limited.</p>		
No	Title	Audit Recommendation
ceo.2.5	Internal Audit Review of Payroll (excluding Data Analytics)	<p><u>Business Central Access Rights</u> A process needs to be implemented where access to Business Central (and to the employee Masterfile) is reviewed by an appropriate level of management on a periodic basis. Excessive access should be revoked. Evidence of this review should be retained on file.</p>
<p>Management Comments: Review process is in place and excessive access has been revoked. A procedure is being formalised.</p>		
No	Title	Audit Recommendation
cs2.1	Internal Audit Procurement (Below Tender) and Accounts Payable – December 2022	<p><u>Key Procurement Controls are not applied per established Policy</u> We recommend implementing monitoring of the application of key controls in procurement including:</p> <ul style="list-style-type: none"> • sourcing and retaining applicable quotes for procurement thresholds • identifying and detecting purchase order splitting to circumvent delegations • processes to review open purchase orders to confirm still relevant (or close) • ensuring purchase orders are raised and approved prior to invoices being received <p>* the correct use of established contracts vs. a requirement to approach the market (via a RFQ process).</p>
<p>Final Management Comment: Procurement checks have been developed and are being undertaken on a daily, fortnightly and quarterly basis. Daily checks involve purchase orders being created with correct information including additional requirements if order value is over \$5k to comply with the Procurement Policy. Fortnightly checks involve reviewing payment items to ensure that all invoice amount paid have the correct information included for order values over \$5k, and checks to ensure account allocations look correct. Quarterly Checks involve analysing</p>		

invoices received before the order has been created to identify instances where this has occurred in breach of the Procurement policy. Other checks involve reviewing order officer and approver to ensure that they are not the same officer. And reviewing order values to ensure that they are being created to avoid procurement requirements.		
No	Title	Audit Recommendation
cs3.1	Internal Audit Rates Management - June 2023	<u>End to end rates production process is not documented</u> We recommend documenting the end to end rates and valuation function including key checks and approvals to be undertaken.
<u>Final Management Comment:</u> This process is currently undertaken and has now been documented in a formal departmental procedure titled 'Rate and Valuation Unit End of Financial Year Processes', approved on 30 August 2023.		
No	Title	Audit Recommendation
cs3.2	Internal Audit Rates Management - June 2023	<u>Budget comparison and approval</u> 1. We recommend the process to strike the rates and set the rate in the dollar includes comparison of information within Property.gov rating system to help ensure data integrity, accuracy and the rate cap is not exceeded. 2. We recommend conducting a rates notice simulation prior to running the live rates run and reconcile against the approved rate revenue budget. This process should include: <ul style="list-style-type: none"> • documents and reports to be supplied by the preparer • evidence of review and approval by the CFO • documented evidence of investigation into any discrepancies, including resolution to support data integrity.
<u>Final Management Comment:</u> This process is currently undertaken and has now been documented in a formal departmental procedure titled 'Rate and Valuation Unit End of Financial Year Processes', approved on 30 August 2023.		
No	Title	Audit Recommendation
cs4.2	External Audit – 2022/23 Financial Report and Performance Statement	<u>Quotation Process (2023.1 - April 2023)</u> Our expenditure controls testing of 25 transactions noted that 3 expenditure items where 2 quotations were required were not obtained, and no exemption form was completed.
<u>Final Management Comment:</u> Procurement checks have been developed and are being undertaken on a daily, fortnightly and quarterly basis. Daily checks involve purchase orders being created with correct information including additional requirements if order value is over \$5k to comply with the Procurement Policy. Fortnightly checks involve reviewing payment items to ensure that all invoice amount paid have the correct information included for order values over \$5k, and checks to ensure account allocations look correct.		

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

In accordance with s53 of the *Local Government Act 2020*, Council must establish an Audit and Risk Committee.

The aim of the Audit and Risk register is to assist with adopting effective internal controls to mitigate the risk.

c. Consultation and/or communication processes implemented or proposed

Communication was undertaken with key staff with comments updated as required.

d. Financial Implications and Collaboration

Resource and budget implications will vary dependent upon the specific audit recommendation.

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. 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.

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.

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

Attachment List

1. Internal Audit Action List for the financial year 2023 2024 [**8.6.1** - 12 pages]

8.7. AUDIT AND RISK COMMITTEE WORK PLAN YEAR ENDING 2024

Author: Kylie Walford, Corporate Governance Coordinator
Director: David Hol, Director Corporate Services

Executive Summary

In accordance with Section 54 (3) of the *Local Government Act 2020* an Audit and Risk Committee must adopt an annual work program (plan).

The Annual Work Plan is a standing item to the Audit and Risk Committee Agenda.

Recommendation

1. That the Audit and Risk Committee receives the Audit and Risk Committee Annual Work Plan for the year ending 30 June 2024, as a quarterly standing item.
2. Notes the addition of new Council Policy – Borrowings to the Key Policy Register Review, within the Audit and Risk Committee Annual Work Plan for the period ending 30 June 2024.

MOTION

MOVED Member Bonnie Holmes

1. **That the Audit and Risk Committee receives the Audit and Risk Committee Annual Work Plan for the year ending 30 June 2024, as a quarterly standing item.**
2. **Notes the addition of new Council Policy – Borrowings to the Key Policy Register Review, within the Audit and Risk Committee Annual Work Plan for the period ending 30 June 2024.**

SECONDED Member Philip Saunders

CARRIED

FOR: Member David Stafford, Member Philip Saunders, Member Bonnie Holmes, Member Greg Tremewen, Mayor Cr Stephens, Cr Carr and Cr Northcott

AGAINST: Nil

Background/Key Information:

The Audit and Risk Committee endorsed the Audit and Risk Committee Annual Work Plan for the year ending 30 June 2024 at its meeting on 1 June 2023, with Council adoption on 27 June 2023.

The annual work plan sets the agenda for the Committee for the next 12 months.

There is one addition to the Key Policy Register Review, within the Audit and Risk Committee Annual Work Plan this quarter:

- New Council Policy – Borrowings

The draft Council Policy is presented to the Audit and Risk Committee on 7 December 2024, prior to be referred to Council on 23 January 2024 for adoption.

- 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

Section 54 (3) of the *Local Government Act 2020* states that an Audit and Risk Committee must adopt an annual work program.

- c. Consultation and/or communication processes implemented or proposed

Quarterly Audit and Risk Committee item to be reviewed prior to 30 June each year.

- d. Financial Implications and Collaboration

Not Applicable.

- 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.

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.

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.

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

Attachment List

1. Audit and Risk Committee Annual Work plan 1 July 2023 to 30 June 2024 [**8.7.1**
- 5 pages]

9. CONFIDENTIAL REPORTS**10. ANY OTHER BUSINESS**

Mr Luke Snowdon from KPMG joined the meeting via Microsoft Teams at 2.50pm for the purpose of providing an introduction to the Committee as Glenelg Shire's new VAGO appointed external auditor.

Mr Snowden left the meeting at 2.53pm.

Cr Stephens left the meeting at 2.55pm.

10.1. PROJECT UPDATE - POWER BI REPORT

Director: David Hol, Director Corporate Services

Mr David Hol, Director Corporate Services presented a copy of the Power BI Report on Project Management. Mr Hol explained that this report is a work in progress and is not yet complete.

ACTION - Councillor Northcott queried if a copy of the Project Update report could be provided to members.

10.2. ATTESTATION REPORT

Mr Greg Wood, Chief Executive Officer provided a verbal update on the Attestation Report to members.

11. NEXT AUDIT AND RISK COMMITTEE MEETING

The next Audit and Risk Committee Meeting will be held on Thursday 7 March 2024.

12. CLOSURE OF AUDIT AND RISK COMMITTEE MEETING

The Audit and Risk Committee meeting closed at 3:15 pm.



Glenelg Shire Council
2023/2024 Financial Report - YTD December

Gleneilg Shire Council 2023/2024 Financial Report - YTD December

Contents

	Page
Comprehensive Income Statement	1
Balance Sheet	2
Balance Sheet variance analysis	3
Statement of Cash Flows	4
Statement of Capital Works	5
CEO Statement	6

Comprehensive Income Statement

For the Period ended December 2023

	2023/24 Adopted Budget	2023/24 Forecast Budget	December 2023 YTD Forecast Budget	December 2023 YTD Actual
Income				
Rates and Charges	32,618,084	32,618,084	32,314,052	32,305,008
Statutory Fees and Fines	834,802	834,802	348,016	450,378
User Fees	2,760,794	2,760,794	1,565,506	1,106,275
Grants - Operating	15,163,792	6,337,508	5,159,733	4,348,098
Grants - Capital	7,989,264	25,971,143	12,461,182	10,261,182
Other Income	788,850	788,850	307,593	658,435
Contributions - Monetary	90,000	90,000	40,000	63,543
Net Gain (or Loss) on disposal of PP & E	340,000	340,000	174,930	234,528
Total Income	60,585,586	69,741,181	52,371,012	49,427,447
Expenses				
Employee Costs	(26,535,590)	(26,535,590)	(12,486,215)	(11,920,387)
Materials and Services	(17,694,600)	(19,389,592)	(10,012,870)	(9,064,746)
Borrowing Costs	0	0	0	0
Bad and Doubtful Debts	0	0	0	(250)
Other Expenses	(2,504,422)	(2,822,236)	(1,383,846)	(1,216,113)
Finance Costs - Leases	(17,098)	(17,098)	(8,546)	(7,556)
Depreciation and Amortisation	(12,747,713)	(12,747,713)	(6,385,101)	(6,377,395)
Total Expenses	(59,499,423)	(61,512,229)	(30,276,578)	(28,586,447)
Surplus/(Deficit) for the year	1,086,163	8,228,952	22,094,434	20,841,000

Notes

Rates and Charges amount is based on amount invoiced during this financial year (1 Jul 2023 to 30 Jun 2024)

Variance notes are based on a materiality threshold where the variance is greater or less than \$500,000 and this variance to YTD forecast or Full year budget is greater or less than 10 percent.

Category	Variance Notes
Statutory Fees and Fines	Statutory Fees and Fines Income is tracking \$102k above the 23/24 YTD budget. There has been increased income in the following areas: Planning Applications (\$53k); Building Fees (\$29k) and Assets - Supervision of Subdivision Works (\$18k). Statutory Fees and Fines are \$17k higher than Dec YTD 22/23.
User Fees	User fees are \$459k less than the Dec YTD budget. \$345k is due to the conclusion of Services in the Aged and Disability unit, while lower childcare income is due to the continuation of free Kinder and higher Childcare Subsidy rates (grant funding) which has reduced amounts that parents have to pay in fees.
Grants - Operating	Operating Grants are \$811k lower than Dec YTD budget mostly due to a reduction in Aged and Disability Grant Income of \$823k. A timing difference of \$137k for a Library Grant is partially offset by higher Childcare and Kindergarten Grant Income.
Grants - Capital	Capital Grants are \$2.2M below Dec YTD Forecast Budget due to timing of funding for Roads to Recovery (R2R)
Other Income	Other income is \$350k higher than YTD budget. This is largely due to receiving unbudgeted insurance proceeds relating to the January 2022 storm damage event and higher than expected interest income. An additional \$52k of FSPL Funding has also been received that relates to a prior financial year.
Contributions - Monetary	Monetary contributions received are \$23k more than the YTD budget due to additional sponsorship being received by the Arts & Culture unit and Community Wellbeing.
Net Gain (or Loss) on disposal of Property Plant & Equipment	YTD the net gain for the disposal of plant and equipment is \$59k higher than budget due to a timing difference on the disposal of equipment. A Truck, Roller and Bitumen Tanker have all been disposed of this year.
Materials and Services	YTD Materials and services are \$948k lower than budget. This is mainly due to materials expenditure expected to increase in future months. Contract Material & Labour is currently \$1.3M below the YTD budget and is largely made up of seasonal asset works of \$447k and timing of special projects of \$443k. Lower fuel costs, utilities, materials and consultancy costs have also contributed to the decrease. Internal Cost Allocations related to Council's capital works program for Vehicle & Machinery and Gravel & Water partially offset the low materials expenditure.

Balance Sheet

For the Period ended December 2023

	2023/24 Adopted Budget	2023/24 Forecast Budget	December 2023 YTD Actual
Assets			
Current assets			
Cash and Cash Equivalents	5,644,000	7,758,097	4,110,744
Trade and other receivables	3,204,000	3,204,000	25,432,627
Inventories	200,000	200,000	213,358
Prepayments	350,000	350,000	4,808
Other Assets	50,000	50,000	0
Total current assets	9,448,000	11,562,097	29,761,537
Non-current assets			
Non current Trade and other receivables	10,000	10,000	0
Property, infrastructure, plant and equipment	451,784,000	480,153,346	470,716,729
Right of Use Assets	116,000	230,000	352,017
Total non-current assets	451,910,000	480,393,346	471,068,746
Total assets	461,358,000	491,955,443	500,830,283
Liabilities			
Current liabilities			
Trade and other payables	2,100,000	2,100,000	2,988,620
Trust funds and deposits	1,000,000	1,000,000	1,112,160
Provisions	5,141,000	5,141,000	4,343,617
Interest-bearing loans and borrowings	587,000	587,000	137,239
Lease Liabilities - Current	86,000	86,000	113,426
Total Current liabilities	8,914,000	8,914,000	8,695,062
Non-current liabilities			
Non Current Provisions	8,046,000	8,046,000	10,705,517
Non Current Interest-bearing loans and borrowings	6,674,000	6,674,000	282,112
Lease Liabilities - Non Current	38,000	38,000	250,189
Total Non-current liabilities	14,757,000	14,758,000	11,237,818
Total liabilities	23,671,000	23,672,000	19,932,880
Net assets	437,687,000	468,283,443	480,897,404
Equity			
Accumulated surplus	142,267,837	127,895,000	127,896,703
Reserves	293,875,509	331,702,000	331,702,210
Reserves - Restricted Cash	457,491	457,491	457,491
Operating Surplus (Deficit)	1,086,163	8,228,952	20,841,000
Total Equity	437,687,000	468,283,443	480,897,404

Balance Sheet variance analysis

For the Period ended December 2023

Category	Variance Notes
Cash and cash equivalents	Cash and Cash Equivalents decreased by \$1.3M in December to \$4.1M. Rates and User Fees of \$2.5M and Grant Income of \$490k were collected, but offset by the following outgoings for the same period - \$2M of Employee Costs, \$1.8M of Materials & Services and \$580k in Capital Works.
Trade and other receivables	Trade and other receivables at EOM have decreased by \$2.5M. Rates Debtors decreased by \$2.1M while Grants Debtors and FSPL Debtors both decreased by \$150k.
Right of use assets	Right of Use Assets is higher than budget due to new Lease Agreements. A new lease for HP Devices was taken out in November.
Trade and other payables	Trade and Other payables are relatively unchanged from last month. They are mostly made up of \$2.6M in Fire Services Levies that are owing as a result of Rates and Charges being raised for 2023/24 and \$228k in Rates Overpayments.
Provisions	Current and Non Current provisions are made up of Employee, Landfill and Gravel Pit Provisions. Employee Provisions decreased by \$159k due to payments of Annual Leave and Long Service Leave made during December.
Interest Bearing Loans and borrowings	Despite Loan borrowings being fully offset by cash, borrowings decreased in December due to the recognition of loan repayments. Budgeted new borrowings of \$7M for 2023/24 are expected to be accessed in the coming months to finance major capital works projects.
Reserves	Council undertook an independent valuation on Land and Buildings in 2022/23. This movement is reflected in the Equity Reserve.

Statement of Cash Flows

For the Period ended December 2023

	2023/24 Adopted Budget	2023/24 Forecast Budget	December 2023 YTD Actual
	Inflow (Outflow)	Inflow (Outflow)	Inflow (Outflow)
Cash flows from operating activities			
Rates, Charges & User Fees (including kerbside collection)	35,379,000	35,378,878	12,300,408
Grants	32,487,000	19,166,496	7,541,869
Statutory Fees and Fines	835,000	834,802	450,378
Contributions - monetary	90,000	90,000	63,543
Interest received	150,000	150,000	136,079
Other receipts	639,000	638,850	522,356
Employee costs	(26,536,000)	(26,535,590)	(13,939,947)
Materials and services	(19,027,000)	(20,672,092)	(10,388,721)
Short term, low value and variable lease payments	(17,000)	(50,000)	(57,217)
Trust funds and deposits repaid	0	(100,000)	327,512
Other payments	(2,503,000)	(2,822,236)	(962,803)
GST	0	0	(22,639)
Net cash provided by/(used in) operating activities	21,497,000	6,079,108	(4,029,183)
Cash flows from investing activities			
Payments for property, infrastructure, plant and equipment	(28,138,000)	(18,260,099)	(5,250,893)
Proceeds from sale of property, infrastructure, plant and equipment	340,000	340,000	234,528
Payments for investments	0		0
Proceeds from investments	0	0	0
Loans and advances made	0	0	0
Payments of loans and advances	0	0	0
Net cash provided by/(used in) investing activities	(27,798,000)	(17,920,099)	(5,016,364)
Cash flows from financing activities			
Finance costs	0	(17,098)	0
Proceeds from borrowings	7,000,000	7,000,000	0
Repayment of borrowings	(452,400)	(452,400)	0
Interest paid - Lease liabilities	(17,400)	(17,570)	(9,087)
Repayment of lease liabilities	(194,200)	(193,844)	(114,621)
Net cash provided by/(used in) financing activities	6,336,000	6,319,088	(123,708)
Net increase (decrease) in cash and cash equivalents	36,000	(5,521,903)	(9,169,256)
Cash and cash equivalents at the beginning of the financial year	5,608,000	13,280,000	13,280,000
Cash and cash equivalents	5,644,000	7,758,097	4,110,744

Statement of Capital Works
For the Period ended December 2023

	2023/24 Adopted Budget	2023/24 Forecast Budget	December 2023 YTD Actual
Property			
Buildings	375,000	6,540,523	242,199
Land	0	0	0
Total Property	375,000	6,540,523	242,199
Plant and Equipment			
Cultural Collection Acquisitions	10,000	30,000	3,000
IT Equipment	0	0	0
Plant, machinery and equipment	1,135,000	1,436,203	335,474
Fixtures, fittings and furniture	10,000	10,000	0
Library Resources	95,000	95,000	38,644
Total Plant and Equipment	1,250,000	1,571,203	377,117
Infrastructure			
Roads	2,905,000	8,056,330	588,938
Roads - LRCI	1,311,000	1,311,000	0
Bridges	200,000	1,067,478	0
Footpaths and Street Furniture	100,000	100,000	0
Drainage	100,000	2,573,704	8,097
Recreational, Leisure and Community facilities	200,000	2,473,386	2,293,785
Waste Management	20,000	20,000	57,490
Parks, Open Space and Streetscapes	160,000	2,360,607	986,146
Aerodrome	50,000	147,080	15,628
Off Street Carparks	50,000	50,000	0
Other Infrastructure - LRCI	2,274,000	3,950,622	516,236
Other Infrastructure - Other	3,000,000	3,397,001	5,807
Total Infrastructure	10,370,000	25,507,208	4,472,127
Total Capital Works Expenditure	11,995,000	33,618,934	5,091,444
Capital Works represented by:			
New asset expenditure	5,274,000	22,437,457	4,023,398
Asset renewal expenditure	6,721,000	8,692,773	1,006,586
Asset upgrade expenditure	0	2,488,704	61,461
Total Capital Works	11,995,000	33,618,934	5,091,444

Notes

The Forecast Budget 2023/24 has been adjusted for expenditure carried forward from the 2022/23 financial years. We expect that \$15.4M of the 2023/24 Forecast Budget to be carry forward for the 2024/25 Financial Year, therefore estimated value of works to be completed for 2023/24 is \$18.2M.

Category	Variance Notes
Property	The Budget for "Property" Capital Works has increased by \$6.2M and is now \$6.6M. This increase includes \$5.9M for the Foreshore Multipurpose Building and \$300k for Building Renewal works uncompleted at 30 June 2023. YTD \$86k has been spent on Building Renewals and \$150k on the Foreshore Multipurpose Building. It is estimated that \$5.1M of Property Capital works will not be completed at 30 June 2024 due to phasing of projects over financial years.
Plant and equipment	The Budget for "Plant and Equipment" Capital Works has increased by \$300k and is now \$1.6M. This increase includes \$200k for Light Fleet and \$80k for Backup Generator works uncompleted at 30 June 2023. YTD \$321k has been spent on Light Fleet, \$38k on Library Resources and \$12k on Backup Generator Works.
Infrastructure	The Budget for "Infrastructure" Capital Works has increased by \$15.1M and is now \$25.5M. This increase includes \$4.6M for Local Freight Roads, \$2.5M for the Portland North Employment Precinct, \$2.2M for Alexandra Park Construction, \$2M for Local Roads and Community Infrastructure projects (LRCI), \$1.3M for Roads, Bridges and Drainage works, \$900k for Ceremonial Space works, and \$900k for Bridgewater works uncompleted at 30 June 2023. Of the \$4M spend YTD, \$2.6M has been spent on Alexandra Park, \$925k on Bridgewater works and \$588k on Road Renewals. It is estimated that \$10.3M of Infrastructure Capital works will be uncompleted at 30 June 2024 due to phasing of projects over financial years.

CEO Statement

In my opinion, the quarterly budget report presents fairly the financial transactions and budget of Glenelg Shire Council for the quarter ended 31 December 2023. I am not aware of any circumstances that requires the Adopted budget to be revised.

Greg Wood
CEO, Glenelg Shire Council

COUNCIL POLICY



TITLE:	COUNCIL BORROWINGS POLICY
ID NUMBER:	CPO-CORPS-FI-006
DEPARTMENT:	Corporate Services
UNIT:	Finance
RESPONSIBLE OFFICER:	Chief Finance Officer

ADOPTED DATE AND BY WHOM:	January 2024
EXPIRY DATE:	31 January
REVIEW DATE:	30 September 2027 <i>This policy will be reviewed every four years or as required by any legislative or council changes.</i>

AVAILABILITY:	Organisation wide	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Public	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Internet	Yes <input type="checkbox"/>	No <input type="checkbox"/>
ADVISE AVAILABILITY:	Media Release	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Sou Wester (Responsible Officer to prepare article)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1. References

Loan Reconciliations Procedure DPRS-CORPS-FI-060 (DocSetID: 627518)

Glenelg Shire Council Financial Plan 2021-2031

Local Government Act 2020

Municipal Association of Victoria

Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001 (DocSetID: 1933907)

2. Purpose

The purpose of this Borrowing policy is to:

- Establish objectives and principles that outline when it is appropriate for Council to undertake borrowings within a sound financial management framework
- Provide clear direction on the authority of Council or Council officers to make borrowing decisions
- Ensure Council keeps within the relevant prudential requirements provided by State Government
- Set out the way Council may establish and manage a debt portfolio.

All borrowings decisions must give effect to the financial management principles set out in the *Local Government Act 2020* ("the Act").

3. Scope

This policy applies to Council and Council officers when:

- Preparing and determining the annual budget and 10 year financial plan
- Considering new borrowings
- Refinancing existing borrowings.

This policy does not include lease liabilities or overdraft facilities that may be used in day-to-day management of Council's cash position.

4. Departmental Policy

4.1 Legislative Framework

The *Local Government Act 2020* provides Council with the power to borrow. Council may not delegate the power to borrow and is prevented from borrowing money unless the proposed borrowings are included in the budget or a revised budget. This includes the requirement that Council must prepare and adopt a revised budget before Council can undertake any borrowings that have not been approved in the budget.

In accordance with Division 4, Section 101 of the *Local Government Act 2020*, Council is required to consider the following Financial Management Principles:

1. Revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans;
2. Financial risks must be monitored and managed prudently having regard to economic circumstances.

A Borrowings Policy has been developed to strengthen the management of current and future liabilities of Council. Council will continue to comply with the *Local Government Act 2020* Section 104 by including any proposed borrowings in the relevant Budget.

The Victorian Government established the Local Government Performance Reporting Framework (LGPRF) in 2014. It outlines the measures Council must report in its performance report, which forms part of Council's Annual Report. Certain indicators must also be included in Council Annual Budget and Financial Plan. This framework includes the financial performance of a Council, and specific to this policy, includes measures in relation to Council's obligations (to determine whether debt and other long term obligations are appropriate to the size and nature of Council's activities).

4.2 Policy Objectives

The Borrowings policy exists to provide an alternative financing option for:

- Capital works projects that are of strategic significance (that could not otherwise be financed from ongoing income sources and provide benefit across generations); or to
- Meet Council's obligations in relation to future defined benefit superannuation calls, if required
- To ensure the total amount of loan borrowings is sustainable in terms of ability to meet future repayments, budgetary constraints and prudential ratios
- Manage any new borrowings in the context of optimising cash flow; and

- Develop and maintain a borrowing structure that achieves a balance between predictability and flexibility and aims to minimise borrowing costs.

4.3 Borrowing Principles

Financial Plan 2021-2031

In accordance with the Glenelg Shire Council Financial Plan 2021-2031, the following financial sustainability principles must be adhered to with new borrowings:

- Borrowings must only be applied for where it can be proven that repayments can be met in the Long-Term Financial Plan
- Borrowings must not be used to fund ongoing operations. An exception to this may occur if Council received a defined benefit call with Vision Super. In this instance Council would consider all financing options, including a payment arrangement with Vision Super, if available.
- Borrowings are appropriate for funding large capital works where the benefits are provided to future generations.

Ratios and Limits

Council aims to maintain a sustainable debt level by keeping total loan liability as a percentage of rates and charge revenue to medium risk as indicated by VAGO. If projected borrowings to be undertaken result in borrowing ratios in excess of the levels indicated in the table below, this decision will require Council approval and should only occur in instances where Council has an opportunity to benefit from a significant funding stream.

The relevant measure and target is described in the table below.

Measure	Level
Debt Servicing Ratio (Debt Servicing/ Rate Revenue)	Below 5%
Borrowing Rates Ratio (Total Borrowings/ Rate Revenue)	Below 60%

Borrowing Redemption

When surplus funds exist, the decision to repay borrowings shall be made by the Chief Finance Officer based on the facts available at the time giving due regard to minimising the overall cost.

5. Procedure

5.1 Approval Process

All new loans must be approved by resolution of Council, as part of the Council's budget approval process.

5.2 Determining Lending Institution

Once borrowing has been approved by Council, a lending institution will be determined. In determining a lending institution, Council will assess the appropriateness of the institution, including but not limited to:

- Government guaranteed banking institutions
- Local Government Funding Vehicle e.g Treasury Corporation of Victoria (TCV)
- State Government
- Federal Government

- Global partner institutions (typically used for leases).

Council should consider the appropriateness of the various types of debt products available (including savings offset arrangements) and optimise flexibility to balance between timing and the cost of debt. For example, Council may utilise the resources of the Municipal Association of Victoria ("MAV") to secure better procurement options for Heavy Plant and Light Fleet acquisitions.

Requests to the preferred lending institutions will be sought, with written quotations needing to include the:

- interest rate
- term of loan
- repayment intervals
- repayment instalment amount
- any applicable fees
- loan break costs.

5.3 Borrowing Arrangements

When entering borrowing arrangements, Council should seek to minimise interest costs over the long-term without introducing undue volatility in annual interest costs. For example a fixed interest rate may be used to ensure that the liability does not change rapidly and costs can be predicted accurately.

To mitigate interest rate risk when structuring borrowings council will:

- Structure loan repayments on a regular schedule considering the efficiency of payment schedule in relation to interest costs (e.g. monthly, quarterly, annually)
- Consider the long term impacts of the loan structure (e.g. fixed interest, principal and interest, interest only loans, residual payments).

Loan repayments will be made in a regular schedule, such as quarterly, bi-annually or otherwise determined at the time of entering the loan agreement. Consideration should be given to efficiency of payment while minimising interest costs.

5.4 Background

In late 2018, a financial institution offered the Council an 'Offset' facility which was beneficial as it permitted the offset of the loan balances against the Council On Call Account. This account currently holds any excess balance over the Daily Operations General Account and earns interest based on the Reserve Bank of Australia's cash rate plus .25 basis points. The RBA cash rate is the interest rate which banks pay to borrow funds from other banks in the money market on an overnight basis.

The cash rate is the Reserve Bank of Australia's operational target for the implementation of monetary policy. More information on the cash rate can be found on the RBA website <https://www.rba.gov.au/>.

6. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Information and Data Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

6. 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.

Login (Screen name)	Name:	Contact Email address:	Overview of Feedback
Gerret Springer	Submitter 1	I am totally disillusioned with Ig "Consultations". It does not matter at all what people say.... I dont know anyone who likes the new Bridgewater Bay waste of money on the foreshore, except the main beneficiary, the owner of the cafe. Car parking has been reduced so much that the summer will be outright dangerous for people on the road as there will be a parking chaos. ... same for the rockwall... unless things go to court like with the resort, " consultation" - as practised - is a waste of time. Sorry for my bluntness - but you asked for it. Perhaps take me off the "have your say" mailing list... Merry Christmas!	Response does not address Draft Governance Rules
Greg Tomkins	Submitter 2	It's sad that rate payers can't have a direct verbal discussion at council meetings, but unfortunately this has been brought upon by a number of factors including: - a few rate payers believe they have the right to abuse councilors and staff, - asking loaded questions, - pushing there own agendas, - treating council meetings with disrespect, - not accepting no for an answer. Until these few minorities are prepared to accept fair debate and discussions, the only options is that all rate payers suffer and have to put up with written submissions to council meetings.	Submission appears to support amendments to draft Governance Rules
Jennifer Hogan	Submitter 3	I believe the recommended changes will be good, it will allow council staff more time to research the submitted questions, having the questions read out by the CEO will stop the grandstanding and get to the point of the question and it will be good to not have the same questions asked again and again.	Submission supports Draft Governance Rules without amendments
Cheryl Vine	Submitter 4	I believe that the limit of 2 questions is ridiculous. I believe a limit of 5 questions is more reasonable with 150 word limit	Submission opposes proposed question and word limit.
Ann Dickinson	Submitter 5	Happy with all suggested changes	Submission supports Draft Governance Rules without amendments
Scott McFarlane	Submitter 6	My feedback is with regard to the 100-word limit and 2-question restriction only as I haven't read the entire document. I support this in principle as it provides clear boundaries where there seems to currently be ambiguity creating frustration in the council chambers. Recently, some members of the public have been taking advantage of this to a point where it overshadows the meeting and whilst I feel that some councilors should have perhaps handled it better, the questions could've been constructed more effectively in order to get a response - instead it has resulted in disruption and time-wasting for all attendees and spectators. Members of the public & particularly rate-payers that fund our council should be permitted to raise important, and uncomfortable questions, even to challenge our council. Sadly though, some recent preambles and questions have taken far too long to get to the point, and these members of the public seem to be fixated on grandstanding and abusing the privilege of question time. The meetings NEED to run to time, and questions NEED to be concise and to the point with the intention of getting answers. Our Councilors also NEED to be able to answer more questions rather than take so many on notice. I hope to see this revision provide more clarity to questions so they can be answered by our councilors more successfully in future.	Submission supports proposed question and word limit
Neville Manson	Submitter 7	Dead against such changes. Ratepayers should NOT be silenced & should be able to ask as many questions as deemed necessary on any issue. Council should reply in a timely manner. I guess this will be another wasted exercise. Feedback should be made public & NOT ignored by council.	Submission opposes proposed question and word limit.
Craig Cooter	Submitter 8	The draft rules appear to be satisfactory to me. We should always treat people with respect and dignity. We(residents) voted councilors to represent our region and 'manage' to the best of their ability. They shouldn't put their 'hat in the ring' if they are going to pull out if the going gets a bit tough.	Submission supports Draft Governance Rules without amendments
Michael Toohey	Submitter 9	Suggested changes are all good ideas. Implement immediately.	Submission supports Draft Governance Rules without amendments
Jennie Fairman	Submitter 10	Councilors are elected by the ratepayers to represent ratepayer interests . To be elected as a councilor is a privilege bestowed by the ratepayers . CEOs are NOT elected by the ratepayer but in the proposed governance model the CEO has most if the power in decision making not the councilors who are democratically elected. I have little faith in any process that allowed the former Mayor and his now departed Hench persons to run rampant when obviously inept and downright incompetent. So much money has been wasted on I'll advised and unnecessary projects , the entry sign to Portland being one such example . The over kill in the Bridgewater car park being another. Other areas of the Shire have been virtually ignored and community facilities allowed fall into disrepair as unworthy of attention because they are not in Portland but in the regions. We all pay rates so all ratepayers deserve equal consideration..As regards the proposed governance rule changes a cynical person would see these changes as a way to gag and silence the voice of the ratepayers and hand all power of veto to the CEO, an administrator not an elected representative. Why have councilors at all if the CEO has all the power ? I hope that the monitors read the feedback and also read between the lines to get a sense of just how dissatisfied the community is with the antics of particular councilors over the last years and also recognise that the ratepayer needs more avenues to ask questions, not less. We live in a magnificent area of the world. Work.with the ratepayers not against them .	Submission appears to oppose changes to question time
Terry Uniacke	Submitter 11	I am strongly opposed to these proposed changes in regard to question time as they prevent ratepayers, "Councilor Employers", from properly questioning what Councilors are doing for the people who elected them.	Submission opposes changes to question time.
marjorie	Submitter 12	I basically agree with new rules , but still think its very important to be able to communicate with our Councilors, they are elected to help and aid their ratepayers, and should always be accessible, enabling help and understanding of ratepayers needs. Sometimes some ratepayers feel the GSC is Portland centrist, and we must remember approx half ratepayers live outside Portland. Thank you for this opportunity to listen to our Councilors, enabling us to comment on this article, two way ideas are important with all levels of government.	Submission supports Draft Governance Rules without amendments
Lynda Cooper	Submitter 13	I believe the proposed changes to the Governance Rules are a necessity to allow meetings to proceed in a timely and respectful manner. Councilors should also not be subject to hurtful comments on Social Media.	Submission supports Draft Governance Rules without amendments

Gayle Rewell	Submitter 14	The precedent this sets is that council will NOT be required to justify any decision to disallow a question because the wording is totally discretionary and may be interpreted as per the view or agenda of the CEO or Mayor (or their delegated representative who is filling that role in the meeting) at the time this document controls the narrative at the expense of #Transparency & #Accountability to the community. Councillors are voted in by the people to represent them. Public concerns re any issue relating to council works, decisions should not be disregarded or made more difficult for a complainant or concerned resident of the shire to voice their concerns. Councillors are paid by us and should work honestly for us and care for and listen to the community.	Submission appears to oppose changes to question time.
peter douglas	Submitter 15	Make the changes - it will hopefully get our council back on track & stop the nonsense which has been going on for some time at council meetings.	Submission supports Draft Governance Rules without amendments
HAROLD NIELD	Submitter 16	THIS SOUND LIKE A CON AND DODGY AS ALL HELL, WHAT ARE YOU LIKE 7 YEARS OLD TRYING TO NOT CLEAN YOUR ROOM? ID SUGEST THE GOVERNANCE RULE REMAIN THE SAME AS ALWAYS, YOU CHOSE TO BE ON COUNCIL, YOU CHOSE TO ENGAGE YOUR VOTERS, SO ENGAGE IN ALL AND EVERY WAY	Submission appears to oppose aspects of the draft Governance rules but is unclear on what is suggested to amend the proposed document.
Andrea	Submitter 17	I don't believe changes are going to provide the community what is required for them to regain trust in our council too much power to ceo limiting questions and who answers is not a good chance	Submission appears to oppose changes to question time. Does not suggest alternative to address their concerns.
Jamie	Submitter 18	It appears that rate payers (the people who employ and pay the wages of you lot) are being shafted with these new "proposed" rules . People are cynical simply because of the complete lack of "real" community consultation. The perception is that " community consultation " is just a feel good thing, decisions have already been made prior to any community input. The Mayor doesn't answer emails, talks the talk in the right company , loves the attention , lots of words but little substance. Gave a glowing endorsement of outsourcing of "elderly care " to contracted providers (admittedly government policy dictated it had to happen) but didn't tell the full story. Didn't detail that those workers now working for hospital took a \$6 an hour pay cut when the change happened. Already underpaid but no , Karen worries about , well who would know, herself? To be dictated to by the CEO is a backward step. If that happens why are we paying the Mayor \$100,000 a year, to do what? It appears they won't be allowed to make a decision. More secrecy and more lack of control for the people who keep the town financial. I'm a cynic no doubt about it but hey years of complete "waffle " and lack of transparency has made me that way. Lots of good done by council, foreshore, Bridgewater, etc etc but also some waste and I highlight the Alexander total blow out as an example \$7,000,000 @ the entrance rock \$167,000 ,really. Was this money well spent, just makes me as a rate payer shake my head	Submission appears to oppose aspects of the draft Governance rules but is unclear on what is suggested to amend the proposed document.
Patrick and Anne O'Brien	Submitter 19	we do not agree that questions to Council should be read by the CEO. It is highly unlikely that the CEO will be able to provide any clarification or, or elaboration on, a question in order that the Councillors are able to understand it fully and provide a comprehensive and meaningful answer. The questioner ought to be able to verbally put the question to Council and provide immediate elaboration or clarification of it. We do not agree that ratepayers be limited to two questions per Council session. As it is, without a Ward system, Councillors are not personally accountable to ratepayers for their performance or that of the Council. Council meetings provide the only public opportunity for ratepayers to question Councillors and that opportunity ought only to be limited by the requirement for appropriate behaviour on all parts and rational argument. Without the opportunity for a follow up to a Council response a clear risk exists that responses may lack relevance, clarity or completeness. We do not agree that questions to Councillors must be submitted 24 hours prior to the Council Meeting. Questions ought to be able to be put, in person and during the relevant part of the Council Meeting, so that incomplete or inadequate answers are able to be further interrogated. This proposed approach to the only opportunity for ratepayers to question Council decision-making is an affront to a democratic and accountable process and will further detract from Council's already very low level of credibility and accountability in the eyes of ratepayers.	Submission appears to oppose changes to question time.
Mike Noske	Submitter 20	The Victorian Government announced on November 17th, 2023 that they would be introducing a mandatory, state-wide Councillor Code of Conduct during the first quarter of 2024 - so I have to question why the Glenelg Shire Council is wasting resources on amending their existing Code of Conduct in January 2024. Whatever Glenelg Shire does will be rendered inoperative by the new statewide Code of Conduct once Minister Horne releases it. At best the Glenelg's Code of Conduct revisions will apply for a maximum of 2 months - so why bother. The effort required of anyone and everyone to read the Glenelg draft, sort out exactly what the proposed changes are (you might have provided a document with changes tracked in it), and the angst that might evolve around the table once you come to adopting your new version of a Code of Conduct will be largely wasted once Minister Horne releases her version and requires all Councils to adopt it immediately.	Submission relates to Code of Conduct and does not address Governance Rules.
Matt Jowett	Submitter 21	Refer attachment 1	Submission appears to oppose changes to question time and does suggest some amendments. Minor wording changes to section 60 (part 10A and part 10D) to assist with clarification are recommended. Submission also requests that the Agenda is released earlier, which is also supported.
Stephen Liddicut	Submitter 22	Refer attachment 2	Submission period was opened for 4 weeks to accommodate the timing of the release. Submission opposes changes to question time
Gary Humm	Submitter 23	Refer attachment 3	Submission objects to terminology of the rules. Submission has misunderstood Notice of Recission changes which still require a majority at resolution. Submission objects to rules surrounding voting. Submitter appears to have misunderstood legislative requirement. Submitter opposes word and question limit. Submitter opposes various aspects of permitted questions. Submitter opposes submission proposal

Cheryle	Submitter 24	I believe the governance rule changes is an insult to all constituents of GLENELG SHIRE. I feel you are bringing in these changes to question time purely because you Want to override the author of each question which is a total insult you're not giving the author of the Chance to ask the questions sometimes questions have to be in depth as it was proven in Previous question times. You need to allow the questions to be asked in a fair manner otherwise the question can be taken totally out of context if all relevant details aren't attached but in putting a word limit on this is not going to happen. I asked the question why don't you just have a council meeting with No question time don't bother consulting the constituents because that's what you're doing. I do not agree with the new governance rules.	Submission opposes changes to question time
Nick Chipman	Submitter 25	Refer attachment 4	Submission opposes changes to the Draft Governance rules predominately surrounding question time
David Headlam	Submitter 26	Attention: Mr Hol Submission to Glenelg Shire Council re: Governance Rules Changes. Improve Governance and efficiency at Council meetings. 1. Better chairing of the meetings would be an improvement. Most meetings only last 1 - 1 1/2 hours - not a great commitment of time to conduct Council's agenda and allow questions from ratepayers. 2. The community question time has impacted Council due to the poor way ratepayers have been treated by Council over the past few years - not with openness, transparency and integrity. 3. Limiting questions to 2 instead of 3 is removing and further distancing interaction between Council and ratepayers which in my opinion is a rather large backward step. 4. While it is proposed questions be submitted one business day prior to Council meetings, no timeframe has been put on the release of Council's Agenda to enable questions relating to the Agenda. 5. Some Councils allow both written questions and questions without notice and this allows a questioner to have questions aligned with a topic which may result from the response to a previous question. 6. Having the CEO (or delegate) read out questions further distances ratepayers from Council which is undesirable and not what Council has told us it wants (interaction and involvement of ratepayers). 7. A good Chair can control this and while the past has been marred by some ratepayers grandstanding, this can be controlled by a strong Chair. The Mayor should ensure the answer is relevant to the question (this hasn't always been the case). I hope these comments can be taken in a positive and constructive manner. Yours sincerely David Headlam	Submission opposes changes to question time
Gordon Stokes	Submitter 27	I am of the view that if the governance rules are adopted as presented it will further restrict community knowledge of council decision making and policy. Recent community dissatisfaction with council decision making and the perception that the council is withholding information from the community, largely caused by inadequate explanations from the former Mayor and former CEO, has resulted in a degree of community distrust and a perception of incompetence within the ranks of the Councillors and officers. It appears that one section of the Local Government Act 2020, the draft Local Governance Rules as presented by the Glenelg Shire Council, are contrary to the Community Engagement Policy in the Act, which emphasises the importance of a healthy, robust, engagement of the community to assist in shaping at the highest level, a sustainable standard of decision making by the council. In my opinion the community should have the right to unrestricted access to councillors and managers. They are generally not experts in council matters, and many need guidance about the matter raised. And I am sure a polite response by the Mayor or managers would satisfy the questioner in most cases without the need to introduce seemly further restrictions on the right of community members to know. I am aware some questioners are persistent in their subject matter and questions can be seen to be aggravating, but an experienced chairperson, I'm sure could handle the situation, and not call for the police as per a recent meeting, and not require further restrictions as per the draft Community Engagement Policy.	Submission appears to oppose changes to question time
Mike Noske	Submitter 28	Refer attachment 5	Submission opposes changes to question time Submission opposes requirements for Councillor Briefings Submission questions process on virtual meetings Opposes changes to recission obligations Submission raising concerns on Mayroal vote virtually Submission suggest changes to Conflict of Interest declaration at briefing sessions
Majorie	Submitter 29	I understand Councillors should not be abused by questioners, but the new Governance Rules seem a little severe. Healthy Robust engagement of ratepayers is normally welcomed, and sometimes fruitful to Councillors. Maybe a little leniency re these new ideals may be considered. I think this platform "Your say" is a great idea, but sometimes ratepayers need, what they may deem an urgent contact to their Councillors . Maybe more spread through Shire for Council meetings, i acknowledge this does happen perhaps twice a year, but maybe an extra one or two could be managed. Thank you for opportunity to relate our feelings and thank you to current Councillors and staff. Lets hope our Shire prospers 2024	Submission appears to oppose changes to the Draft Governance Rules

Subject: FW: Governance Rules Changes

Categories: Captured in ECM

From: Matt Jowett [REDACTED]

Sent: Wednesday, 3 January 2024 11:22 PM

To: [REDACTED]

Subject: Governance Rules Changes

*** [EXTERNAL] This message comes from an external organisation. Exercise caution when opening attachments or clicking links, especially from unknown senders. ***

Hi David,

First and foremost, I would like to draw attention to point 105 in the new governance rules that speaks of council policies continuing to reflect community expectations.

I believe that some of the changes meet what the community expects and will tolerate while others will not. I will list them in point form.

1. In 60 Part 8 limits questions to 100 words.

I believe that this is a good thing as it will remove unneeded preamble to questions. It still leaves ample room for someone to place their question into some form of context to get the answer they are seeking.

HOWEVER I believe the reduction of questions allowed from 3 to 2 is uncalled for and I oppose this change in the strongest terms!

This will lead to further perception in the community that the council is being less accountable and less transparent and with questions being able to be disallowed on multiple grounds, it can mean that a resident may have NO questions answered in a given month. This could be a major problem if the matter is urgent and their questions were simply asked in the wrong way.

Please don't let the actions of a few members of the community mean the the entire shire has to suffer the consequences.

2. In 60 Part 9 says that:

At the discretion of the Chairperson, the person submitting the question must be present at the council meeting for the question to be answered.

This MUST be removed because in as large a council area as we live in here it can be impractical to expect ALL residents to be able to get to the council meetings to have their questions heard.

This is also dangerous because it could be misused by an unscrupulous Chairperson to limit questions by having them say "That person isn't here so their question won't be answered. Too bad that they couldn't get here."

3. In 60 Part 10

This has multiple problems with it.

10.A. Says the question can't relate to a matter of a type described in section 66 of the act.

Surely this could be made clearer without forcing the reader to have to look up another document to know what is being referred to here?

If what is being said here is: a question can't relate to any confidential matter, just say that. It would make it a whole lot clearer.

10.B. This would sound and read better if it said:

Does not relate to a matter in respect of which is outside the council's realm of responsibility.

10.C. In part, this point says that questions can't be "Objectionable in substance".

This is a very broad and not totally defined area that could be open to misuse.

I understand the intent of the rest of the point, just this part needs fixing or reclarifying.

10.D. This part says that a question "is not repetitive of a question already answered (whether at the same meeting or an earlier meeting)"

Now I understand that council doesn't want to be answering the same questions multiple times each meeting, wasting everyone's time however, if a question that was the same or similar, was asked two months or two years ago that the questioner has no knowledge of, the questioner could get frustrated when the council disallows their question on that basis!

The least the council could do is cite the same or similar question and the answer that was given previously in the minutes of the meeting.

That would be a lot better than the council saying "This question has already been asked and answered! No more discussion will be entered into!"

Leaving the questioner to search through council meeting minutes to discover the answer to their question.

10.E. This is another point that is again totally subjective.

I do understand that some protections need to be put in place to protect councillors and members of the staff however any question could be disallowed on the basis that it could "embarrass" a councillor or member of staff. Any subject could fall into that category so long as someone claims they are embarrassed questions could be disallowed on mass!

4. In 60 Part 13 it states that ONLY the C.E.O. or delegate may read questions.

While there may be members of the community that would not be comfortable speaking in front of a council meeting this robs the vast majority of the residents their right to read their question themselves.

I see local council meetings as the LAST true democratic forum where residents can come and ask questions themselves of their elected officials and directly receive answers.

I hope that our council wont rob us of this ability because of a few people that have been pushing the boundaries.

Some of the other changes should help to correct that. Please don't take away our residents ability to ask questions with their own voice.

5. In 60 Part 14 states:

"No debate or discussion of a question or an answer is permitted other than for the purpose of clarification"

My concern is that under the rules as they are now written any resident that raises their voice to seek clarification on an answer that was given could be thrown out for disrupting the meeting!

Also, with the flow of meeting being a question being voiced by the CEO, an answer being given by the Chair, then moving on to the next question, there is no place for clarification to be sort, if needed.

6. In 60 Part 15a

It seems that the only people who can seek clarification on a question is a councillor or member of staff.

Residents may attend meetings, be seen but not heard!

Could that not be seen as treating residents like children who cant control themselves?

I, for one, would like to treat the residents of this shire with respect and allow them to voice their questions themselves in the spirit of openness, democracy and fairness.

I feel that do to anything else at the local level would be unaustralian.

7. In 60 Part 15c

It states that deferred questions will be provided a written response in ten working days. Surely with the question being provided one working day before the meeting that response time can be shortened to five working days after the meeting?

8. In 60 Part 15d

It says that a summary of a response provided to any question taken on notice will be provided in the next available council meeting agenda.

Surely the full response can be published?

Again this leads the public to believe that the council is hiding something when there are clauses in their governance rules like that.

All councillors pledged, only a few months ago, to be more open with the public.

9. In 60 Part 13, that's the part 13 that comes after 15 on page 32 of the governance rules.

"If a person who asked a question is not satisfied with the answer given, they may follow the question up with the relevant council officer by emailing enquiry@glenelg.vic.gov.au"

Firstly, not everyone is tech savvy or have access to email so a backup way to follow up a question is needed.

Secondly, there is no provision in the governance rules that the follow up question has to ever be answered or the time frame of the response.

I'm not saying that a question won't be answered but.

There are clauses that cover everything else.

Why is there nothing about this?

And finally

10. In 9 Part 1 & 2

It states that councillors will receive the meeting agendas three business days before the next council meeting but the public only gets them 48 hours before. If the meeting is at 5:30 pm on a Tuesday, that would put it at 5:30pm on Sunday night!

Could the public not get the agenda two business days before the next council meeting and have the time to go through this, sometimes very long document, over the weekend before having to have their questions in before midday on Monday morning?

Surely our council is efficient enough to make this small change.

Thank you for taking the time to read my thoughts on the draft changes to the governance rules.

I am open to discuss any points that I have raised.

My number is [REDACTED]

Kind Regards

Matthew Jowett

Subject: FW: Glenelg Shire Council -Current and Draft Governance Rules.

Categories: Captured in ECM

Subject: Glenelg Shire Council -Current and Draft Governance Rules.

*** [EXTERNAL] This message comes from an external organisation. Exercise caution when opening attachments or clicking links, especially from unknown senders. ***

To Glenelg Shire Councillors and CEO.

I wish to raise with you my concerns regarding the elements of the Council's Draft Governance Rules pertaining to Council Meetings and Public Questions Time and the circumstances surrounding the consideration via the Have Your Say Consultation Process.

The timing of the community, Have Your Say consultation process, ensures that a healthy and vigorous engagement with constituents is significantly hindered.

An issue so central to healthy democratic discourse between community and council representatives would certainly be enhanced if not being embedded in the period of distraction optimized by Christmas/ New Year holiday absence and distraction.

It would seem that an extension to the consultation period, in this case is definitely required to ensure authenticity of the process.

Along with certain aspects of the draft Governance Rules which relate to public questions during a meeting, there is on the extensive list of disallowables with the existing policy, a couple of features which warrants close assessment to understand their value and how they serve to avoid unnecessarily undermining the quality of discourse between the public and the council.

The 2 reasons for excluding a question to which I refer :

In the existing 2022 Policy., under Question Time Guidelines 2.13.2

- c. Relates to the personal hardship of any resident or ratepayer;
- or d. Relates to any other matter which the Council considers would prejudice the Council or any person.

In relation to c., where personal hardship might be referred to by a person with whom it relates or conveyed by an advocate; its disallowance is a brutally unnecessary censoring of the human face of a community matter for which consideration should be extended when tailoring policy. There appears no reason for this to be grounds for excluding a question and it does not seem to be commonly featured in other council Governance Policies.

Reason 'd' is simply is not a condition which aligns comfortably with what I would consider a reasonable restriction but would appreciate any illumination on the topic which may convince me otherwise.

In referring back to the Draft Code of Conduct relating to public questions of the council, I wish to identify points of objection and my grounds for doing so:

1. Reducing from 3 to 2 questions and placing a maximum of 100 words.

Both measures represent a net reduction in the fulsome scope for the participation of public members in the process of question time and therefore an undermining of democratic opportunity it supports.

2. A requirement to submit a question prior to midday of the business day prior to the Council Meeting.

That should be an option but not mandatory. Additional time to prepare an answer provides an obvious benefit but should not be the sole consideration. In the event that the question is in relation to a dynamic and evolving situation; developments may occur to which framing of the question needs to respond to ensure relevance. If that opportunity is not available, the question loses the benefit of being based on the most factual information at the time and suffers the risk of irrelevance and failure to furnish with any information of worth.

3. Proposal for questions to be read out by CEO or delegate.

There is little open for interpretation here other than identifying this as a quest by the council to strip community members of their voice, literally, for which no noble justification can be advanced.

If members of the public wish to take up the option to have someone read their question on their behalf, that should be their choice but to summarily have constituents stripped of 'their' voice is extremely patronizing and insulting. No one is more qualified to ask a question than the owner of the question themselves.

I sight the case of a Heywood resident in her eighties raising a concern at a recent meeting about the future of a council owned hall to which she had an historic connection. She was exercising a right for which any deprivation would not only represent personal disempowerment but more broadly a loss to healthy discourse between community and civic representatives as advocated in the council's newly minted Community Engagement Policy 2023.

Thank you for your consideration.

Regards.

Stephen Liddicut.

2023 GOVERNANCE RULE CHANGE PROPOSAL ANALYSIS

Gary Humm

I submit herewith a submission about the proposed changes to the Governance Rules and request the opportunity to speak to my motion at the next scheduled Council meeting.

I believe that there are a number of areas where these amendments will disadvantage ratepayers and the community of the Glenelg Shire.

I am concerned that these changes are designed purely to strengthen the power of the Executive at the expense of Transparency and Accountability for the wider community.

The wording of these changes has been carefully chosen to achieve exactly that and I believe the author has deliberately used the terminology to create a clear divide between the community and its right to challenge adverse decisions and to hold the Executive accountable for performance, service provision, budget performance and fiscal management.

In making this submission, I therefore request that I be given the opportunity to speak to the key elements that are identified below at the scheduled monthly meeting in January 2024.

6. Decision Making

2. Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their view and have their interests considered).

--> This principle of Governance will be conveniently diminished if the other changes are adopted as natural justice is denied when the community loses the right under the proposed wording that excludes challenges where discretionary wording allows questions to be denied where no clear parameters have been set, but which are discretionary as per wording

"At the discretion of" "which the Council considers" would prejudice ..", "has determined that .."

The repetitive nature of the use of subjective terminology is inconsistent with standard protocol for regulatory documents.

NOTICE of RECISSION

43.4 Any notice of rescission must be endorsed by a minimum of two additional Councillors.

--> means that there must be a minimum of a 5-2 majority

--> the skewing of the voting to pass a motion to implement a Governance rule compared to removing one effectively becomes an impediment to a free-flowing decision-making process for future council groups.

--> this becomes an IMPEDIMENT to fixing clear problems of Governance & potentially becomes burdensome and is a MAJOR disadvantage to new councils and the community.

--> This would therefore potentially compromise the smooth operations of the council going forward

--> the same rules should apply for rescission as are in place for passing any motion ... if this is to be adopted then the majority rule 5-2 for passing any motion should also be amended

2023 GOVERNANCE RULE CHANGE PROPOSAL ANALYSIS

Gary Humm [REDACTED]

VOTING

45.2.2. All Councillors present are required to vote on any matter before Council unless that Councillor has declared a conflict of interest in the item.

--> Councillors cannot abstain from a vote .. until the rules are changed requiring the Executive to disclose FULLY all or any information sought about issues, it is improper and non-transparent to force councillors to vote, especially where details may lack clarity (eg Budget)

45.3. For the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the Motion.

-> this ruling encourages councillors to NOT attend or 'be creative' about a conflict of interest. Meetings where there are grave concerns regarding timing, content or outcomes may create ethical concerns when voting... there are always those times when one is NEITHER opposed nor supportive of an agenda item and a councillor should NOT have to make this choice UNTIL the Executive provides the level of clarity that is needed.

60.8. Questions (maximum 100 words including any pre-amble) may be submitted by mail, email enquiry@glenelg.vic.gov.au, or delivered in person to a Council customer service centre but are limited to two questions per person per meeting.

--> placing a limit of 2 questions restricts scrutiny, especially during periods where numerous issues are concerning to the community and serves to do little more than peddle a narrative of community mistrust by this restrictive rule

--> Word Limit deliberately restricts context for questions and therefore answers may NOT be able to be relied upon in terms of clarity and transparency

60.9. At the "discretion" of the Chairperson, "the person submitting the question must be present at the Council meeting" for the question to be answered.

à the wording suggests that residents are again disadvantaged because if you want your question answered you MUST attend in person or run the risk of it being shelved.

à this impacts residents with health and mobility issues

--> even if the resident or special interest group attends the meeting, the subjective terminology fails to provide any assurance of the question being answered or "Taken on Notice" for a written response

60.10. The question should only be read to the meeting if the Chairperson, having sought advice from the Chief Executive Officer or delegate, has determined that the question:

does not relate to :

f. the personal hardship of any resident or ratepayer

--> means budget & service issues that affect "you" can no longer be raised .. #contradicts the Mayoral promises of a few weeks ago.

2023 GOVERNANCE RULE CHANGE PROPOSAL ANALYSIS

Gary Humm

--> means that the council will now only address general matters (you cannot explain the impact of poor or neglected services or any decisions that may "adversely affect you". This means council or council officers cannot be held accountable for occasional or systemic failures.

g. to any other matter "which the Council considers" would prejudice the Council or any person

--> there are no clear parameters to define clear boundaries .. the terminology is completely subject to interpretation and becomes purely discretionary (council can now SHUT DOWN even very reasonable questions ... & WHY ... just because they can !)

--> this is purely discretionary, with no CLARITY or GUIDELINES & is totally at the whim or interpretation of the CEO / Executive Officers or the Mayor.

--> resident's rights to challenge decisions, service failures, or address procedural matters, have been effectively quashed under this ruling to ensure Council & Exec are not made to feel uncomfortable by being called upon to be #Accountable for poor performance, governance matters, or polarising strategic planning issues.

--> this ruling hands "total control" of the council & its operations to the CEO / Mayor & sets it up for an "abuse of process" with no right to challenge by residents (roads, rates, services, major projects, planning, integrity or performance issues, cultural concerns) ... RESIDENTS WILL POTENTIALLY BE BLOCKED FROM BEING ABLE TO RAISE THESE MATTERS ANYMORE under this ruling

This effectively means individuals, business entities, sporting groups and cultural entities (including any racial, religious, or indigenous groups) WILL NO LONGER have the right to raise any matter that impacts or has the potential to impact them in a personal way (eg YUMBA, Yacht Club, and any controversial or polarising development proposals that may adversely affect ANYONE)

This ruling demonstrates the intense FOCUS of the Executive to grasp ABSOLUTE CONTROL & to require the Council to cede that authority across.

This is an AUTHORITARIAN MODEL of Governance that is unprecedented in any other council in Victoria

60.12. The Chief Executive Officer or delegate must read to the meeting the name and locality of the person who has submitted a question.

--> as all meetings are now Live Streamed, natural justice (#6) is denied to victims of Domestic Violence with the inflexibility of the wording in 60.12, and potentially places them 'at risk' as a direct consequence of an over-zealous choice of words.

--> it is quite probable that Domestic / Gender Violence victims, seeking refuge in a small rural community, may, depending upon their individual circumstances, be discouraged from participating in council meetings under this ruling.

--> the lack of attention to the wording results in ZERO FLEXIBILITY with this ruling

2023 GOVERNANCE RULE CHANGE PROPOSAL ANALYSIS

Gary Humm [REDACTED]

60.13. The Chief Executive Officer or delegate "must read the question" and the Chairperson "may then direct" that the question be answered by a nominated person

--> this is at "the extreme levels of arrogance & authoritarianism" implying that residents are incapable of articulating their concerns

--> the expectation that our elected representative will engage with residents is LOST

--> the passion of residents who have concerns will disappear

--> individuals and special interest groups will now ONLY have a submission process as an option to make representations to the council (but no answers at this stage) .. the question & engagement process with the council via face-to-face at the meeting is now DEAD !!

--> the CEO's control over multiple aspects of the meeting is now entrenched & a major concern ... by agreeing to these rules the Mayor (our elected representative) has LOST control of the meeting

--> based on a comment of the CEO at the Dec meeting where he stated he would simply read out the general gist of the question, residents can have NO CONFIDENCE that their questions will be asked exactly as submitted.

--> this is an example of #CONTROL on steroids

--> this supports the notion that the Mayor on behalf of the Council group has ceded ABSOLUTE CONTROL of the Council across to the Executive and that the Council is merely serving a 'rubber stamp' role

--> this creates an insight into the 'ELEPHANT in the ROOM' ... it becomes a real dilemma for any residents who would be potentially considering standing for the 2024 election

... 2 B or NOT 2 B .. a puppet on a string

61. Submissions to Council

1. Community consultation submissions:

a. Submissions may also be made where called for during community consultation.

b. Submissions made in response to a public consultation must be made in writing before the time specified in the consultation process.

c. A submission arising from public consultation is not limited in length but will not be read to the meeting as it will be included in the agenda (where practicable) and minutes.

d. A person making a submission arising from a public consultation may be, at the discretion of the Chair, be permitted to speak to that submission for up to 3 minutes.

--> it seems that the only way to get any outcome from a public consultation process "such as this matter" or any other matter that goes out for consultation in the future is for every concerned ratepayer to 'prepare a submission' as this seems to give them the right to speak to the matter... however

2023 GOVERNANCE RULE CHANGE PROPOSAL ANALYSIS

Gary Humm

--> "permitted to speak" ... oh how condescending !! This terminology sounds like a controlling parent or Primary school teacher from the 50's chastising a child. The tone of this language used is "abusive language" which has NO place in a formal document and is totally inappropriate

--> once again this is totally discretionary as to whether the CEO / Mayor will even allow a resident or special interest group representative to have the opportunity to speak

The tone of language used throughout this document is very revealing about the intent and even more disturbingly, it also provides some insight into the character and mindset of the person(s) who were responsible for preparing it.

These changes will generate an unnecessarily high level of MISTRUST & #SUSPICION towards the council & unprecedented ANXIETY within the community

This document needs a complete overhaul, terminology sorted, rules amended & then resubmitted for a 2nd round of scrutiny by the community.

Subject:

Re: Glenelg Shire Council-2024 updated governance rules/draft open for public feedback

*** [EXTERNAL] This message comes from an external organisation. Exercise caution when opening attachments or clicking links, especially from unknown senders. ***

Hi David, per the website advice about submissions in hard copy-please find below our submission. Thank you and your team for your work on this and the opportunity to offer some suggestions on the proposed Governance Rule changes.
regards and thanks, Nick C.

Please find attached a submission on the proposed draft released December 12, 2023 for public feedback.

Details of Submitter-Nick Chipman

1. Opening commentary-we have observed a wide range of adverse behaviours and outcomes arising from the Glenelg Shire Council over recent times-well reported in the media and following the State government appointed "managers" to assist in the stabilising of the Council following this pattern of failings. The consistent themes seem to point to systemic and sustained under-performance in many domains of service provision, accountability and transparency and in financial control of the Council's operations-especially projects and of course cost to serve economics which we experience through our rates(ref:our own rates inflating by more than 40% year on year). The rate paying constituents have quite naturally become more curious and suspicious after such a sustained period of under-performance yet the proposition underlying the proposed governance rule changes seeks to mitigate closer scrutiny and accountability-under the banner of "efficiency" and "improved governance". Throughout this submission we seek to challenge the prevailing attitude/posture of the draft rule changes from one of defensive/disengaging and dismissive of constituent and community participation, to one of a constituent/client service/customer interests first. Council is in-or should be in-the business of serving the community and rate payers as a first priority. The nature of the current drafting reflects the defensive/dismissive mindset and intent which is neither efficient nor improving governance.

2. Focus of the submission-Proposed Rule 60-the attempt to codify how the public can observe, participate and hold Council to account-and subsequent sections 61, 62, 64, et al

Draft Section 60-Questions of Council

60.1-procedures to be followed-fails to address and include reference to procedural fairness given the purpose of questions to Council and a prevailing attitude to minimise this -despite the prime facie relationship that should exist between those who are employed and engaged to serve and those being served by the Council.

60.2-no provisions for the public to join virtual meetings-existing platforms for virtual meetings can be and are used for public meetings, webinars and other public engagement activities. The provision for this to occur and technological changes needed to address this gap are virtually free/very low cost. The need to submit questions ahead of time through the CEO limits the nature of discussions to how well the matters are explained ahead of

time and does not allow questions that arise in session or as a result of new or different information arising in the meeting.

60.3-the Council will hold question time for up to 30 minutes duration at each meeting-with a granting of extension.On what basis has 30 minutes been deemed an appropriate "allocation" of time.For example the basis of estimating question time might include the following

- an estimate of time to respond to questions lodged before the meeting,with contingency
- an estimate of time for public participants to ask questions/raise matters in session-the secretary could monitor real time question submissions both virtually and by show of hands/engagement with the public participants
- an estimate for each matter by the council management team based on complexity and other criterion could be done ahead of the meeting as a reference point(estimate discussion time per item).

It is noted that by resolution time extension may be granted,but there is no basis outlined that supports 30 minutes being a best fit/procedurally appropriate.Further,if the nature of matters requires more public discussion time,then to a practical extent this should be seen as an opportunity and not a threat to Councillor/Executive time.Given the underperformance of the Council,this should be seen as a mechanism to build greater engagement and exchange,not shutdown legitimate curiosity and suspicion which is a product of the councils' own doing.

60.4-noted-see commentary re Rule 61.

60.5-ref to Section 66 of the Act/closing of the meeting-no public scrutiny or participation.

For the benefit of these rules the transcription of example of reasons to close the meeting to the public should be provided and explained-since there may be areas of grey/intersect with public matters and not mutual exclusive from private/in confidence [matters.How](#) such matters will be dealt with-at the margins or with overlapping interests need to be explained.

60.6-any questions must be submitted in time to the CEO-this does not enable questions to be raised in session or as a result of new or different information arising in [session.In](#) terms of preliminary questions being submitted in time/process for submission the draft seems reasonable-on the proviso that suitable advance warning and content for discussion is provided to enable time for questions and submissions to be framed and submitted.

60.7-accessible alternatives for question submission-noted

60.8-question word limit to 100 including any contextual commentary AND limit to 2 questions per person per meeting.Noting the workload that may accrue to council staff in dealing with submissions outside these limits,members of the public could be better supported with their submission of questions and not be restricted by number of [questions.In](#) order to better engage the public and ensure ratepayers are not unduly restricted or engineered to respond in restrictive ways,Council should provide some simple ways of supporting submissions and assisting with structured ways to collate submissions as a service.Questions to Council should not be seen as a nuisance or burden but an opportunity to receive valuable feedback and insight that Council has not adequately addressed already-the attitude to being questioned is central to this approach.

It is noted that some questions and approaches are of a destructive/offensive/accusatory nature-the policy could address these circumstances elsewhere-making a constructive submission.(rule 60.6 or 60.8)

60.9-submitter to be present/subject to Chair discretion for the question to be answered-this seems a nonsense since there may be wider public interest in the question at hand and there may be good reasons that submitters are not able or available to attend the meeting in person.If the approach to questions is that they are opportunities to improve communications and insight into Council workings and decisions then this rule should be qualified to a preference for attending in person but that questions would be addressed regardless of attendance.

60.10-reasons a question is not read out-reference to a catch all(g.) reflects an attitude of defensive posture and not in line with an overall posture of serving/client service mindset /serving constituents-if the council considers- for whatever reason or logic not shared with anyone else-that the matter would prejudice the council or any [person.How](#) then do contentious matters get addressed?How then does a public view about an adverse policy setting or council advice get discussed?This is a defensive cloak that further reduces transparency and accountability.The nature of discussions can be depersonalised and dealt with in principle or by adopting use cases or examples.Dealing with the contentious matters using sound structured problem framing techniques should be a

skill and an experience provided by Council-it does not mean everyone is happy with the outcome, but it may mean the majority trust the visibility and logic behind it.

60.11-how do questions not read out get dealt with-all power and discretion, resides with the Chair.

Is this an appropriate accountability and transparency regime? It may also lead to a circularity with matters at hand if the questions are by discretion not dealt with and then an email is created by the submitter to a black box approach when no satisfaction is achieved in the public forum (see also rule 6.14 /6.16 below)

60.12-noted

60.13-noted

60.14-no debate or discussion of a question or an answer is permitted-other than for clarification-it is unclear what this means and again truncates the process regardless of the value in either exploring the question in a different way or the answers provided. With a different attitude to learning from the question and answer engagement the council could gain greater trust and acknowledge that it may not have all the answers, may need to research and revert back or simply acknowledge that the matter had not been contemplated before and the insights gained are novel. Note the risk of issue circularity-the matter then remains open and not addressed/avoided by Council.

60.15-noted

60.16-submitted not satisfied with the answer given by council-follow up by email.

This process again is opaque and does not provide a closed loop/functional loop accessible to all within the shire on the resolution or not of matters raised. The email once submitted could form part of the feedback process on how well the council is performing in resolving matters and serving the communities information needs-again the posture for drafting reflecting a defensive and transactional control mindset and intent. The risk of circularity and lack of closure does not engender trust in the process or system of engagement.

61.1-community submissions-permitted to speak for up to 3 minutes and submissions/content not read to the meeting-this again is not aligned with serving the [community](#). In order to design a suitable submission and engagement process and allow suitable/fit for purpose timing for same, the practical needs of a submitter need to be better [considered](#). As a drafting suggestion

-the submitter should include a summary of key points which will serve as an introduction, context and focussing content for any speaking engagement, limited to one page, plus any further detail as an attachment

-based on the relative complexity and other relevant criterion, a suitable speaking time be set aside for the purposes of enabling the submitter to present to Council. A practical limit agreed before hand rather than being chosen without notice at the time by the [chair](#). It is critical to respecting the submitters issue, time and effort, as it is the time and experience of the Councillors and staff.

-that in the event time allowed has been utilised, subsequent follow up time and consideration be minuted as further open action by both parties.

62.1-meetings closed to the public for reasons/circumstances-there are security reasons? it is necessary to do so to enable the meeting to proceed in an orderly manner? Also refer 62.3 and the default that the number of decision points and judgements about things like "likely to" or similar creates further defensive choices. From a drafting perspective, in line with a service of others mindset, it would be constructive to indicate the Councils posture on a preference for open meetings and a default to confidential proceedings would be done on an exception basis wherever possible-even foreshadowing which items need to be given certain levels of protection.

64./70./71-Behaviour during council meetings and inappropriate conduct.

Please consider the submission above regarding the posture of Council and drafting according to a posture of willingness to learn and gain insight, communicate and collate critical information and understand information gaps, encourage and recognised community engagement and contribution to Council operations and mitigate defensiveness and secrecy/lack of transparency .

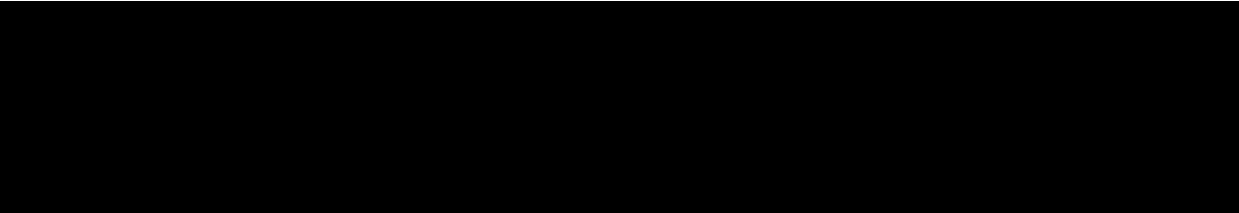
I would be pleased to explain or elaborate on this submission-which has been driven by a desire to see the Council become higher performing and better engaging with and learning from rate payers/constituents experience of and

with Council. The medium term returns on superior community engagement and streamlined issue resolution should help reduce the cost to serve.

Yours Sincerely, Nick Chipman.



Get [BlueMail for Mobile](#)



*** [EXTERNAL] This message comes from an external organisation. Exercise caution when opening attachments or clicking links, especially from unknown senders. ***

Anonymous User just submitted the survey Draft Governance Rules Feedback Form with the responses below.

Name:

Mike Noske

Contact Email address:



Details of Feedback

I had previously submitted an opinion that Council should not be changing the Governance Rules given the Government's intention to release a new statewide Councillor Code of Conduct. The However, the Mayor assures me that the two issues are not connected... On the matter of proposed changes to the rules governing Questions to Council. The requirement for a change is stated to be because of a need to ensure that Council meetings focus on the business items of the Council Agenda which is the purpose of a Council Meeting. • I note that the new guidelines still have the same 30 minute period for question time and the same ability to extend the question time by resolution of Council. So the new guidelines will not change the amount of time available to Councillors to focus on the business items of the Agenda. o I note that despite there being quite heated exchanges between ratepayers asking questions of Council and the mayors of the day over the past 2 years, I do not recall any meetings that I attended where Council had to vote to extend Question Time. • I believe that the ability for ratepayers to ask 3 questions of Council has been in place since 1995 without it being deemed to adversely affect Councillors ability to focus on the business items of the meeting agenda: o I'd suggest that the problems Council has had with question time since June of 2022 is a problem of Council's making. The number of ratepayers asking Questions of Council has exploded because of the distain Council showed for both process and outcome when making the decision to bring the so called Primary Production Land rebate back into Council's collected revenue. But again, even allowing for that, I don't recall Question Time continually exceeding the 30 minutes and encroaching into Council business time allocation. o In essence, I do not see the need to restrict ratepayers to 2 questions. Perhaps Council might consider restricting each ratepayer to 5 minutes maximum as a more focussed approach to keeping Question time to a manageable length. • I'd suggest that the proposal to restrict questions to 100 words is counter intuitive. People have been submitting longer "questions" because they have been providing the context of their question to Council. Removing the ability to submit longer questions with their context included can only have three possible consequences: o Council staff will spend a lot of time in the day before a meeting trying to determine the context of submitted questions – taking their attention away from the business matters in the agenda; o Council staff will struggle to answer questions to the satisfaction of ratepayers because they do not understand the context of the question ; and/or, o It will result in a stream of further questions being asked about the same issue. • The proposal to have questions submitted at least one day before a Council Meeting • The proposal to have the CEO or their delegate read out questions is paternalistic, condescending and insulting to ratepayers who have legitimate questions of Council. o The proposal that the person submitting the question MUST be present at the meeting for

the question to be answered seems overly bureaucratic given my experience whereby currently ~75% of all questions are taken on notice and not answered at the meeting anyway – and the proposed changes are not going to improve that closure rate.

- The proposal to not read any question relating to a matter in respect of which the Council has no power removes the ability of ratepayers to bring to Council’s attention issues which they’d like Council to advocate for on behalf of Glenelg Shire ratepayers.
- The proposal to allow the CEO or their delegate to decide whether a question is repetitive of a question already answered begs the question as to the quality of the answers already provided. It has been my experience over the past 2 years that Council’s answers to questions have rarely met the expectations of the persons asking the questions.
- The proposal that the CEO of delegate can determine that a question should not be read for the plethora of other reasons is also paternalistic and overly bureaucratic. By all means allow the Mayor the discretion to refuse to answer a question for reasons a, c, e, f or g listed in Section 60/10 of the draft document – but it goes against all principles of open governance that Council can decide to not allow the question to be read. On the matter of Governance obligations at Councillor briefing sessions
- I note that Section 73/1 states that “Reports to a Councillor Briefing must not seek a substantive decision. o So why would Section 74/1(c) require that the record of each Councillor Briefing include details of “Any outcomes from a Councillor Briefing”.
- I note that Section 73/3 (a) states that Councillors specifically must not direct an officer in the exercise of a delegation or the performance of a statutory function. o I’d suggest that the wording used risks creating a situation where Councillors are not able to question officers as to their exercising of a delegated authority. Delegations are designed to provide officers with the authority to exercise the obligations of Council on matters deemed to be procedural. Council MUST have the ability to determine whether it considers that officers are indeed exercising those delegated authorities to the satisfaction of Council.
- Similarly, I’d suggest that the wording of Section 73/3 (b) needs to be tempered to ensure it enables Councillors in a Councillor briefing to speak as to whether they think a proposed recommendation in a report is appropriate and cannot be used to shut such conversations down. On the matter of a Councillor having to be present at a meeting to be entitled to vote
- Section 12/4 of the draft states, “As required under Section 61 of the Local Government Act 2020 a Councillor must be present to be entitled to vote. o Section 61 of the Local Government Act is silent as to what the definition of “present” is in the matter of who can vote. So it doesn’t define whether a Councillor attending a meeting virtually is legally “present at the meeting”. o I’d suggest that Section 12/4 needs to be revised to specifically state that a Councillor attending a Council meeting virtually is deemed to be present at the meeting and able to have their vote counted on any matter determined at the meeting. On the matter of requiring 2 additional Councillors to endorse a Notice of Recission before it can be lodged.
- I believe that with a Council of only 7 people, requiring a minimum of three to enable a motion of recission is counterproductive. o I’d put it to Council that this amendment has the potential to build cliques within Council – something that recent history would suggest is not conducive to good governance. o Given the volume of material placed in front of Councillors before each meeting, it is unrealistic to expect all councillors to become fully aware of all of the implications of each item of business before meetings. o Accordingly, I suggest that it is prudent to continue with the existing provisions relating to Recissions whereby a single Councillor can move a Motion of Recission within 10 days of a meeting if they decide that they have new information to bring to an issue. o I note that they still have to be able to convince at least one other Councillor to endorse their motion at the next meeting before it can be debated. On the matter of the voting process for Mayoral elections
- I note that neither the Act, the current governance rules or the proposed governance rules are definitive as the matter of whether at the meeting at which the Mayor is elected, a Councillor virtually attending the meeting can have their vote counted. o Given the small size of Council (at 7 members) and the ongoing prevalence of new waves of COVID infections in the community, I’d suggest that having the ability for Councillors to attend the Mayoral election virtually and having the right to have their vote counted should be clearly spelt out in the Governance Rules of the Council. On the matter of dealing with Conflicts of Interest
- I note that Section 96 of the proposed Governance Rules does not specifically include Councillor Briefings in the list of meetings at which Councillors must declare a Conflict of Interest and remove themselves from the briefing before the matter is discussed. o Briefings may be covered by the term “other meetings” but for appearances sake, I’d suggest that Council should make to issue patently clear to ratepayers.



Glennelg Shire Council

Governance Rules

DRAFT

CHAPTER 1 - GOVERNANCE OVERVIEW AND DECISION MAKING	7
1. Nature of Rules.....	7
2. Content.....	7
3. Definitions.....	8
4. Date of Commencement	11
5. Decision Making.....	11
CHAPTER 2 - MEETING PROCEDURE FOR COUNCIL MEETINGS	12
6. Purpose.....	12
7. Notices and Agendas.....	12
8. Notice of Meetings	12
9. Cancellation or Postponement of a Meeting	13
10. Unscheduled Meetings.....	13
11. Meetings Held via Virtual means	14
12. Attendance.....	14
13. Accessibility	15
14. Confidentiality	15
15. Technical difficulties.....	15
16. Quorum	15
17. Inability to Obtain a Quorum.....	16
18. Inability to Maintain a Quorum due to Declarations of Conflict of Interests	16
19. Apologies (including leave of absence)	16
20. Business of Meetings	17
21. Change to Order of Business	17
22. Urgent Business	18
23. Time Limits for Meetings.....	18
24. Addressing the Meeting	19
25. Motions and Amendments	19
26. Notices of Motion – Councillors may propose Notices of Motion	20

27.	Moving a Motion.....	21
28.	Chairperson’s Duty Relating to Motions.....	22
29.	Right of reply.....	22
30.	Moving an amendment	23
31.	Foreshadowing Motions.....	23
32.	Withdrawal of Motions.....	24
33.	Separation of Motions	24
34.	Motions in writing	24
35.	Debate Must be Relevant to the Motion.....	24
36.	Adequate and Sufficient Debate	24
37.	Speaking Times.....	24
38.	Procedural Motions.....	25
39.	Suspension of standing orders.....	25
40.	Laying an Item on the Table	25
41.	Notice of Rescission Motion.....	26
42.	Voting.....	26
43.	Declaration of Vote	27
44.	Casting Vote	27
45.	Recording of Opposition of Motion.....	27
46.	Motion to be Read Again	27
47.	Call for a Division.....	27
48.	Procedure for a Division.....	27
49.	Between the Original Vote and the Division	28
50.	Vote to be Taken in Silence.....	28
51.	Points of Order.....	28
52.	Chairperson to Decide Point of Order.....	29
53.	Motion of Dissent in Chairperson’s ruling.....	29
54.	Questions of Council.....	29
55.	Submissions to Council.....	31

56.	Meetings Closed to the Public:.....	32
57.	Petitions and Joint letters	33
58.	Behaviour During Council Meetings	34
59.	Chairperson and Members.....	35
60.	Council Meeting Chairperson	36
61.	Delegated Committee Chairperson	36
62.	Chief Executive Officer Support to Chairperson	36
63.	Councillors and members of Delegated Committees.....	37
64.	Chairperson may Adjourn Meeting and Address Inappropriate Conduct.....	37
65.	Matters not Otherwise Provided For	38
	CHAPTER 3 – COUNCILLOR BRIEFINGS	39
66.	Purpose of Councillor briefings.....	39
67.	Requirements at Councillor Briefings.....	39
68.	Record keeping at Councillor Briefings.....	39
	CHAPTER 4 - MEETING PROCEDURE FOR DELEGATED COMMITTEES	40
69.	Delegated Committees.....	40
70.	Chairperson of Delegated Committee.....	40
	CHAPTER 5 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEE	41
71.	Overview Community Asset Committees.....	41
72.	Meeting Procedure.....	41
	CHAPTER 6 – MEETING RECORDS	42
73.	Keeping of Minutes.....	42
74.	Content of Minutes	42
75.	Confirmation of Minutes.....	43
76.	Meetings and the Use of Electronic Means of Communication.....	43
	CHAPTER 7 - ELECTION OF MAYOR, DEPUTY MAYOR, AND APPOINTMENT OF ACTING MAYOR	44
77.	Determining the Election of the Mayor	44
78.	Method of Voting.....	45
79.	Temporary Chairperson.....	45

80.	Procedure for Election of Mayor.....	45
81.	Procedure for Determining a Draw by Lot to Determine a Defeated Candidate 46	
82.	Mayor to Take Chair	46
83.	Election of Deputy Mayor	46
84.	Appointment of Acting Mayor.....	47
85.	Councillor Allowances – Mayor, Deputy Mayor, and Councillors	47
	CHAPTER 8 - ELECTION PERIOD POLICY PROVISIONS	48
86.	Election Period Policy	48
	CHAPTER 9 - DISCLOSURE CONFLICT OF INTEREST	49
87.	Obligations	49
88.	Councillors and Members of Delegated Committees.....	49
89.	Procedure at a Council or Delegated Committee Meeting.....	49
90.	Procedure at other Meetings Organised, Hosted, or Supported by Council	50
91.	Council Staff.....	51
92.	Procedure for Disclosures of Conflicts of Interest.....	51
	CHAPTER 10 – COUNCILLORS STANDING FOR STATE OR FEDERAL ELECTIONS.....	52
93.	State and Federal Elections	52
94.	Requirements for Prospective Candidate.....	53
	CHAPTER 11 – MISCELLANEOUS.....	54
95.	Integrity and Confidentiality.....	54
96.	Confidential information.....	55
97.	Personal Interest	55
98.	Delegations.....	55
99.	Change of Council Policy.....	55
100.	Joint Council Meetings.....	56
101.	Use of the Common Seal.....	56
	APPENDICES.....	57
	APPENDIX ONE – ELECTION PERIOD POLICY	57

CHAPTER 1 - GOVERNANCE OVERVIEW AND DECISION MAKING

1. Nature of Rules

These are the Governance Rules for Glenelg Shire Council, made in accordance with section 60 the *Local Government Act 2020* (the *Act*).

Local Government is a democratically elected tier of government and are constituted bodies that are accountable, transparent collaborative, efficient and engaged with their communities. The role of Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.

2. Content

These Governance Rules should be read in the context of and in conjunction with:

The overarching governance principles specified in section 9(2) of the *Act*, as follows:

1. A Council must in the performance of its role give effect to the overarching governance principles.
2. The following are the overarching governance principles—
 - a. Council decisions are to be made and actions taken in accordance with the relevant law
 - b. Priority is to be given to achieving the best outcomes for the municipal community, including future generations
 - c. The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
 - d. The municipal community is to be engaged in strategic planning and strategic decision making
 - e. Innovation and continuous improvement is to be pursued
 - f. Collaboration with other Councils and Governments and statutory bodies is to be sought
 - g. The ongoing financial viability of the Council is to be ensured
 - h. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making
 - i. The transparency of Council decisions, actions and information is to be ensured.

And the following documents adopted or approved by Council:

- Councillor Code of Conduct
- Council Plan
- Council Polices

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Overview and Decision Making
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Councillors Briefings
Chapter 4	Meeting Procedure for Delegated Committees
Chapter 5	Meeting Procedure for Community Asset Committee
Chapter 6	Meeting Records - Minutes
Chapter 7	Election of the Mayor, Deputy Mayor, and Appointment of Acting Mayor
Chapter 8	Election Period Policy Provisions
Chapter 9	Disclosure of Conflict of Interests
Chapter 10	Councillors Standing for State or Federal Elections
Chapter 11	Miscellaneous

3. Definitions

In these Governance Rules, unless the context suggests otherwise the following words and phrases mean:

Agenda means a document containing the date, time and place of a *Meeting* and a list of business to be transacted at the Meeting.

Authorised Officer has the same meaning as in the *Local Government Act 1989* or any other Act.

Chairperson means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson.

Chamber means any room where the Council holds a Council Meeting.

Chief Executive Officer means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office.

Code of Conduct has the same meaning as in the *Act*.

Committee Meeting means a Meeting of a Delegated Committee.

Community Asset Committee means a Community Asset Committee established under section 65 of the *Act*.

Council means Glenelg Shire Council.

Councillor means a Councillor of *Council*.

Councillor Briefing means a Meeting held with Councillors for sharing of information with no decision or substantive decision to be made at these Meetings.

Council Meeting means a Meeting of the Council convened in accordance with these Governance Rules and includes a scheduled Meeting and unscheduled Meeting (whether held face to face (in-person) attendance in a set location or via electronic means (virtual) or hybrid format that mixes in person and electronic attendance.

Delegate means a member of Council staff to whom powers, functions and duties have been Delegated by an instrument of delegation.

Delegated Committee means a Delegated Committee established under section 63 of the *Act*. (whether held face to face (in-person) attendance in a set location or via electronic means (virtual) format that mixes in person and electronic attendance.

Deputy Mayor means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor.

Director means a senior member of *Council* staff holding the position of Director or another position (however designated) as designated by the Chief Executive Officer.

Disorder means any disorderly conduct of a member of the Gallery or a Councillor and includes:

- a. Interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order
- b. Making comments that are defamatory, malicious, abusive or offensive
- c. Refusing to leave the Meeting when requested, ordered, or directed to do so by the Chairperson in accordance with the *Act* and the Governance Rules
- d. And engaging in any other conduct which prevents the orderly conduct of the Meeting.

Foreshadowed Motion means a matter raised in the relevant section of the Council Meeting that a Councillor intends to submit a Notice of Motion at the next Council Meeting/or later in the Council Meeting.

Majority of the Votes means a majority of Councillors present at the time of a vote voting on a matter.

Mayor means the Mayor of Council and any person appointed by Council to be acting as Mayor.

Meeting means a Council Meeting or a Delegated Committee Meeting.

Member means a member of any committee to which these governance rules apply.

Minister means the Minister for Local Government.

Minutes means the official record of the proceedings and decisions of a Meeting.

Motion means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted.

Notice of Motion means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting.

Notice of Rescission means a Notice of Motion to rescind a resolution made by Council.

On Notice means held or deferred to enable preparation of a response.

Open to Public means in the case of a Council or Delegated Committee either, attendance in person by a member of the public, or a Meeting that is broadcasted live, or a recorded Meeting that is published on the council internet site as soon as practicable after the Meeting.

Point of Order means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting.

Procedural Motion means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure.

Rule or Sub-rule means a rule or sub-rule included in these Governance Rules.

Urgent Business means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Meeting.

Unscheduled Meeting means a Meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Council Meetings set by Council.

4. Date of Commencement

These Governance Rules commenced on 25 August 2020 and were updated and adopted on the **TBC**.

5. Decision Making

1. In any matter in which a decision must be made by a Council (including person acting with the Delegated authority of Council), Council must consider the matter and make a decision:
 - a. Fairly, in a manner which is balanced, ethical, impartial, and free from favouritism or self-interest
 - b. On the merits, taking into account all relevant considerations, and without regard to irrelevant or inappropriate considerations.
2. Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their view and have their interests considered).
3. Before making a decision that will directly affect the rights of a person, Council (including any person acting with the Delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made:
 - a. If a report to be considered at a Council Meeting concerns subject matter which will directly affect the rights of a person or persons, the Report must record whether the person or persons have been provided with an opportunity to communicate their views and have their interests considered,
 - b. If a report to be considered at a Delegated Committee concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person or persons have been provided with an opportunity to communicate their views and have their interests considered.

CHAPTER 2 - MEETING PROCEDURE FOR COUNCIL MEETINGS

6. Purpose

The purpose of this Chapter is to:

- a. Provide for the procedures governing the conduct of Council Meetings, which enable Council to make its decisions.
- b. Set the behaviour for those participating in or present at Council Meetings.

7. Notices and Agendas

1. Council must fix the date, time, and place of all Council Meetings for a (12) twelve-month period at a Meeting of Council, prior to the end of each calendar year.
2. The date, time and place of all Council Meetings are to be made available to the public.
3. Council may change the date, time, and place of, or cancel, any Meeting which has been fixed and must provide notice of the change to the public.

8. Notice of Meetings

1. A notice of a Meeting, that is not an unscheduled Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be provided to every Councillor for all Council Meetings, at least three (3) days before the Meeting. A period of less than three (3) days may be justified if exceptional circumstances exist.
2. An Agenda for each Council Meeting, that is not an unscheduled Meeting, will be made available on Council's website no less than 48 hours before the Council Meeting. An accessible (large font) format will be made available upon request.
3. A schedule of Council Meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website. The schedule of Council Meetings must also be available from Council's Customer Service Centre's and on Council's website in an accessible format when requested.
4. The Chief Executive Officer or their delegate has responsibility for ensuring compliance with this rule.
5. Meetings are in person unless the provisions of the virtual attendance rule apply.

9. Cancellation or Postponement of a Meeting

1. The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council Meeting, cancel or postpone a Council Meeting.
2. The Chief Executive Officer must present to the immediately following Council Meeting a written report on any exercise of the power conferred by this rule , setting out the reasons for the exercise of that power, and any matters taken into consideration.

10. Unscheduled Meetings

1. The Mayor, or three Councillors may request the Chief Executive Officer to call an unscheduled Meeting of the Council, by providing written notice to the Chief Executive Officer that specifies the business to be transacted.
2. The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled Meeting considering the following:
 - a. The urgency of the business to be transacted
 - b. A reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
3. Council must specify the date and time of the Unscheduled Meeting and the business to be transacted.
4. The Chief Executive Officer must arrange for notice of the Meeting on Council's website no less than 24 hours before the Council Meeting unless exceptional circumstances exist.
5. The Chief Executive Officer must arrange for the Agenda for the Unscheduled Meeting to be made available electronically to every Councillor at least 48 hours before the Meeting unless exceptional circumstances exist.
6. A request to call an unscheduled Meeting must be delivered to the Chief Executive Officer in sufficient time to enable notice to be given of the Meeting.
7. Only the business specified in the written request, may be considered at an unscheduled Meeting, unless Council, by unanimous resolution, determines to admit another matter.

11. Meetings Held via Virtual means

1. This section outlines the ability for Council to permit Councillors attending virtually to meet the obligations of Section 61 of *the Act*.
2. The Chief Executive Officer (or appointed delegate) may enable all or part of the proceedings of a Meeting to be recorded as livestream vision and made available to the public via the Council's website.
3. Any confidential Council Meetings or confidential/closed sections of any Council Meetings are not streamed live, and the live streaming is suspended.
4. As required under Section 61 of the *Act* a Councillor must be present to be entitled to vote.

12. Attendance

1. Councillors and members of Delegated Committees who wish to attend a Meeting via virtual means may submit a request to the Chief Executive Officer
 - a. A request must be made in writing or email, each time a Councillor wishes to attend virtually.
 - b. The request must be made no later than 24 hours prior to the commencement of the Meeting, unless exceptional circumstances arise which are approved by the CEO.
 - c. A request to participate in a Meeting by electronic means of communication must provide an explanation as to why the Councillor cannot reasonably participate in the Meeting in person. For the avoidance of doubt, a Councillor's personal preference to participate by electronic communication does not constitute sufficient grounds for making a request.
2. Consideration to attendance will be given in circumstances such as:
 - a. Isolation requirements
 - b. Requiring quorum
 - c. Duties as required under the section 4 of the *Carers Recognition Act 2012*.
3. Attendance virtually is not considered appropriate in the following circumstances
 - a. Request to attend virtually whilst on leave
 - b. To avoid the necessity to travel.

4. A member's attendance can only be recorded as present where the member can confirm that:
 - a. They can hear proceedings
 - b. They can see other members in attendance and can be seen by other members
 - c. They can be heard (to speak).

**Accessible options are permitted for any member if required

13. Accessibility

It will remain the responsibility of the member attending virtually to ensure that they have the required access and environment suitable for electronic communications.

14. Confidentiality

Council must ensure that confidential items are dealt with in an electronically secure environment. Councillors must be able to demonstrate to the Chairperson's satisfaction that the location from which they are participating is secure enough to ensure deliberations remain confidential.

15. Technical difficulties

To ensure Meetings are managed in an orderly manner, if an attendee such as Mayor, Chair, Councillor or Chief Executive Officer loses connection if attending a Meeting electronically, the Meeting may be paused for up to 15 minutes whilst reconnection is attempted. Council may vary this provision by a resolution of Council. After this period, if connection is not able to be restored the attendee will be listed as an apology.

16. Quorum

No business can be transacted at a Council Meeting unless a majority of the Councillors are present (quorum). If there is no quorum at the commencement of a Meeting or if a quorum cannot be maintained during a Meeting, the Meeting is to be adjourned to another date and/or time. A quorum is an absolute majority as outlined in section 61(7) the *Act*.

17. Inability to Obtain a Quorum

If after 30 minutes from the scheduled starting time of any Council Meeting, a quorum cannot be obtained

1. The Meeting will be deemed to have lapsed
2. The Chief Executive Officer must convene another Council Meeting not exceeding seven (7) days from the time of the adjournment. The agenda for which will be identical to the agenda for the lapsed Meeting
3. The Chief Executive Officer must give all Councillors and the public, where required by *the Act*, written notice of the Meeting.
4. If during any Meeting a quorum cannot be maintained the Chairperson, may adjourn the Meeting for a period not exceeding seven (7) days from the time of the adjournment.

18. Inability to Maintain a Quorum due to Declarations of Conflict of Interests

If during any Meeting it becomes apparent to the Chairperson that it will not be possible to maintain a quorum due to the number of Councillors who have disclosed a declaration of a conflict of interest in an item of business and will be unable to vote, Council must consider whether the decision can be made in an alternative manner as outlined in section 67(3) of the *Act*. *The Local Government (Governance and Integrity) Regulations 2020* exempt the conflict of interest provisions for a decision of Council to deal with the matter in an alternative manner under section 67 of the *Act*.

19. Apologies (including leave of absence)

1. Councillors and members of Delegated Committees who are unable to attend a Meeting may submit an apology:
 - a. In writing to the Chief Executive Officer, who will advise the Meeting: or
 - b. In writing to a Councillor or member of the Delegated Committee to submit it at the Meeting on their behalf.
2. An apology submitted to a Meeting will be recorded in the Minutes.
3. A Councillor intending to take a leave of absence should submit a request for leave of absence in writing to the Chief Executive Officer. To avoid confusion, submitting an apology does not automatically constitute a request for leave of absence.
4. Provided sufficient notice is given the Chief Executive Officer will include any leave of absence requests received included in the agenda of the next available Council Meeting.

5. A leave of absence not included in a Council Meeting agenda may still be considered by Council if a written request has been received by the Chief Executive Officer prior to the Meeting.
6. Council will not unreasonably withhold its approval of a leave of absence request.
7. Council will record any Councillors leave of absence contained in the Leave of Absence Register presented as an attachment at a Council Meeting.
8. A Councillor who has not submitted an apology or had a leave of absence approved and who is not in attendance at a Council or Delegated Committee Meeting will be recorded as absent in the Minutes.
9. A Councillor ceases to hold the office of Councillor and the office of the Councillor becomes vacant if the Councillor is absent from Council Meetings for a period of four (4) consecutive months without leave obtained from the Council.

20. Business of Meetings

1. The agenda for and the order of business for a Council Meeting is to be determined by the Chief Executive Officer, in consultation with the Mayor, to facilitate and maintain open, efficient and effective processes of government.
2. No business can be dealt with at a Meeting unless it is:
 - a. Contained on the Agenda
 - b. Admitted as Urgent Business
 - c. Admitted by resolution of Council

21. Change to Order of Business

1. The business of Meetings rule does not preclude the Chief Executive Officer from altering the order of business from time to time to enhance the fluent and open process of the governance of the Council.
2. The Chief Executive Officer may include any matter on the Agenda that they believe should be considered by Council.
3. If a matter listed on the Agenda and is withdrawn, the Chief Executive Officer must:
 - a. Notify all Councillors as soon as practicable of its withdrawal and the reasons for the withdrawal
 - b. Provide an explanation for the withdrawal at the Meeting at which the matter was listed.

4. The order of business for a Meeting may also be altered by resolution of Council or the submission of late reports by the Chief Executive Officer.

22. Urgent Business

1. If the agenda for a Council Meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if it:
 - a. Relates to or arises out of a matter which has arisen since distribution of the Agenda
 - b. Cannot safely or conveniently be deferred until the next Council Meeting
 - c. Deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter
 - d. The item involves a matter of urgency as determined by the Chief Executive Officer
 - e. It cannot be addressed through an operational service request process.
 - f. Provided the matter does not:
 - i. Substantially affect the levels of Council service
 - ii. Commit Council to significant expenditure not included in the adopted budget
 - iii. Establish or amend Council Policy
 - iv. Commit Council to any contractual arrangement.
2. Any items of urgent business are to be provided to the Chief Executive officer no later than 12pm on the day of the Council Meeting to which the item is being raised unless exceptional circumstances arise.

23. Time Limits for Meetings

1. A Meeting must not continue after three hours from the time it commences unless a majority of Councillors present vote in favour of its extension in accordance with this Clause.
2. An extension of time shall not exceed 30 minutes.
3. The Chairperson may adjourn a Meeting for a ten (10) minute break, at an appropriate point in proceedings after two hours has elapsed.
4. No more than two (2) extensions of time will be permitted at a Council Meeting.

24. Addressing the Meeting

1. A Councillor who has the floor must not be interrupted unless:
 - a. Called to order by the Chairperson
 - b. Given notice by the Chairperson that speaking time has elapsed or is about to elapse
 - c. Another Councillor raises a Point of Order.
2. Except for the Chairperson or Chief Executive Officer, any person who addresses the Meeting must direct all remarks through the Chairperson.
3. The Chairperson may request anyone addressing the Meeting to stand, unless unable to do so because of disability, illness, injury, or pregnancy.
4. Any person addressing the Chairperson must refer to the Chairperson as:
 - a. Mr Mayor
 - b. Madam Mayor
 - c. Mayor
 - d. Chair
 - e. Mr Chair
 - f. Madam Chair; as the case may be.
5. All Councillors, other than the Mayor, must be addressed as Cr (Surname). Where two Councillors have the same surname, should be addressed with first name and second name.eg Cr (first name) (surname)
6. All Council staff must be addressed by their official title or name (example Director <<Department>>, or <<Title>> <<Surname>>).

25. Motions and Amendments

1. A Councillor may move any Motion related to an item included in the agenda. In the interest of transparency and informed decision making, Motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the Motion being considered by Council. Motions are required to be submitted in writing when requested by the Mayor, so they can be displayed to the Meeting.
2. As a resolution must be able to be acted upon, a Motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.

26. Notices of Motion – Councillors may propose Notices of Motion

1. A Notice of Motion must be in writing and be signed by a Councillor and lodged with or sent to the Chief Executive Officer at least 10 days prior to the Council Meeting, to allow sufficient time for the Chief Executive Officer to include the Notice of Motion in the Agenda papers for a Council Meeting.
2. The Chief Executive Officer must inform Councillors about any legal and/or cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under these Governance Rules.
3. A Notice of Motion must relate to the objectives, role and functions of Council as outlined in *the Act* and includes a concise reference to the relevant Council Plan objective and should demonstrate added value to Council.
4. A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
 - a. Impacts the levels of Council service
 - b. Commits Council to expenditure that is not included in the adopted Council Budget
 - c. Proposes to establish, amend or extend Council policy
 - d. Proposes to impact the rights of any person who has not had the opportunity to contribute their views
 - e. Commits Council to any contractual arrangement
 - f. Concerns any litigation in respect of which Council is a party.
5. The Chief Executive Officer must reject any Notice of Motion which:
 - a. Is contrary to legislation, vague or unclear in intention
 - b. Is defamatory
 - c. May be prejudicial to any person or Council
 - d. Is objectionable in language or nature
 - e. Is outside the powers of Council
 - f. Is submitted during Election Period
 - g. Relates to a matter that can be addressed through the operational service request process

- h. Is a Motion to rescind a resolution and which does not meet the requirements of the rescission rule
 - i. Relates to operational or employment matters.
6. If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion.
 7. The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the agenda for the relevant Council Meeting.
 8. The Chief Executive Officer must ensure all Notices of Motion to be sequentially numbered, dated, and entered in a register.
 9. The Motion moved must not be substantially different to the Motion published in the agenda, however, may be amended if not changing the intent of the Motion by resolution of the Council.
 10. A Motion or amendment which differs in wording from the Notice of Motion must be read aloud by the proposer and may be written out by the proposer and provided to the Chairperson. On the request of a Councillor, the written amendment must be distributed to the Councillors by the Chief Executive Officer or their Delegate.
 11. If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
 12. If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses. A similar Motion must not be put before Council for at least three (3) months from the date it was lost.

27. Moving a Motion

1. The procedure for moving any Motion is:
 - a. The mover must state the Motion without speaking in support of it
 - b. The Motion must be seconded by a Councillor other than the mover. If a Motion or amendment is not seconded, the Motion or amendment lapses for want of a seconder
 - c. If there is a seconder, the Chairperson asks if the Motion is opposed.
 - d. If there is no opposition, the mover speaks to the Motion
 - e. The seconder is given the right to speak to the motion or reserve their right to speak later in the debate

- f. The Chairperson calls for Councillors to speak against the Motion, then alternate for and against
 - g. Right of reply
 - h. Vote
2. Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion involves:
- a. A Councillor requesting that their opposition to the motion be recorded in the minutes
 - b. A subsequent notice of motion following a rescission motion
 - c. A Councillor to calling for a division.

28. Chairperson's Duty Relating to Motions

The Chairperson must not accept any Motion which:

- a. Is defamatory
- b. Is objectionable in language or nature
- c. Is contrary to legislation, vague or unclear in its intention
- d. Is outside the powers of Council
- e. Is not relevant to an item of business on the Agenda and has not been admitted as urgent business
- f. Purports to be an amendment but is not.

29. Right of reply

- 1. The mover of a Motion or an amendment may exercise a right of reply to matters raised during debate.
- 2. No new matters may be raised in the right of reply.
- 3. If no Councillor has spoken against a Motion, there will be no right of reply.
- 4. After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.

30. Moving an amendment

1. A Motion, which has been moved and seconded, may be amended by leaving out or adding words for the purposes of understanding and efficiency, which must be relevant to the subject of the Motion and do not change the intent of the Motion.
2. An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original Motion.
3. An amendment must not change the intent of the original Motion. If a proposed amendment is not consistent with the original Motion, it shall be disallowed and ruled to be an alternate Motion and only be considered if the originating Motion is lost.
4. If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
5. If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
 - a. The amendment must be moved and seconded.
 - b. Councillor may speak on any amendment once, whether, or not they have spoken to the Motion, but debate must be confined to the terms of the amendment
 - c. Any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time
 - d. If the amendment is carried, the Motion as amended then becomes the Motion before the Meeting
 - e. The mover of an amendment retains the right of reply to that amendment.

31. Foreshadowing Motions

1. At any time during debate a Councillor may foreshadow a Motion to inform Council of their intention to move a Motion at the next Council Meeting/or later in the Council Meeting. This does not extend any special right to the foreshadowed Motion.
2. A Motion foreshadowed may be prefaced with a statement that, in the event of a particular Motion before the Chairperson being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.
3. A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.
4. The minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion.

32. Withdrawal of Motions

Before any Motion is put to the vote, it may be withdrawn by the mover unless any Councillor objects to the withdrawal. If there is an objection, the Motion may only be withdrawn by resolution of Council.

33. Separation of Motions

1. Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.
2. The Chairperson may decide to put any Motion to the vote in separate parts.

34. Motions in writing

1. The Chairperson may require that all Motions, except procedural Motions be submitted in writing.
2. The Chairperson may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.

35. Debate Must be Relevant to the Motion

1. Debate must always be relevant to the Motion before the Chairperson and, if not, the Chairperson must request the speaker to confine debate to the Motion.
2. If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to be seated and not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

36. Adequate and Sufficient Debate

1. Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
2. A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
3. Once the views put are representative of the views of all Councillors or Members the debate would be regarded as sufficient.

37. Speaking Times

1. A Councillor must not speak longer than the time set out below, unless granted an extension by the Chairperson:
 - a. The mover of a Motion – three (3) minutes
 - b. The seconder of a Motion – three (3) minutes)

- c. Any other Councillor: two (2) minutes
 - d. The mover of a Motion exercising a right of reply: two (2) minutes.
2. An extension of speaking time may be granted to a Councillor, by resolution of the Council.
 3. Only one extension per Councillor is permitted for each item of business.
 4. Any extension of speaking time must not exceed two (2) minutes.
 5. The Chairperson must not accept a Motion for an extension of time if another speaker has commenced their debate.

38. Procedural Motions

1. Unless otherwise prohibited, a Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
2. A Procedural Motion must be seconded.
3. A Procedural Motion may not be moved or seconded by the Chairperson.
4. Unless otherwise provided, debate on a Procedural Motion is not permitted and the mover does not have a right of reply.
5. Unless otherwise provided, a Procedural Motion must not be amended.

39. Suspension of standing orders

1. To temporarily remove the constraints of formal Meeting procedure and allow full discussion or clarification of an issue, or for purpose of ceremonial presentations. Council may, by resolution, suspend standing orders in accordance with the procedural Motion.
2. The purpose of suspending standing orders is to enable the formalities of Meeting procedure to be temporarily disposed of while an issue is discussed.
3. The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of the Council.
4. No motion can be accepted by the Chairperson or lawfully dealt with during any suspension of standing orders, except a motion to resume standing orders.

40. Laying an Item on the Table

An item can be laid on the table. The Motion will not be further discussed or voted on unless Council resolves to take the Motion from the table at the next Meeting. A Motion not dealt with at the next Meeting lapses.

41. Notice of Rescission Motion

1. A notice of rescission is a form of Notice of Motion. Accordingly, all provisions in this Chapter regulating Notices of Motion equally apply to notices of rescission.
2. A Councillor may propose a Motion to rescind a decision of Council provided the subject Motion has not been acted on. Any Motion which, if passed, would have the effect of nullifying a previous resolution (without directly rescinding it) or would be in direct conflict with a previous resolution, must be treated as a rescission Motion and be subject to the requirements of this rule.
3. An actual Notice of Motion to rescind or alter a previous resolution of Council must be delivered to the Chief Executive Officer within ten (10) days of the end of the Meeting at which the resolution was made setting out:
 - a. The resolution to be rescinded
 - b. The Meeting and date when the resolution was carried.
4. Any notice of rescission must be endorsed by a minimum of two additional Councillors.
5. A resolution will be deemed to have been acted on if:
 - a. Its contents or substance have, has been communicated to a person whose interests are materially affected by it
 - b. A statutory process has been commenced to vest enforceable rights in or obligations on Council or any other person.
6. A Notice of Motion to rescind cannot be proposed as an item of urgent business.
7. The Chief Executive Officer or an appropriate officer must defer implementing a resolution which has not been acted on and is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with this rule. Unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.
8. If a Motion for rescission is lost, a similar Motion may not be put before Council for at least three (3) months from the date it was last lost, unless Council resolves that the Notice of Motion be re-listed at a future Meeting.
9. If a Motion for rescission is not moved at the Meeting at which it is listed, it lapses.
10. A Motion for rescission listed on an Agenda may be moved by any Councillor present but may not be amended.

42. Voting

To determine a Motion at a Meeting, the Chairperson must first call for those voting in favour of the Motion and then those voting against the Motion and must then declare the result to the Meeting.

1. Voting on any Motion will be by show of hands.
2. All Councillors present may vote on any matter before Council unless that Councillor has declared a conflict of interest in the item.
3. For the purpose of determining the result of a vote, a Councillor present at the Meeting who does not vote is to be taken to have voted against the Motion.

43. Declaration of Vote

The Chairperson must declare the result of the vote or division as soon as it is taken.

44. Casting Vote

1. In the event of an equality of votes, the Chairperson must exercise a casting vote, except in cases where *the Act* or these Governance Rules determine otherwise.
2. If the Chairperson exercises their casting vote, they must provide an explanation to the Meeting as to why they voted in a particular way.

45. Recording of Opposition of Motion

Any Councillor may ask that their opposition to a Motion resolved by the Meeting be recorded in the minutes of the Meeting.

46. Motion to be Read Again

1. Before any Motion or amendment is put to the vote, a Councillor may request that the Motion or amendment be read again.
2. The Chairperson, whether requested or not, may also ask the Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the Meeting and take the minutes of such Meeting) to read the question, Motion, or amendment to the Meeting before the vote is taken.

47. Call for a Division

1. A division may be requested by any Councillor on any vote.
2. The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.

48. Procedure for a Division

1. When a division is called for the Chairperson must:
 - a. First ask each Councillor wishing to vote in favour of the Motion to stand to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes

- b. Then ask each Councillor wishing to vote against the Motion to stand to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes
- c. For the purpose of determining the result of a vote, a Councillor present at the Meeting who does not vote is to be taken to have voted against the Motion
- d. Finally, declare the result of the division.

49. Between the Original Vote and the Division

A Councillor may change their vote when voting on the division. The voting by division will determine the Council's resolution on the Motion.

50. Vote to be Taken in Silence

Except that a Councillor may call a division, Councillors must remain seated in silence while a vote is being taken.

51. Points of Order

A Point of Order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings.

1. A Point of Order may be raised in relation to:
 - a. A time limit has been exceeded
 - b. A quorum is not present
 - c. A question of procedure
 - d. Debate that is irrelevant to the item of business under consideration
 - e. A Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct
 - f. An item of business or debate is outside the powers of Council
 - g. Any act of Disorder.
2. A Councillor may at any time raise a point of order which will, until disposed of, take precedence over the consideration and decision of every other item of business.
3. When a Point of Order is raised, any Councillor who is addressing the Council at the time must remain silent until the Councillor raising the Point of Order has been heard and the point of order disposed of.
4. A Point of Order must be raised by stating 'Point of Order' and the alleged irregularity being raised.

5. The expression of difference of opinion or to contradict a speaker is not a Point of Order.

52. Chairperson to Decide Point of Order

1. The Chairperson must decide all points of order by stating the provision, rule, practice, or precedent which they consider applicable to the Point of Order raised, without entering into any discussion or comment.
2. The Chairperson may adjourn the Meeting to seek advice to consider a Point of Order, otherwise they must rule on it as soon as it is raised. All other matters before Council are suspended until the Point of Order is decided.
3. The Chairperson's decision in relation to a Point of Order is final and binding.

53. Motion of Dissent in Chairperson's ruling

1. A Councillor may move a Motion to the effect that the Meeting dissent from the Chairperson's ruling on a Point of Order. A Motion of dissent on a Point of Order must contain the provision, rule, practice, or precedent in substitution for the Chairperson's ruling.
2. A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business.
3. A motion of dissent in relation to a point of order is a motion of dissent in the ruling of the Chair and the Chairperson must at all times remain in the Chair and maintain their rights as the Chairperson.

54. Questions of Council

As outlined in the purpose of these Governance Rules, Council Meetings are held to enable Council to make its decisions. Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community and may provide an opportunity for members of the public to address Council at the discretion of the Chairperson.

1. This section sets out the procedures to be followed to submit a question, the circumstances under which a question may be disallowed and the process for addressing and responding to the question at or after the Meeting.
2. For virtual Meetings there is currently no provision for members of public to join the Meeting electronically. Any permitted questions from the community will be provided to the Chief Executive Officer prior to the Meeting and read out on behalf of the community member.
3. Council will hold Question Time for up to 30 minutes duration at each Council Meeting to allow community questions of Council. Extension of time may be granted by resolution of Council.
4. This Rule does not apply during any period when Council has resolved to close the Meeting in respect of a matter under section 66 of *the Act* which relates to Confidential items where a Council Meeting was not open to the public.

5. Any questions must be submitted in writing to the Chief Executive Officer (or other person authorised for this purpose by the Chief Executive Officer) and received prior to midday on the business day prior to the commencement of the Meeting and contain the name and contact details of the person submitting the question.
6. If a person is unable to submit their question in writing, they may contact the Glenelg Shire prior to the commencement of the Meeting and Council staff will determine an accessible means for the person to submit their question.
7. Questions (maximum 100 words including any pre-amble) may be submitted by mail (noting Australia Post delivery times), email enquiry@glenelg.vic.gov.au or delivered in person to a Council customer service centre but are limited to two (2) questions per person per Meeting.
8. The Chief Executive Officer may reject the question if:
 - a. Does not relate to a matter of the type described in section 66 of *the Act* regarding items from Meetings not open to the public
 - b. Does not relate to a matter in respect of which the Council has no power
 - c. Is defamatory, indecent, abusive, or objectionable in language or substance
 - d. Is repetitive of a question already answered whether at the same Meeting or at any of the three (3) most recent Council Meetings
 - e. Is asked to embarrass a Councillor or member of Council staff
 - f. Relates to the personal hardship of any resident or ratepayer
 - g. Relates to any other matter which the Council considers would prejudice the Council or any person
 - h. The questioner is not a resident, ratepayer, worker or student within the Glenelg Shire.
8. The Chief Executive Officer may request that the question be resubmitted with alternative or amended wording, to enable the question to be put to the Meeting so that it does not breach provisions of the Governance Rules.
9. If the Chief Executive Officer has determined that the question shall not be read to the Meeting:
 - a. The Meeting must be advised accordingly, including the name of the questioner and the reason why it was not read out
 - b. The question or submission shall be available to Councillors upon request.
10. The Chief Executive Officer or delegate must read to the Meeting the name and locality of the person who has submitted a question. The Chief Executive Officer may withhold the locality of the questioner were requested for security purposes.

11. The Chief Executive Officer or delegate must read the question and the Chairperson may then direct that the question be answered by a nominated person.
12. No debate or discussion of a question or an answer is permitted other than for the purpose of clarification.
13. A Councillor or member of staff nominated to answer a question may:
 - a. Seek clarification of the question from the person who submitted the question
 - b. Seek assistance of another person in answering the question
 - c. Defer or take the question on notice so that the answer may be researched and a written response provided within ten (10) working days following the Meeting.
14. A summary of a response provided to any question taken on notice will be provided in the next available Council Meeting agenda.
17. If a person who asked a question is not satisfied with the answer given, they may follow the question up with the relevant Council Officer by emailing enquiry@glenelg.vic.gov.au, or [contact the Council on telephone 1300 456 635](tel:1300456635) or via post at P.O. Box 152 Portland.

55. Submissions to Council

1. At a Council Meeting, time may be allocated to enable any member of the community to provide a verbal submission where Council has invited submissions regarding the matter subject to community consultation.
2. Written submissions made in response to a public consultation must be provided before the time specified in the consultation process, and may request that a verbal submission be made to Council at the same time.
3. A submission arising from public consultation is not limited in length but will not be read to the Meeting as it will be included in the agenda (where practicable) and minutes.
4. A person making a submission arising from a public consultation may be, at the discretion of the Chair, permitted to speak to that submission for up to 3 minutes.

Planning Application Submissions:

Submissions may also be provided where Council is determining planning applications to allow objectors and applicants an opportunity to address Council:

- a. The applicant and any objectors will be notified in writing that the application is to be brought before the Councillors

- b. The applicant and any objectors may make a request to be heard on their submission
- c. Applicants and objectors are to be limited to five (5) minutes. Where the permit application considers complex matters, the Mayor can provide discretion to extend this time in order that the permit application be fully considered
- d. Submissions by objectors are to be made first
- e. Submissions by applicant is to be made last
- f. No debate or questions are permitted during submissions by presenters. Councillors may ask questions to seek clarification
- g. Planning reports will be considered by the Council when listed on the Council Agenda.

56. Meetings Closed to the Public:

1. A Council or Delegated Committee must keep a Meeting open to the public unless the Council or Delegated Committee considers it necessary to close the Meeting to the public because a circumstance specified below applies:
 - a. To consider confidential information as defined in section 3(1) of the *Act*
 - b. There are security reasons
 - c. It is necessary to do so to enable the Meeting to proceed in an orderly manner.
2. If the Council Meeting is closed to the public, the reasons for the closure will be documented in the minutes of the Meeting.
3. In accordance with Meetings closed to the public Confidential information means the following information:
 - (a) *Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released*
 - (b) *Security information, being information that if released is likely to endanger the security of Council property or the safety of any person*
 - (c) *Land use planning information, being information that if prematurely released is likely to encourage speculation in land values*
 - (d) *Law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person*
 - (e) *Legal privileged information, being information to which legal professional privilege or client legal privilege applies*

- (f) *Personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs*
- (g) *Private commercial information, being information provided by a business, commercial or financial undertaking that—*
 - (i) *Relates to trade secrets; or*
 - (ii) *If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage*
- (h) *Confidential Meeting information, being the records of Meetings closed to the public under section 66(2)(a)*
- (i) *Internal arbitration information, being information specified in section 145*
- (j) *Councillor Conduct Panel confidential information, being information specified in section 169*
- (k) *Information prescribed by the regulations to be confidential information for the purposes of this definition*
- (l) *Information that was confidential information for the purposes of section 77 of the Local Government Act 1989.*

57. Petitions and Joint letters

1. Any petition or joint letter received will be tabled at the next available Council Meeting
2. Council may resolve to receive the petition or joint letter. Council may also refer the matter for a report at the next appropriate Meeting or refer it to the Chief Executive Officer for consideration and action.
3. A petition or joint letter must:
 - a. Be in legible and permanent writing
 - b. Identify the Glenelg Shire Council as the recipient of the petition
 - c. Not be defamatory, indecent, abusive or objectionable in language or content
 - d. Not relate to matters beyond the powers of Council
 - e. Provide a clear and concise statement identifying the subject matter of the petition
 - f. Bear the whole of the petition or request, upon each page of the petition
 - g. Where a petition has been signed by less than 12 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item

- h. Include the name and contact details of the principal petitioner
 - i. Any person who fraudulently signs a petition or joint letter which is presented to the Council may be guilty of an offence.
4. Any petitions or joint letters that do not comply with these Governance Rules will not be tabled at a Council Meeting.
 5. An electronic or online petition must be in accordance with this rule where possible.
 6. For the purpose of compliance with this rule the petitioner supporting the online petition must include their name and contact details.
 7. If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
 8. If a petition relates to:
 - a. A 'planning matter' which is the subject of a public notification process under the *Planning and Environment Act 1987*
 - b. A 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation
 - c. The petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
 9. A response will be sent to the chief petitioner, acknowledging receipt of the petition or joint letter, and advising of the action taken or Council resolution that has been made in relation to the subject matter of the petition or joint letter.

58. Behaviour During Council Meetings

1. Any person in attendance at a Council Meeting must ensure that their electronic device is turned off or switched to silent.
2. It is the responsibility of individual Councillors to exhibit good conduct in Meetings in accordance with the adopted Council Code of Conduct and Section 139 of *the Act*. Councillors should listen while others are speaking, avoid interrupting, be aware of their body language and use reasonable and temperate language in debates (no matter how contentious the topic may be).
3. The Mayor may require a Councillor to withdraw any statement which is defamatory, indecent, abusive, offensive or disorderly.
4. The Chief Executive Officer may address a Council Meeting in respect of any statement made affecting a Council officer if that comment is made at a Council Meeting or in the media.
5. Visitors must not interject or take part in the debate of any item of business before the Council.

6. Silence must be maintained by members of the public in the gallery at all times.
7. Any member of the public or community addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates and must take direction from the Chairperson whenever called upon to do so.
8. A person must not display any posters, banners, flags, or placards in the Council Chamber or in any building where a Meeting is being, or is about to be held, except outside the entrance to the building.

A poster, banner, flag, or placard must not:

- a. Display any offensive, indecent, insulting or objectionable item or words
 - b. Obstruct the entrance to the Council Chamber or a building where a Meeting is being or is about to be held
 - c. Obstruct the view of or physically impede any person.
9. The Chairperson or Chief Executive Officer may order and cause the removal of any poster, banner, flag, or placard that is deemed by the Chairperson or Chief Executive Officer to be objectionable, disrespectful, or otherwise inappropriate.
 10. If a person, other than a Councillor, interjects or gesticulating offensively during the Council Meeting, the Chairperson may direct:
 - a. The person to stop interjecting or gesticulating offensively
 - b. If the person continues to interject or gesticulate offensively, the removal of the person.
 11. The Chairperson may cause the removal of any person, object or material that is deemed by the Chairperson to be objectionable or disrespectful.
 12. In causing a person's removal under this rule, or the removal of an object or material, the Chairperson may ask the Chief Executive Officer, an Authorised Officer, or a member of Victoria Police to remove the person, object, or material.
 13. Any person who has been called to order including any Councillor who fails to comply with the Chairperson's direction may be guilty of an offence.

59. Chairperson and Members

1. The Chairperson, Councillors and Members of Delegated Committees will ensure good Council decision-making by endeavouring to ensure:
2. Decision making is transparent to members and observers
 - a. Meeting members have sufficient information to make good decisions
 - b. Every member is supported to contribute to decisions
 - c. Any person whose rights are affected has their interests considered.

- d. Debate and discussion is focused on the issues at hand
- e. Meetings are conducted in an orderly manner
- f. Decisions should be made on the merits of the matter.

60. Council Meeting Chairperson

1. The Mayor must take the Chair at all Council Meetings at which the Mayor is present.
2. If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair.
3. If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the Meeting by resolution.
4. The Chairperson must allow the Chief Executive Officer the opportunity to:
 - a. Correct factual errors or incorrect assertions that arise during the Meeting
 - b. Advise the Meeting if a proposed resolution or action is contrary to the law (including these Governance Rules).
5. The Chairperson must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
 - a. The Chairperson may direct that a vote be recounted to be satisfied of the result
 - b. The Chairperson must decide on all Points of Order.

61. Delegated Committee Chairperson

1. At the Meeting at which Council establishes a Delegated Committee it must also appoint a Chairperson to the Delegated Committee.
2. The Chair of a Delegated Committee must be a Councillor.
3. For the avoidance of doubt, this rule does not intend to limit the powers of the Mayor provided in the *Act*.

62. Chief Executive Officer Support to Chairperson

The Chief Executive Officer, or delegate, may participate in the Meeting to provide support and consult with the Chairperson ensuring that setting of the agenda and decisions of Council are implemented without undue delay.

1. The Chief Executive Officer will:
 - a. Immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law (including these Governance Rules)
 - b. Advise if there are operational, financial or risk implications arising from a proposed resolution
 - c. Help clarify the intent of any unclear resolution to facilitate implementation
 - d. On request, assist with procedural issues that may arise.

63. Councillors and members of Delegated Committees

1. Councillors and members of Delegated Committees contribute to good governance and decision making by:
 - a. Seeking views of community members and reading agenda prior to the Meeting
 - b. Demonstrating due respect and consideration to community views and the professional/expert advice provided in the agenda papers
 - c. Attending Meetings and participating in debate and discussion
 - d. Demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making
 - e. Being courteous and orderly.

64. Chairperson may Adjourn Meeting and Address Inappropriate Conduct

1. The Chairperson may adjourn a Meeting for either a short time, or to resume another day if:
 - a. The behaviour at the Council table or in the gallery is significantly disrupting the Meeting
 - b. Where a Councillor or member of the public engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the orderly conduct of Council business
 - c. Where the safety and security of Councillors or staff are impacted.
2. The Chairperson, under section 19 of *the Act*, having previously warned the person at that Council Meeting to cease that behaviour, may direct a Councillor or member of the gallery to leave the Meeting for a period of time or the balance of the Meeting.
3. Where the Chairperson directs a Councillor to leave the Meeting under this rule the Councillor will take no active part in the portion of the Meeting from which they have been suspended.

4. If a Councillor has been suspended from a Meeting or directed to leave in accordance with this rule the Chairperson may ask the Chief Executive Officer, an Authorised Officer, or a member of Victoria Police to remove the Councillor.

65. Matters not Otherwise Provided For

Where a situation has not been provided for or cannot be dealt with under these Governance Rules, the Council may determine the matter by resolution.

DRAFT

CHAPTER 3 – COUNCILLOR BRIEFINGS

66. Purpose of Councillor briefings

1. The purpose of a Councillor Briefing is for sharing information, including information regarding;
 - a. Matters likely to require a Council decision
 - b. Matters likely to be dealt with under delegation.

67. Requirements at Councillor Briefings

1. Reports to a Councillor Briefing must not seek a substantive decision.
2. No decision of a substantive nature may be made at a Councillor Briefing.
3. A Councillor with a conflict of interest in an item at a Councillor Briefing must indicate they have a conflict of interest by clearly stating;
 - a. The item for which they have a conflict of interest
 - b. The nature of their conflict of interest
 - c. The circumstances that give rise to the conflict of interest.
4. Councillors specifically must not;
 - a. Direct an officer in the exercise of a delegation or in the performance of a statutory function
 - b. Direct a Council officer in regards to any recommendation in a report for Council decision.
5. These provisions do not prohibit:
 - a. Councillors requesting further information on a matter
 - b. A Councillor from requesting that a matter be referred to a Council Meeting for decision and not resolved through the exercise of a delegation.

68. Record keeping at Councillor Briefings

1. A record of each Councillor Briefing is to be kept, the following to be included:
 - a. Any conflict of interest and any actions to resolve any conflicts of interest.
 - b. A list of any matters presented.
 - c. These records are to be tabled at an open Council Meeting (excluding any Confidential matters)

CHAPTER 4 - MEETING PROCEDURE FOR DELEGATED COMMITTEES

Council may establish Delegated Committees in accordance with section 63(1) of *the Act*. A Delegated Committee must include at least two Councillors and may include any other persons appointed to the Delegated committee by the Council who are entitled to vote.

69. Delegated Committees

1. If Council establishes a Delegated Committee these Governance Rules will apply to a Delegated Committee Member, with any necessary modifications.
2. For the purpose of sub rule (1):
 - a. A reference to a Council Meeting is to be read as a reference to a Delegated Committee Meeting
 - b. A reference to a Councillor is to be read as a reference to a Member of the Delegated Committee
 - c. A reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
3. If Council establishes a Delegated Committee that is not composed solely of Councillors, Council or the Delegated Committee, with the approval of Council, may resolve that any or all the provisions of the Meeting procedure are not to apply.

70. Chairperson of Delegated Committee

1. A Meeting of a Delegated Committee established by a Council must be chaired by:
 - a. A Councillor appointed by the Council or the Mayor to chair Meetings of the Delegated Committee
 - b. A Councillor who is present at the Meeting and is appointed by the members of the Delegated Committee who are present at the Meeting, If the Councillor appointed by the Council or the Mayor to chair Meetings of the Delegated Committee is not present at the Meeting.

CHAPTER 5 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEE

71. Overview Community Asset Committees

1. Council may establish a Community Asset Committee, for the Purpose of managing a community asset in the municipal district.
2. Council may appoint as many members to the Community Asset Committee as the Council considers necessary for its purpose outlined in sub rule (1).
3. In this Chapter, “Instrument of Delegation” means an instrument of delegation made by the Chief Executive Officer under Section 47(1)(b) of *the Act*.

72. Meeting Procedure

Unless anything in the instrument of delegation provides otherwise, the conduct of a Meeting of a Community Asset Committee is in the discretion of the Community Asset Committee.

DRAFT

CHAPTER 6 – MEETING RECORDS

73. Keeping of Minutes

The Chief Executive Officer or person authorised by the Chief Executive Officer, is responsible for the keeping of Minutes on behalf of Council.

74. Content of Minutes

1. The Chief Executive Officer or other person authorised by the Chief Executive Officer to take the minutes must keep minutes of each Council or Delegated Committee Meeting and those minutes must record:
 - a. The date, place, time and nature of the Council or Delegated Committee Meeting
 - b. The names of Councillors and whether they are present, an apology, on leave of absence, etc
 - c. The name and titles of the members of Council staff present who are not part of the gallery
 - d. The disclosure of a conflict of interest made by a Councillor in accordance with *the Act*
 - e. The arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals)
 - f. Every Motion and amendment moved (including procedural Motions)
 - g. The outcome of every Motion moved
 - h. Where a division is called, the names of every Councillor and the way their vote was cast
 - i. When requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under section 61(5) of *the Act* that a Councillor present at the Meeting who does not vote is taken to have voted against the question
 - j. Details of any failure to achieve or maintain a quorum
 - k. A summary of any question asked and the response provided as part of public question time
 - l. Details of any petitions made to Council
 - m. The time and reason for any adjournment of the Meeting or suspension of standing orders

- n. Any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes
- o. The time the Council or Delegated Committee Meeting was opened and closed, including any part of the Council or Delegated Committee Meeting that was closed to members of the public.

75. Confirmation of Minutes

1. The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
 - a. Councillors, within seven (7) business days after the Council or Delegated Committee Meeting to which they relate
 - b. Members of the public, by publishing them on Council's website, within nine (9) business days after the Council or Delegated Committee Meeting to which they relate, or by making them available from the Customer Service Centre by request.
2. At every Council Meeting the Minutes of the preceding Council or Delegated Committee Meeting(s) must be dealt with as follows:
 - a. A Motion will be moved to confirm the Minutes in the following terms: 'That the Minutes of theMeeting held on <<day>>, <<month>>, <<year>> be confirmed.';
3. If a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in sub-clause (2) (a) '...subject to the following alteration(s).....'.
4. No debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council or Delegated Committee Meeting to which they relate.
5. The Minutes must be registered into Council's electronic records management system, with the official version of the minutes being transferred to the Public Records Office of Victoria.

76. Meetings and the Use of Electronic Means of Communication

Other than an official Council recording, no video or audio recording of proceedings of Council or Delegated Committee Meetings will be permitted without specific approval by the Chairperson of the relevant Meeting.

CHAPTER 7 - ELECTION OF MAYOR, DEPUTY MAYOR, AND APPOINTMENT OF ACTING MAYOR

This chapter is concerned with the annual election of the Mayor and Deputy Mayor. It describes how the Mayor and Deputy Mayor are to be elected.

77. Determining the Election of the Mayor

1. The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the *Act*.
 - a. A Mayor is to be elected no later than one month after the date of a general election.
 - b. Before the election of the Mayor, a Council must determine by resolution whether the Mayor is to be elected for a one year or a 2-year term.
 - c. A Mayor is to be elected within one (1) month after any vacancy in the office of Mayor occurs.
 - d. A Councillor elected to fill a vacancy in the office of Mayor caused other than by the expiration of a one year or a 2-year term serves the remaining period of the previous Mayor's term.
 - e. Any Councillor is eligible for election or re-election to the office of Mayor unless prohibited under *the Act* (ie. section 167 of *the Act*).
 - f. The Mayor must be elected by an absolute majority of the Councillors unless Section 25(6) of *the Act* applies. For clarification, an absolute majority means a majority of the persons who hold the office of Councillor of the Glenelg Shire Council at the time the vote is taken. This is not altered by any non-attendance at the Meeting or any failure to vote.
 - g. If an absolute majority of the Councillors cannot be obtained at the Meeting, the Council may resolve to conduct a new election at a later specified time and date.
 - h. In this section, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.
 - i. If only one Councillor is a candidate for Mayor, the Meeting must declare that Councillor to be duly elected as Mayor in accordance with Section 25(6) of *the Act*.
 - j. The office of Mayor elected by the Councillors becomes vacant:
 - i. At the time and on the day of the election of the next Mayor
 - ii. On the day the Mayor resigns from the office of Mayor by giving the Chief Executive Officer a written notice of resignation
 - iii. On the day the Mayor ceases to hold the office of Councillor

- iv. On the day the Mayor's office as a Councillor is suspended for any period
- v. On the day the Mayor becomes ineligible to hold the office of Mayor as a result of a decision by a Councillor Conduct Panel
- vi. On the day the office of Mayor is declared vacant by the Council in accordance with section 23 of *the Act*.

78. Method of Voting

The election of the Mayor must be carried out by a show of hands. All Councillors must vote and each Councillor has one vote.

79. Temporary Chairperson

The Chief Executive Officer will be the Temporary Chairperson of the Meeting at which the election of the Mayor is to be conducted but will have no voting rights.

80. Procedure for Election of Mayor

1. The Chief Executive Officer must open the Meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.
2. All nominations must be moved and seconded.
3. Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
 - a. If there is only one nomination, the candidate nominated must be declared to be duly elected in accordance with Section 25(6) of *the Act*
 - b. If only two nominations are received, the Chief Executive Officer proceeds by asking the Council to vote on the first nominated candidate and then the second nominated candidate. If one candidate has an absolute majority of votes, that candidate is duly elected as the Mayor
 - c. If, after votes have been cast for the two candidates, neither candidate has an absolute majority, the election fails
 - d. If the election fails, the Chief Executive Officer must call for a new election. For clarification, a new election may be conducted later on the same day as the failed election or on another day
 - e. If more than two (2) nominations are received, the Chief Executive Officer proceeds by asking the Council to vote on each candidate in the order of the nominations received

- f. When item is completed, if one candidate has an absolute majority of votes, that candidate is duly elected as the Mayor. If no candidate has an absolute majority of votes, 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)
- g. 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
- h. When there are only two (2) candidates remaining, the same procedure is conducted as specified in item b.

81. Procedure for Determining a Draw by Lot to Determine a Defeated Candidate

If a draw by lot is conducted, the Chief Executive Officer will have the conduct of the lot (only if candidates have equal votes) and the following process will apply:

- 1. Each candidate shall draw one (1) lot;
 - a. The order of drawing lots shall be determined by the alphabetical order of the surnames of the candidates who received an equal number of votes except that if two (2) or more such candidates’ surnames were identical the order shall be determined by the alphabetical order of the candidates’ first names; and
 - b. If more than two candidates have an equal number of votes:
 - c. As many identical pieces of paper as there are candidates who received an equal number of votes shall be placed in a receptacle. If the lot is being conducted to determine which is the defeated candidate, the word “Defeated” shall be written on one (1) of the pieces of paper, and the candidate who draws the paper with the word “Defeated” written on it shall be declared the defeated candidate (in which event a further vote shall be taken on the remaining candidates).

82. Mayor to Take Chair

- 1. After the election of the Mayor is determined, the Mayor will take the Chair.
- 2. Upon being elected, the Mayor may make a ceremonial speech to outline the priorities for the year ahead based on the adopted Council Plan.

83. Election of Deputy Mayor

- 1. If Council has established an office of Deputy Mayor, the Deputy Mayor must perform the role of the Mayor in accordance with section 21 of *the Act* and may exercise any of the powers of the Mayor if—
 - a. The Mayor is unable for any reason to attend a Council Meeting or part of a Council Meeting

- b. The Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness
 - c. The office of Mayor is vacant.
2. This does not preclude the Mayor asking other Councillors to deputise for the Mayor on particular committees, forums or events in which that Councillor has particular expertise.
 3. Any election for Any office of Deputy Mayor will follow the Election of the Mayor process of these Governance Rules, to the extent that they are applicable.

84. Appointment of Acting Mayor

1. If Council has not established an office of Deputy Mayor and;
 - a. The Mayor is unable for any reason to attend a Council Meeting or part of a Council Meeting
 - b. The Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness
 - c. The office of Mayor is vacant.
2. Council must appoint a Councillor to be the acting Mayor in accordance with section 20B of *the Act* .

85. Councillor Allowances – Mayor, Deputy Mayor, and Councillors

1. Section 39 of *the Act* describes the application of allowances for Mayors, Deputy Mayors, and Councillors.
2. Entitlements to an allowance will be in accordance with the Determination of the Victorian Independent Remuneration Tribunal under the *Victorian Independent Remuneration Tribunal and Improving Parliamentary standards Act 2019*.

CHAPTER 8 - ELECTION PERIOD POLICY PROVISIONS

(Appendix One: Election Period Policy)

86. Election Period Policy

1. Council will have in place an election period policy that:
 - a. Governs decision making during a Local Government election period, including what may be considered at a Council Meeting
 - b. Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections
 - c. Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Committees established by Council
 - d. Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns
 - e. Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period
 - f. Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
2. At least once in each Council term and prior to the commencement of an election period, Council will review its election period policy.
3. The operation of Council Committees shall be suspended upon the commencement of the election period ahead of a general Council election. Council Committees shall resume Meeting following the election and the appointment by the incoming Council of Councillors to each committee.
4. During the election period prior to a general Council election, the Chief Executive Officer will not accept any Notices of Motion or Notices of Rescission Motions for consideration at a Council Meeting conducted during the election period.
5. Council Meetings held during the election period will not consider any urgent business, conduct public question time, or receive any submissions (other than planning), deputations or delegations.

CHAPTER 9 - DISCLOSURE CONFLICT OF INTEREST

87. Obligations

1. Councillors, members of Delegated Committees and Community Asset Committees and Council staff are required to:
 - a. Avoid all situations that may give rise to conflicts of interest
 - b. Identify any conflicts of interest
 - c. Disclose or declare conflicts of interest.

88. Councillors and Members of Delegated Committees

1. Councillors and members of Delegated Committees must not participate in discussion or decision making on a matter in which they have a conflict of interest.
2. Councillors and members of Delegated Committees must disclose the conflict of interest in writing and in the form determined by the Chief Executive Officer.
3. When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
4. All disclosures of conflicts of interest will be recorded in the minutes of a Council Meeting or Delegated Committee Meeting.
5. Council will maintain a Conflict of Interest Register that will be made available on Council's website.

89. Procedure at a Council or Delegated Committee Meeting

1. At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on the Agenda must indicate they have a conflict of interest by clearly stating;
 - a. The item for which they have a conflict of interest
 - b. The nature of their conflict of interest
 - c. The circumstances that give rise to the conflict of interest.
2. Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the Meeting the existence of the conflict of interest and leave the Meeting.
3. A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner required for the declaration of conflicts of interest prior to leaving the Meeting.
4. A Councillor or member of a Delegated Committee who discloses a conflict of interest and leaves a Council Meeting must not communicate with any participants in the Meeting while the decision is being made.

5. If disclosing a conflict of interest would mean disclosure of confidential or private information, the Councillor or Delegated Committee member can make a full disclosure to the Chief Executive Officer or delegate in writing before the Meeting and then only disclose the class of interest in the Meeting.
6. While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a Delegated Committee must;
 - a. Leave the Meeting and notify the Mayor or the Chairperson of the Delegated Committee of their departure
 - b. Remain outside the room and any gallery or other area in view or hearing of the Meeting.
7. The Mayor or the Chairperson of the Delegated Committee must cause the Councillor or member of a Delegated Committee to be notified that they may return to the Meeting after
 - a. Consideration of the matter
 - b. All votes have been cast on the matter.

90. Procedure at other Meetings Organised, Hosted, or Supported by Council

1. A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
2. At the time indicated on the agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the item of business in which the conflict of interest arises.
3. If there is no agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon as the matter arises.
4. At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the Meeting for the duration of the discussion.
5. The existence of a conflict of interest will be recorded in the minutes of the Meeting.
6. If there are no minutes kept of the Meeting, the conflict of interest will be recorded in a Meeting record and provided to the Chief Executive Officer for recording in the register of Conflicts of interest.
7. The Meeting minutes or record will also record the duration of the discussion and whether the Councillor left the Meeting.

91. Council Staff

1. Must act in accordance with the Staff Code of Conduct.
2. Must not exercise a delegation or make a decision on any matter if they have a conflict of interest.
3. May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at rule 98(1) of these Governance Rules.

92. Procedure for Disclosures of Conflicts of Interest

1. Council staff must disclose the existence of all conflicts of interest in writing to the Chief Executive Officer.
2. All conflicts of interest disclosed by Council staff will be provided to the Executive Assistant Corporate Services for recording in the register of Conflicts of Interest.
3. A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
 - a. The number and qualifications of other people providing advice regarding the same matter is equal or greater
 - b. The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area
 - c. The staff member's Director determines that the conflict of interest has not influenced the advice provided
 - d. The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

CHAPTER 10 – COUNCILLORS STANDING FOR STATE OR FEDERAL ELECTIONS

93. State and Federal Elections

Councillors must familiarise themselves with the relevant laws and other related Council policies.

Local Government experience provides for a recognised track record on which to stand for State or Federal elections. As a prospective or nominating candidate, a Councillor needs to ensure they continue to act with integrity, avoid potential conflicts of interests and the perception of misuse of their position and Council resources.

Councillors are elected to perform their duties in a lawful manner and must comply with relevant provisions of the *Local Government Act 2020 (the Act)* including the standards of Councillor conduct which are prescribed in regulation 12 of the *Local Government (Governance and Integrity) Regulations 2020*.

When considering standing for Federal or State Parliament, Councillors must consider these duties and requirements under *the Act*, including standards of conduct and potential conflicts of interest.

These standards of conduct require Councillors to do everything reasonably necessary to ensure they perform the role effectively and responsibly, ensuring they are fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to Act in that capacity and must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

Councillors must comply with the conflict of interest provisions outlined in sections 126 to 136 of *the Act* as well as the *Local Government (Governance and Integrity) Regulations 2020*. Managing conflicts of interest is about ensuring the integrity and transparency of decision making. Councillors nominating for Federal or State Parliament must ensure their private interests as a nominee do not affect their public duties and they do not use their position as Councillor for personal benefit. Councillors must disclose any conflicting interests and not participate in decision making processes on matters where they have a conflict of interest.

The Act also provides it is an offence if a Councillor intentionally misuses their position to gain or attempt to gain an advantage for themselves or for any other person, including by using public funds or resources in a manner that is improper or unauthorised.

Section 34(2)(a) of *the Act* specifies a person is not qualified to be a Councillor and ceases to hold the office, if they are member of either the Victorian Parliament, the Commonwealth Parliament, or of another State or Territory of the Commonwealth Parliament. Therefore, a Councillor must resign immediately if they are successful in a State or Federal election.

94. Requirements for Prospective Candidate

1. A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a State or Federal election (a Prospective Candidate), must provide written advice to the Chief Executive Officer (CEO), as soon as practicable, who will then provide notification to all Councillors.
2. A Councillor who is a Prospective Candidate, must declare their intended candidacy at a Meeting of the Council as soon as practicable after notifying the CEO.
3. A Councillor who nominates as a candidate for a State or Federal election (a Nominated Candidate), must apply for leave of absence from the Council and this leave of absence is to commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election (Nomination Date) and conclude no earlier than the close of voting for the election. During this period, a Councillor who is on a leave of absence will not attend Meetings of the Council or otherwise act as a Councillor.
4. A Councillor must request for the Councillor allowance to be ceased for the period they are on leave of absence.
5. Any Councillor / staff relationship protocol which the Council has in place in respect of the election period prior to a Council election, must be observed by a Nominated Candidate and this will apply from their Nomination Date until the close of voting for the election.
6. A Council, upon receiving an application for a leave of absence from a Councillor who is a Nominated Candidate or who intends to become a Nominated Candidate, will consider this as a reasonable request and approve that application.
7. A Councillor who is a Prospective Candidate or a Nominated Candidate will declare conflicts of interest that may pertain to their conflicting role as a candidate.
8. A Councillor who is a Prospective Candidate or a Nominated Candidate, will differentiate between their role as a State or Federal election candidate and role as a Councillor when making public comment.
9. A Councillor who is a Prospective Candidate or a Nominated Candidate, must not use Council resources, including Council staff, equipment and facilities in relation to their candidacy.
10. A Councillor who is a Prospective Candidate or a Nominated Candidate, must not use Council activities, including Council Meetings, events, network Meetings and Council-related external activities in relation to their candidacy.
11. A Councillor must resign immediately if they are successful in a State or Federal election.

CHAPTER 11 – MISCELLANEOUS

95. Integrity and Confidentiality

1. All Councillors and members of Delegated Committees are subject to the requirements of these Governance Rules adopted under section 60 of the *Act*.
2. Councillors and members of Delegated Committees shall not directly or indirectly disclose or make available to any person any information relating to the work or discussions of the Council Meeting or Delegated Committee Meeting that is or was in their possession except in accordance with such terms and in such a manner as approved by the Council.
3. A person who is, or has been, a Councillor or member of a Delegated Committee are subject to the provisions of section 123 of *the Act* . This section places responsibilities on Councillors or members of a Delegated Committee associated with the access to information, in particular around its use and misuse. An offence under section 123 of *the Act* is an indictable offence.
4. A Councillor or a member of a Delegated Committee must not intentionally misuse their position to:
 - a. Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person
 - b. To cause, or attempt to cause, detriment to the Council or another person
 - c. Make improper use of information acquired as a result of the position the person held or holds
 - d. Disclosing information that is confidential information
 - e. Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff
 - f. Exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform
 - g. Using public funds or resources in a manner that is improper or unauthorised
 - h. Participate in a decision on a matter in which the person has a conflict of interest.

96. Confidential information

A person who is, or has been, a Councillor or a member of a Delegated Committee, must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information. This provision does not apply if the information that is disclosed is information that the Council has determined should be publicly available or is exempt in accordance with Section 125(3) of *the Act* .

97. Personal Interest

Under section 133 of *the Act* a Councillor, Chief Executive Officer, member of a Delegated committee (who is not a Councillor) or nominated officer (as nominated by the CEO) must lodge an initial and or biannual personal interest return in accordance with *the Act*.

98. Delegations

Councils have wide-ranging responsibilities, and have been given many powers, duties, and functions under different pieces of legislation. For day to day operations, Councils need others to make decisions and act on their behalf.

1. A Council may by instrument of delegation delegate to:
 - a. The members of a Delegated committee
 - b. The Chief Executive Officer —
any power, duty or function of a Council under *the Act* or any other Act other than a power, duty or function specified in section 11(2) of *the Act* .

99. Change of Council Policy

1. Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by Council.
2. It is good practice for Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.
3. Subject to this rule, if Council wishes to change a Council policy, a formal notice of rescission is not required.
4. If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

100. Joint Council Meetings

Regional collaboration provides benefits through collective procurement, increased advocacy, and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for in *the Act* .

1. Council may resolve to participate in a Joint Council Meeting to consider:
 - a. Collaborative projects
 - b. Collaborative procurement
 - c. Emergency Response.
2. If Council has resolved to participate in a Joint Council Meeting, the Chief Executive Officer will agree on governance rules with the participating Councils.
3. Where the Glenelg Shire is the lead Council on a matter to be brought for consideration at a Joint Council Meeting, the Mayor will be nominated to Chairperson the Joint Council Meeting.
4. Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
5. A joint briefing arranged in accordance with sub-rule (4) may be held electronically.

101. Use of the Common Seal

Council is a body corporate and must have a Common seal. The common seal must bear the name of the Council, be kept at the Council office, and be used in accordance with any applicable law.

1. Security of the Common Seal
 - a. The Chief Executive Officer must keep the Common Seal in safe custody.
2. Signature to Accompany Common Seal

Every document to which the Common Seal is affixed must be signed by the Chief Executive Officer with the Council's Sealing clause:

The Common Seal of the Glenelg Shire Council was hereto affixed in accordance with the Glenelg Shire Governance Rules.

Thisday of.....20.....

3. The Common Seal must be affixed to a document only for the purpose of giving effect to a decision which has been made by resolution at a Council Meeting.

APPENDICES

APPENDIX ONE – ELECTION PERIOD POLICY

COUNCIL POLICY

TITLE:	ELECTION PERIOD POLICY
ID NUMBER:	CPO-CORPS-GE-008
DEPARTMENT:	Corporate Services
UNIT:	Corporate Services
RESPONSIBLE OFFICER:	Director Corporate Services

ADOPTED DATE AND BY WHOM:	Version 1: Adopted by Council on 22 March 2016 Version 1.1: Minor administrative amendments made following review 10 September 2019. Version 1.2 Further amendments made following review introduction of LG Act 2020 Adopted by Council on 12 December 2023
EXPIRY DATE:	12 December 2027
REVIEW DATE:	12 June 2027 <i>This policy will be reviewed every four years or as required by any legislative or Council changes.</i>

AVAILABILITY:	Organisation wide	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Public	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Internet	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
ADVISE AVAILABILITY:	Media Release	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Sou Wester (Responsible Officer to prepare article)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1. References

[Local Government Act 2020](#)

Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001 (DocSetID: 1933907)

Glenelg Shire Council Governance Rules (DocSetID: 2726760)

2. Introduction

During an 'Election Period' Local Government goes into caretaker mode to avoid actions and decisions which could be seen to be influencing voters, providing an advantage to a Councillor standing for election, or which will have a significant impact on the incoming Council.

This Policy explains to our community how Council will conduct business immediately prior to an election to ensure transparency and probity.

This Policy applies during an 'Election Period' and covers:

- (a) Decisions that are made by Council, a committee of Council or a person acting under delegation from Council or the Chief Executive Officer
- (b) Material that is published by Council
- (c) Attendance and participation in functions and events
- (d) The use of Council resources
- (e) Access to Council information
- (f) Media advice and support
- (g) The role of Councillors and Staff.

3. Purpose

Glenelg Shire Council is committed to the conduct of democratic, open, fair and honest Local Government elections within its area and therefore adopts the practices detailed within this Policy in addition to legislative requirements.

This Policy has been developed in order to ensure that general elections for Glenelg Shire Council are conducted in a manner that is fair and equitable and is capable of withstanding public scrutiny.

4. Scope

This Policy applies to all Councillors and Council Staff during the 'Election Period'.

5. Principles

The Glenelg Shire Council is committed to:

- the conduct of democratic, open, fair and honest Local Government elections within its area
- ensuring that all candidates are treated equally
- ensuring that the ordinary business of Local Government continues throughout the 'Election Period' in a responsible and transparent manner and in accordance with statutory requirements and established 'caretaker' conventions
- ensuring that the ongoing ordinary business of Council is kept separate from councillors' activities which relate to the election
- ensuring that in the run up to the election, Council does not make decisions which inappropriately bind the next Council
- ensuring that Council resources are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing councillors as candidates in the election.

6. Election Period

The 'Election Period' for the October 2024 Local Government general elections commences at the time that nominations close on the scheduled nomination day until 6pm election day. A period of 32 days. The election is scheduled for the 26 October 2024.

6.1 Election Period Legislative Requirements

Specific requirements have been incorporated into *the Act* that require Council to develop an 'Election Period' policy that prohibit Council making inappropriate or major policy decisions, or publishing or distributing electoral matter during the 'Election Period'.

The following is a summary of the key requirements of *the Act* during the 'Election Period':

Section 69(1) requires Councils to include an 'Election Period' policy in its Governance Rules.

Section 69(2) prohibits certain Council decisions during the 'Election Period' – including

- a. decisions relating to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer
- b. commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year. For clarification under the 23/24 Budget this amount will be \$326k.
- c. decisions that Council considers could be reasonably deferred until the next Council is in place
- d. decision that Council considers should not be made during an election period.

Section 69(3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

Any Council decision made in contravention of the above is invalid.

7. Council Policy

7.1 Council Decisions

This section of the Policy applies to decisions made by the Council, or a person acting under delegation given by the Council or Chief Executive Officer (CEO).

During the 'Election Period' the following will apply;

- Council Meetings will continue to be convened, however, the Agenda will not include any item that could lead to an inappropriate decision under section 69 (2) of *the Act* . Any matter considered at a Meeting will only be those matters necessary for the continued day-to-day operation of the Council.
- Council Committees (if applicable) will continue however where possible recommendations to Council will be following the conclusion of the 'Election Period'.
- External Committees with Councillor representation may continue; however, no media will be undertaken by Council or Councillors pertaining to their representation on the Committee during the 'Election Period'.
- Councillor Updates will continue although only for items confined to the ordinary day-to-day business of Council.
- Any items that could reasonably be deferred to the next Council Meeting will not be tabled during the election period.
- Councillor Workshops and Briefing Sessions will continue for matters only necessary for the continued day-to-day operation of the Council.

If Council considers that there are extraordinary circumstances where the Glenelg Shire's community would be significantly disadvantaged by the Council not making a particular 'Major Policy Decision', the Council will, by resolution, request an exemption from the Minister for Local Government in accordance with section 177 of *the Act* for an exemption from a compliance obligation.

7.1.1 Agenda Items, Motions and Confidential Items

As a general principle, Council Officers should, as far as practicable, avoid scheduling decisions for the 'Election Period' and instead ensure that major policy decisions are either:

- a. Considered by Council prior to the election period
- b. Scheduled for consideration by the incoming Council.

Council Officers will carefully vet any agenda items being proposed for consideration by Council to ensure they are not inappropriate decisions, major decisions or that could encourage councillor candidates to use the item as part of their electioneering.

Councillors will refrain from moving motions or discussing matters at a Meeting that could potentially influence voting at an election.

7.1.2 Types of Decisions to be Avoided

The following are examples of the types of decisions that will be avoided during the 'Election Period':

- a. Allocation of community grants or other direct funding to community organisations
- b. Major planning scheme amendments
- c. Adoption or changes to the strategic objectives and strategies of the Council
- b. Decisions that significantly affect the municipality and unreasonably bind the incoming Council.

8. Material that is published by Council

7.2.1 Electoral Matter

Electoral matter is any matter that is intended or likely to affect voting in an election and includes (but is not limited to) material that deals with the election, candidates or issues of potential contention in the election.

Electoral matter includes material which:

- publicises the strengths or weaknesses of a candidate
- advocates the policies of the Council or of a candidate
- responds to claims made by a candidate; and publicises the achievements of the elected Council

7.2.2 Existing Publications

Any publication containing electoral matter that might reasonably influence the election that is on public display in libraries, customer service centres and other public Council facilities will be temporarily removed during the 'Election Period'.

7.2.3 Publication of Promotional Material

Council organised events should not be undertaken during the election period if possible. Where such events are approved by the CEO any material concerning a Council organised or sponsored function or event which will be published or distributed during the 'Election Period' must not contain electoral material.

No election material or active campaigning is to be conducted at Council organised or sponsored events and functions.

7.2.4 Website

Material published on any Council website prior to the commencement of the 'Election Period' will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the 'Election Period'.

Councillor contact information will remain on the website during the 'Election Period' but Councillors' profiles will be removed.

7.2.5 Social Media

Council staff will monitor their respective social media sites and remove any posts that may be considered electoral material.

Council auspiced social media must not be used for election campaigning. The ability for members of the public to post comments on Council's social media sites will continue during the 'Election Period' however posts that refer to candidates or could be regarded as electoral material will be removed.

7.2.5 Annual Report

Council is required by *the Act* to produce and place on public display a copy of its Annual Report. The Annual Report will be published during the 'Election Period' and will not contain any material that could be regarded as electioneering or that promotes individual Councillors. It will fulfil its statutory obligations on reporting in accordance with *the Act* and the *Local Government (Planning and Reporting) Regulations 2020*.

In the year of a general election, a Council must, after submitting the annual report to the Minister under section 100 (2) of *the Act*, hold a Meeting to consider the Annual Report no later than the day before the election day.

7.3 Attendance and participation in functions and events

Reference to events and functions means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities

and social occasions such as dinners, receptions and balls.

7.3.1 Public Events Conducted by External Bodies

Councillors may continue to attend events and functions during the 'Election Period'.

7.3.2 Council Events and Functions

Council organised events and functions held during the 'Election Period' should only be those essential to the operation of the Council and are subject to approval by the CEO.

7.3.3 Speeches/Keynote Addresses

Councillors should not give speeches or keynote addresses at Council organised or sponsored events and functions during the 'Election Period'.

Councillors may make short welcome speeches at Council organised or sponsored events and functions during the 'Election Period' without reference to electoral material.

7.3.4 Public Consultation

Public consultation means a process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy, and which includes discussion of that matter with the public.

Council will not commission or approve any public consultation if such consultation is likely to run into the 'Election Period' unless prior approval is given by the CEO.

Some public consultation activities may be necessary during the 'Election Period' to facilitate the day-to-day business of Council. Any such public consultations will avoid express or implicit links to the election.

Where public consultation is approved to occur during the 'Election Period' the results of that consultation will not be reported to Council until after the 'Election Period', except where approved by the CEO.

Where a matter or issue has potential to become contentious or politically sensitive during the 'Election Period', the consultation maybe postponed if it is likely to affect potential voting in the election.

7.3.5 Publicity campaigns

During the 'Election Period', publicity campaigns, other than for the purpose of conducting the election will be avoided wherever possible. If a publicity campaign is deemed necessary for a Council activity, it must be approved by the CEO.

Council publicity during the 'Election Period' will be restricted to communicating normal Council day to day activities and initiatives.

7.3.6 Statutory Requirements

Consultation required under legislation such as the *Planning and Environment Act 1987*, or *Local Government Act* will only be undertaken during the 'Election Period' to facilitate the day-to-day business of Council.

7.4 The use of Council resources

7.4.1 Inappropriate Use of Council Resources

Section 304(1) (2) of *the Act* prohibits the use of Council resources during the 'Election Period' which are intended to or likely to affect the result of an election.

A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in the provision of Council resources to Councillors.

7.4.2 Council Resources for Normal Council Business

Council resources including officers, support staff, hospitality, equipment and stationery, must only be used for normal Council business during the 'Election Period' and must not be used in connection with an election unless the conduct of the election is within the scope of the employees' duties.

Councillors must not use their Council owned mobile phone, laptop computer or councillor emails for the purposes of electioneering during the 'Election Period'.

7.4.3 Mayoral Vehicle

The Mayoral vehicle during the 'Election Period' will not be used for any activity related to the electioneering of any candidate.

7.4.4 Expenses Incurred by Councillors

Payment or reimbursement of costs relating to Councillor out of pocket expenses incurred during the 'Election Period' should only apply to necessary costs that have been incurred in the performance of normal Council duties. Costs associated with a Councillor's election campaign or costs that could be perceived as supporting or being connected with another Candidate's election campaign are not permitted.

7.4.5 Council Branding and Stationery

Councillors may publish campaign material on their own behalf but cannot purport for the material to be originating from, or authorised by, the Glenelg Shire Council.

Council logos, letterheads or other Glenelg Shire Council promotional branding cannot be used for or linked in any way to a Candidate's election campaign.

DRAFT

7.4.6 Council Buildings

Election material from candidates is not permitted to be displayed in Council leased or managed facilities.

7.5 Access to Council information

7.5.1 Councillor Correspondence

All Candidates have an equal right to access information from the Council administration. However, neither Councillors nor Candidates will be provided information or advice from Council staff that might be perceived to support an election campaign.

7.5.2 Information and Briefing Material

Information and briefings provided by Council staff to Councillors during the election period must be necessary to the carrying out of the Councillor's role and must not be related to election issues or to issues that might be perceived to be of an electoral nature.

7.5.3 General Correspondence

General correspondence addressed to Councillors will be answered as usual. However, Councillors may sign only the necessary minimum correspondence during the 'Election Period' and correspondence in respect to significant, sensitive or controversial matters should be signed by the CEO or by a Director. Replies will be prepared so as to protect Council staff from perceptions of political bias.

7.6 Media advice and support

Council's media service is intended to promote Council activities or initiatives and must not be used in any way that might benefit a Candidate.

Media releases will not refer to or attribute phrases to specific Councillors.

Where it is necessary to identify a spokesperson, the CEO or his delegate will be consulted.

7.7 Others matters not specified

7.7.1 Improper Use of Position

Section 123 of *the Act* prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in the role of Councillor, to gain advantage.

7.7.2 Councillors

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media coverage in support of an election campaign by them or another Candidate.

7.7.3 Council staff

During the 'Election Period' no Council staff member may make any public statement that relates to an election issue unless the statements have been approved by the Chief Executive Officer.

8. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of *the Act* (s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Information and Data Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

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.

Date:

Operational Services Agreement for the Local Port of Portland Bay

DEPARTMENT OF TRANSPORT AND PLANNING ON BEHALF OF THE CROWN IN RIGHT OF THE STATE OF VICTORIA

and

GLENELG SHIRE COUNCIL

Table of Contents

1	DEFINITIONS	1
2	GUIDING PRINCIPLE	4
	2.1 Role of this Agreement	5
	2.2 Status of Agreement	5
	2.3 Agreement to Negotiate	5
	2.4 Revocation of Appointment as Port Manager	5
	2.5 Representatives	5
3	TERM	5
4	PORT MANAGER RESPONSIBILITIES	6
	4.1 Port Manager Responsibilities	6
	4.2 Department may change, add or remove ports to be managed	6
5	COMPLIANCE WITH LAWS AND POLICIES	7
	5.1 Compliance with Laws	7
	5.2 Compliance with policies	7
6	CONTROL AND MANAGEMENT OF ASSETS	7
	6.1 Fixed Assets and Floating Plant	7
	6.2 Non-Fixed Assets	8
	6.3 Non-Funded Assets	8
	6.4 Maintenance	9
	6.5 Permitted Use of Assets	9
	6.6 Asset Register	9
	6.7 Creation of Assets	9
	6.8 Transition of Assets	9
7	OPERATIONAL SERVICES PLAN AND ANNUAL BUDGET	10
	7.1 Operational Services Plan	10
	7.2 Annual Budget Process	10
8	FUNDING	11
	8.1 Operating and Maintenance Funds	11
	8.2 Use of Operating and Maintenance Funds	11
	8.3 Project Funding	11
	8.4 Use of Project Funding	12
	8.5 Port Revenue	13
	8.6 Unforeseen Events	13

	8.7	Interest and Unexpended Operating and Maintenance Funds	14
	8.8	Unexpended Project Funds	14
9		PROJECT SCHEDULES	14
	9.1	Projects.....	14
	9.2	Governance	15
	9.3	Project Reporting	16
	9.4	Project Records	17
10		FINANCIAL REPORTING	17
	10.1	Accounts	17
	10.2	Annual Reporting	17
	10.3	Auditing.....	18
11		INSURANCE AND LIABILITY	19
	11.1	Insurance	19
	11.2	Project Insurance.....	19
	11.3	Contractor Insurance	20
	11.4	Period of Insurance	20
	11.5	Indemnities	21
12		RISK MANAGEMENT.....	21
	12.1	Risk Audit.....	21
	12.2	Safety and Environment Management Plan	21
	12.3	Incident Reporting.....	21
13		ASSET MANAGEMENT PLAN.....	22
14		DOCUMENTATION	22
	14.1	Submission of Documentation.....	22
15		DISPUTE RESOLUTION.....	22
16		PUBLICATION OF PROMOTIONAL MATERIAL.....	23
	16.1	Consent	23
	16.2	Acknowledgement	23
17		CONFIDENTIAL INFORMATION	23
	17.1	Return of Property	23
	17.2	Use of Information	23
	17.3	Non-Disclosure	23
	17.4	Survival	24
18		TERMINATION	24
	18.1	Termination Events.....	24
	18.2	Consequences of Termination.....	24
19		TRANSITION IN	25
	19.1	Permits.....	25
	19.2	Transfers.....	25

20	TRANSITION OUT	25
	20.1 Non-Fixed Assets	25
	20.2 Contracts and Liabilities	25
	20.3 Transition	25
21	GENERAL.....	26
	21.1 Amendment	26
	21.2 Entire Understanding	26
	21.3 Waiver and Exercise of Rights	26
	21.4 Assignment.....	26
	21.5 Time of the Essence	26
	21.6 GST	26
22	NOTICES.....	28
	22.1 Service of Notice.....	28
	22.2 Particulars for Service	28
	22.3 Time of Service.....	28
23	INTERPRETATION	28
	23.1 Governing Law and Jurisdiction	28
	23.2 Persons.....	28
	23.3 Legislation.....	29
	23.4 This Agreement, Clauses and Headings	29
	23.5 Severance.....	29
	23.6 Counterparts	29
	23.7 Number and Gender.....	30
	23.8 Relationship of Parties.....	30
SCHEDULE 1	REPRESENTATIVES AND PORT DETAILS	32
SCHEDULE 2	FIXED ASSETS AND FLOATING PLANT	34
SCHEDULE 3	NON-FUNDED ASSETS.....	35
SCHEDULE 4	FORM OF PROJECT SCHEDULE	36
SCHEDULE 5	ANNUAL REPORT TEMPLATE	43
SCHEDULE 6	OPERATIONAL SERVICES PLAN TEMPLATE	45
SCHEDULE 7	REPORTING.....	48

Operational Services Agreement for the Port of Portland Bay

DATE

BETWEEN

DEPARTMENT OF TRANSPORT AND PLANNING on behalf of the Crown in right of the State of Victoria of 1 Spring Street, Melbourne, Victoria, 3000

(Department)

AND

GLENELG SHIRE COUNCIL appointed as a port manager of one or more local ports established under the Port Management Act 1995 (Vic), of PO Box 152, Portland, Victoria, 3305

(Port Manager)

RECITALS

- A The Department is responsible for managing the overall funding program for local ports and providing broad strategic planning services for local port facilities across the State.
- B The Port Manager manages and administers the Ports as part of its statutory functions as set out in the *Port Management Act 1995* (Vic).
- C Following approval of the Minister, the Department has agreed to provide the Port Manager with funding for the management of the Ports. This Agreement sets out the terms and conditions on which Operating and Maintenance Funds and Project Funding may be provided by the Department to the Port Manager, subject to the approval of the Minister, to support the management of the Ports by the Port Manager.

THIS AGREEMENT WITNESSES

1 DEFINITIONS

In this document unless expressed or implied to the contrary:

Agreement means this agreement, including the recitals, the attached schedules and any incorporated documents;

Annual Budget has the meaning given to that term in clause 7.2.1;

Approved Purpose means a purpose so described in Schedule 4;

Asset Management Plan means an asset management plan prepared by the Port Manager and submitted to the Department;

Assets means Fixed Assets, Non-Fixed Assets and Floating Plant;

Australian Accounting Standards means the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Auditing Standards refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investment Commission Act 2001* (Cth);

Business Day means a day on which banks are open for general banking business in Melbourne, Australia, other than a Saturday, Sunday or public holiday;

Commencement Date means the date specified at item 3 of Schedule 1;

Completion Date means the date specified at item 4 of Schedule 1;

Confidential Information means information (in whatever form) of a party including but not limited to technical, scientific and financial information which comes into the possession of the other party through intentional or unintentional disclosure, excluding information which:

- (a) is or comes into the public domain other than by disclosure in breach of the terms of this Agreement or other obligation of confidentiality;
- (b) is or becomes available to the recipient party from a third party lawfully in possession of it and with the lawful power to disclose it to the recipient party;
- (c) is rightfully known by the recipient party (as shown by its written record) prior to the date of disclosure to it under this Agreement; or
- (d) is independently developed by an employee of the recipient party who has no knowledge of the disclosure made under this Agreement.

Contractor Insurance Cover has the meaning given to that term in clause 11.3.1;

Contribution means any monetary amount, goods and/or services, specified in Schedule 4, provided by the Port Manager and/or a third party;

Dispute Guidelines means the Guidelines for the conduct of disputes between different public sector bodies within the State of Victoria issued by the Attorney-General in 2008, or any replacement dispute resolution guidelines;

Financial Year means the period commencing on 1 July and ending on 30 June;

Fixed Asset means any asset, other than Non-Funded Assets, that is static or immovable within the Ports listed in Schedule 2, or any other asset agreed by the parties in writing from time to time to be a Fixed Asset for the purposes of this Agreement;

Floating Plant means all vessels, boats, barges and associated equipment to be used in relation to the Ports listed in Schedule 2, other than Non-Funded Assets, or any other asset agreed by the parties in writing from time to time to be Floating Plant for the purposes of this Agreement;

HTfV means the Head, Transport for Victoria, a statutory authority established by s64A of the *Transport Integration Act 2010* (Vic);

Incident means an event that occurs within the Ports that causes or has the potential to cause personal injury, property damage or environmental damage and is likely to result in an

insurance claim or other action against the Port Manager or the Department, including any Unforeseen Events;

Incoming Port Manager means any future entity that takes over the powers, roles and responsibilities of the Port Manager in relation to one or more of the Ports;

Indemnity Policy means the Victorian Government's policy titled "Government policy and guidelines: indemnities and immunities, June 2008", or any replacement policy;

Instalment means an instalment of the Project Funding, as detailed in a Project Schedule;

Insurance Cover has the meaning given to that term in clause 11.2.1;

Laws means:

- (a) any statute, regulation or subordinate legislation of the Commonwealth of Australia, the State of Victoria or local or other government in force in the State of Victoria, irrespective of where enacted;
- (b) relevant industry codes and standards;
- (c) relevant Australian Standards governing any aspect of the Port Manager's responsibilities under this Agreement which are mandatory or desirable; and
- (d) lawful requirements of any government or government department or other body or a governmental, semi-governmental, judicial, municipal, statutory or public entity or authority (including a statutory authority or a State-owned enterprise), a self-regulatory authority established under statute or a stock exchange (wherever created or located) or a person (whether autonomous or not) who is charged with the administration of a law;

Minister means the Minister for Ports and Freights or the Minister from time to time with responsibility for that portfolio;

Non-Fixed Asset means any asset that is portable or movable other than Floating Plant to be used in relation to the Ports and includes plant, vehicles, office equipment and furniture;

Non-Funded Assets means the assets listed in Schedule 3 of this Agreement, that are owned and used by the Port Manager in relation to the Port but are not included in the Operating and Maintenance Funds or Project Funding obligations of the Department governed by this Agreement;

Operating and Maintenance Funds has the meaning given to that term in clause 8.1.1;

Operational Services Plan means an operational services plan prepared in accordance with clause 7 and which contains, as a minimum, the information set out in Schedule 6;

Outgoing Port Manager means the entity performing the functions of port manager of a Port immediately prior to the Port Manager assuming those responsibilities;

Payment Conditions means any conditions (including the provision of a Contribution or a deliverable) set out, or referred to, in Schedule 4;

Ports means the local ports specified in Schedule 1, and **Port** means each Port individually;

Port Revenue means any revenue received by the Port Manager relating to or arising from the Ports, including from the charges imposed for use of the facilities in the Port referred to in clause 8.5.1;

Pricing for Value Guide means the guidelines issued by the Department of Treasury and Finance on 1 July 2021, found at [Indexation of fees and penalties | Department of Treasury and Finance Victoria \(dtf.vic.gov.au\)](#), or any replacement Pricing for Value Guide issued from time to time;

Project means a project relating to the construction, reconstruction, repair or replacement of Fixed Assets or Floating Plant or the delivery of works or services to address any Unforeseen Events, as described in, and governed under, a Project Schedule;

Project Completion Date means the date specified as such in a Project Schedule;

Project Due Date means the date(s) specified as such in a Project Schedule;

Project Funding means the funding provided in accordance with a Project Schedule agreed under clause 9 for the construction, reconstruction or replacement of Fixed Assets or Floating Plant;

Project Reference Group has the meaning given to that term in clause 9.2.2;

Project Schedule means a document agreed by the Department and the Port Manager for Project Funding substantially in the form set out in Schedule 4;

Project Term means the term of a Project, as set out in the Project Schedule for that Project;

Representatives means the representatives of each of the parties for the day to day administration of this Agreement nominated in writing from time to time, initially being the persons set out in items 6 and 7 of Schedule 1;

Safety and Environment Management Plan means a management plan prepared in accordance with Part 6A of the *Port Management Act 1995 (Vic)*;

State means the Crown in right of the State of Victoria;

Term means the term of this Agreement as set out in clause 3;

Unexpended Funds has the meaning given to that term in clause 8.7.1;

Unexpended Project Funding has the meaning given to that term in clause 8.8.1; and

Unforeseen Events has the meaning given to that term in clause 8.6.1.

2 GUIDING PRINCIPLE

The parties will cooperate at all times to ensure that both parties meet their respective obligations under this Agreement.

2.1 Role of this Agreement

The role of this Agreement is to set out the terms and conditions on which:

2.1.1 the Port Manager will:

2.1.1.1 plan, undertake and report on the management of the Ports in accordance with the Operational Services Plans; and

2.1.1.2 consult with the Department in relation to the management of the Ports; and

2.1.2 the Department:

2.1.2.1 will contribute Operating and Maintenance Funding; and

2.1.2.2 may contribute Project Funding.

2.2 Status of Agreement

2.2.1 The parties acknowledge and agree that this Agreement is legally enforceable.

2.2.2 This Agreement is subject to all applicable Laws.

2.3 Agreement to Negotiate

The parties agree to use best endeavours to negotiate, in the last 12 months of this Agreement, the terms of a new operational services agreement (or similar) relating to the operation, management and administration of the Port that will commence on the day following the Completion Date.

2.4 Revocation of Appointment as Port Manager

The parties acknowledge and agree that the termination or the expiry of this Agreement will not revoke the appointment of the Port Manager as port manager of any of the Ports. Such appointment will continue unless and until such time as it is revoked by the Governor in Council pursuant to section 44A(2)(a) of the *Port Management Act 1995 (Vic)*. If the Port Manager requests that its appointment as Port Manager be revoked by the Governor in Council, the Department will use its best endeavours to expedite briefing the Minister in relation to the Port Manager's request for the appointment to be revoked.

2.5 Representatives

The Representatives of the parties will be responsible for the day to day management of this Agreement and any communications under or relating to this Agreement.

3 TERM

The Term of this Agreement will commence on the Commencement Date and will expire on the Completion Date unless this Agreement is terminated earlier in accordance with its terms or extended by the agreement in writing of the parties.

4 PORT MANAGER RESPONSIBILITIES

4.1 Port Manager Responsibilities

The Port Manager must:

- 4.1.1 perform all of the functions required of a port manager under section 44A of the *Port Management Act 1995 (Vic)*;
- 4.1.2 comply with directions of the Department and relevant policies of the Victorian Government, and work cooperatively with the Department as required;
- 4.1.3 perform its obligations under this Agreement and as the port manager under the *Port Management Act 1995 (Vic)*:
 - 4.1.3.1 with due care and skill;
 - 4.1.3.2 in a professional manner; and
 - 4.1.3.3 in compliance with all applicable Laws and policies, including those set out in or referred to in clause 5;
- 4.1.4 work cooperatively with the Incoming Port Manager to ensure the transfer of Assets in accordance with clause 19.2 and the continuity of all port management functions;
- 4.1.5 notify, and provide relevant information to, the Department as soon as is reasonably practicable if it enters into, renews or considers renewing, or renegotiates an existing, Crown lease or licence in relation to any aspect of the Ports; and
- 4.1.6 make available to the Department any corporate plan that relates to the Ports upon request.

4.2 Department may change, add or remove ports to be managed

The Port Manager acknowledges and agrees that it may be appointed, under section 44A of the *Port Management Act 1995 (Vic)*, as a port manager of an alternative or additional port, or may be removed as the port manager of one or more of the Ports. As a result, the Department may, in its discretion by written notice to the Port Manager, change the port and/or add additional ports to be operated and managed by the Port Manager under this Agreement. The Port Manager must:

- 4.2.1 comply with any directions given by the Department in relation to any change to the ports to be managed by the Port Manager under this Agreement; and
- 4.2.2 sign any documentation required by the Department to effect a change to the ports to be managed by the Port Manager under this Agreement, which may include a formal variation to this Agreement.

5 COMPLIANCE WITH LAWS AND POLICIES

5.1 Compliance with Laws

5.1.1 In performing its obligations under this Agreement, the Port Manager must comply with the provisions set out in this clause 5 (without limiting any of its other obligations under this Agreement). Without limiting the foregoing, the Port Manager must comply with all policies and procedures provided to it by the Department from time to time, including in relation to:

5.1.1.1 workplace health and safety;

5.1.1.2 marine safety; and

5.1.1.3 environmental management.

5.1.2 The Port Manager must at all times carry out its obligations in compliance with all relevant Laws, including, without limitation to the extent it applies, the *Financial Management Act 1994 (Vic)*. The Port Manager must maintain such records as are necessary pursuant to such Laws and must promptly on request make them available for inspection by the Department and any other relevant authority that is entitled to inspect them.

5.1.3 Without prejudice to clause 5.1.2, the Port Manager must monitor and keep the Department informed in writing of any changes in the Laws which may impact the management of the Ports by the Port Manager and provide the Department with timely details of the measures and changes it proposes to make to comply with any such changes wherever necessary, which changes must be designed to eliminate (where possible) any potential operational disruption.

5.2 Compliance with policies

Where the Port Manager engages a third party to provide goods, services or works, it must ensure that, to the extent applicable, the service provider and / or contractor complies with all relevant Laws, regulations and policies, including, those identified in a Project Schedule.

6 CONTROL AND MANAGEMENT OF ASSETS

6.1 Fixed Assets and Floating Plant

6.1.1 The State owns the Fixed Assets and Floating Plant and will retain ownership of the Fixed Assets and Floating Plant.

6.1.2 The Department controls the Fixed Assets and Floating Plant on behalf of the State.

6.1.3 The Port Manager is responsible for the management, maintenance and operation of the Fixed Assets and Floating Plant on behalf of the Department.

6.1.4 Ownership of the Fixed Assets and Floating Plant will not transfer to the Port Manager.

6.1.5 The Port Manager must provide written notice to the Department as soon as practicable if it plans to dispose of, remove, close permanently or change the use of any Fixed Assets or Floating Plant.

6.1.6 The Port Manager must provide written notice to the Department as soon as practicable when it is considering closing any Fixed Asset or Floating Plant due to:

6.1.6.1 an emergency situation; or

6.1.6.2 the Fixed Asset or Floating Plant being damaged and/or becoming or potentially becoming unsafe for public use,

and the notice must include the proposed date of re-opening of the Fixed Asset or Floating Plant (if applicable).

6.2 Non-Fixed Assets

6.2.1 Non-Fixed Assets are the property of the Port Manager and, subject to clauses 6.2.2 and 6.2.3, may be sold or otherwise disposed of, replaced, repaired or dealt with by the Port Manager as its own property.

6.2.2 If this Agreement terminates as referred to in clause 18.1 or otherwise, the Non-Fixed Assets owned by the Port Manager at the date of termination will cease to be property of the Port Manager and will immediately transfer in accordance with clause 20.

6.2.3 The Port Manager must not sell or otherwise dispose of a Non-Fixed Asset with a current replacement value exceeding \$50,000 without giving at least 1 month's prior written notice to the Department and offering first right of purchase to the port managers of all other Victorian local ports.

6.3 Non-Funded Assets

6.3.1 The Port Manager owns the Non-Funded Assets and will retain ownership of the Non-Funded Assets.

6.3.2 The Port Manager may use the Non-Funded Assets for the purposes of operating the Port.

6.3.3 The Port Manager will remain responsible for the management, maintenance and operational control of the Non-Funded Assets. The Department will not be liable for or in relation to any Non-Funded Asset, nor will it be responsible for providing funding for any Non-Funded Assets.

6.3.4 The Operating and Maintenance Funds and Project Funding must not be applied by the Port Manager:

6.3.4.1 to any Non-Funded Asset; and

6.3.4.2 against any payment, cost or liability toward the management, repair, maintenance or replacement of the Non-Funded Assets and the Port Manager is, and remains liable for, any such payment, cost and liability in respect of the Non-Funded Assets.

6.3.5 In respect of all Non-Funded Assets that are located on land or water within the Port, the Port Manager must comply with all responsibilities provided under this Agreement and at Law, including the responsibilities in the *Port Management Act 1995* (Vic) and all other relevant Laws and policies relating to workplace health and safety, maritime safety and environmental management.

6.4 Maintenance

The Port Manager must operate, manage, repair, maintain in good condition and, where necessary, replace all Assets to the best of its ability, within the constraints of available funding and income, and in accordance with good business practice.

6.5 Permitted Use of Assets

The Port Manager must only use the Assets for the operation, management and administration of the Ports unless otherwise approved in writing by the Department.

6.6 Asset Register

6.6.1 The Port Manager must maintain a register of all Assets held or managed by it for or in connection with the operation, management and administration of each Port, which may be updated from time to time.

6.6.2 If the Port Manager

6.6.2.1 acquires a new Asset; or

6.6.2.2 seeks funding for a new Asset from an entity other than the Department,

it must notify the Department and update the register of the Assets as soon as possible.

6.6.3 The Port Manager must record the Assets in the asset register in accordance with Australian Accounting Standards.

6.6.4 The Port Manager will, by no later than 31 March in each year during the Term, submit to the Department a copy of the asset register maintained in accordance with this clause 6.6.

6.7 Creation of Assets

6.7.1 If the Port Manager uses any funds provided under this Agreement to create any Assets, those Assets will be controlled by the Port Manager.

6.7.2 The cost of operating and maintaining any Asset acquired by the Port Manager, whether or not it was acquired or created using Project Funding or Operating and Maintenance Funds (either wholly or in part), the cost of operating and maintaining that Asset must be considered in the Operational Services Plan and the Port Manager's Annual Budget.

6.8 Transition of Assets

At the expiry or termination of this Agreement, the Port Manager must follow the process to transfer the Assets set out in clause 20 to enable the transfer of the Assets to the Incoming Port Manager or other entity notified to the Port Manager by the Department.

7 OPERATIONAL SERVICES PLAN AND ANNUAL BUDGET

7.1 Operational Services Plan

- 7.1.1 By 31 March each year during the Term, the Port Manager must prepare and submit to the Department an Operational Services Plan for the three Financial Years commencing on the immediately following 1 July, which establishes a planning framework for the operation, management and administration of each Port and forecasts for end of year position for the current Financial Year.
- 7.1.2 The Operational Services Plan must:
- 7.1.2.1 be reviewed by the Department by 31 May of the relevant year and the Department must, as soon as practicable after that date, advise the Port Manager of any changes it requires to the Operational Services Plan;
 - 7.1.2.2 form the basis of the Annual Budget proposals for the operation, management and administration of the Port for the next three Financial Years required to be provided by the Port Manager under clause 7.2;
 - 7.1.2.3 include proposed major works for the next three Financial Years; and
 - 7.1.2.4 be prepared following a review of the previous Financial Year's Operational Services Plan, with variations reported on and submitted to the Department in conjunction with the annual budget submission.
- 7.1.3 The Port Manager must comply with the Operational Services Plan once it has been reviewed by the Department, and the Port Manager has considered and addressed any feedback provided by the Department.

7.2 Annual Budget Process

- 7.2.1 The Port Manager must prepare and submit to the Department, as a part of the Operational Services Plan, a proposed annual budget for the upcoming Financial Year (**Annual Budget**) which shows:
- 7.2.1.1 estimated Port Revenue and sources of Port Revenue;
 - 7.2.1.2 other sources of funding of each Port, including grants, of an operating nature in relation to any or all of the Ports;
 - 7.2.1.3 details of any funds provided to the Port Manager during a previous Financial Year which it is anticipated will remain unexpended and details of and a timetable for their expenditure;
 - 7.2.1.4 a schedule of proposed fees and charges to be levied by the Port Manager for services provided in accordance with clause 8.5.1 of this Agreement;
 - 7.2.1.5 direct employment expenses and other direct operating expenses of the Port, including any associated overheads;
 - 7.2.1.6 detailed forecast of estimated major works (including associated dredging) necessary for the Port, including total estimated cost for each project, for the following three years, listed in order of priority;

7.2.1.7 reason for the requirement of any major works (e.g. addresses risk or adds value to the ports business); and

7.2.1.8 details of forecast asset maintenance expenditure.

7.2.2 Subject to receipt of the proposed Annual Budget provided by the Port Manager in accordance with clause 7.2.1, the Department will, by 31 May of that year, review the proposed Annual Budget submitted and will, as soon as practicable after that date, advise the Port Manager of any requested changes. The Port Manager must, acting reasonably, discuss with the Department any changes that it does not wish to incorporate and finalise the Annual Budget based on the outcome of those discussions.

8 FUNDING

8.1 Operating and Maintenance Funds

The Department agrees to provide the Port Manager with operating and maintenance funds for the operation and maintenance of Assets, payment of wages and for the management of the Port (the **Operating and Maintenance Funds**), in accordance with this Agreement.

8.1.1 The Department will:

8.1.1.1 confirm the Operating and Maintenance Funds that the Department will provide to the Port Manager for each Financial Year during the Term;

8.1.1.2 provide an estimate of Operating and Maintenance Funds that the Department anticipates that it will provide to the Port Manager for future Financial Years during the Term; and

8.1.1.3 provide Operating and Maintenance Funds to the Port Manager for each Financial Year during the Term as required under this Agreement, in accordance with the timetable set out in Schedule 1.

8.1.2 In determining the amount of Operating and Maintenance Funds described in clauses 8.1.1 and 8.1.2, the Department will take into account the most recent Operational Services Plan submitted by the Port Manager.

8.2 Use of Operating and Maintenance Funds

The Port Manager must use the Operating and Maintenance Funds provided to it under this Agreement:

8.2.1 in accordance with this Agreement; and

8.2.2 in accordance with the Operational Services Plan.

8.3 Project Funding

8.3.1 The Department may provide to the Port Manager an amount of Project Funding. All Project Funding that is provided by the Department to the Port Manager will be governed by the terms of a Project Schedule.

8.3.2 The Department will determine the amount of Project Funding referred to in clause 8.3.1 (if any) by reference to:

8.3.2.1 the priorities identified in the Operational Services Plan;

-
- 8.3.2.2 the priorities identified in the Asset Management Plan prepared in accordance with clause 13;
 - 8.3.2.3 the priorities identified in the Safety and Environment Management Plan;
 - 8.3.2.4 the priorities identified by the Department across the whole of the Victorian local ports program; and
 - 8.3.2.5 available funding under the Victorian local ports program or available funding from other Victorian Government sources.

8.4 Use of Project Funding

- 8.4.1 The Port Manager acknowledges and agrees that it will not be entitled to be paid the Project Funding or an Instalment, as the case may be, unless and until the Port Manager has satisfied the relevant Payment Conditions (if any).
- 8.4.2 The Department may, in its absolute discretion, defer payment of an Instalment until the Port Manager has expended all previous Instalments. The Port Manager must continue to comply with its obligations under this Agreement notwithstanding any such deferral.
- 8.4.3 The Port Manager must use the Project Funding only for an Approved Purpose.
- 8.4.4 The Port Manager must use any interest that is earned in respect of any part of the Project Funding held in any bank account only for an Approved Purpose. For the avoidance of doubt, holding any part of the Project Funding in a bank account will not be regarded as expending that Project Funding, including for the purposes of clause 8.4.2.
- 8.4.5 Without limiting clause 8.4.1, the Port Manager must not use the Project Funding for any of the following except to the extent it is an Approved Purpose:
 - 8.4.5.1 to meet the ongoing operational costs, salary subsidies or administrative expenses of the Port Manager that do not arise out of the Project;
 - 8.4.5.2 as security for any form of finance; or
 - 8.4.5.3 to meet existing debts, liabilities or obligations.
- 8.4.6 The Port Manager must ensure that each Contribution is used for the Project and is provided by the date or within the timeframe (if any) specified in the relevant Project Schedule.
- 8.4.7 Where the Department determines in its discretion that the Port Manager has not complied with this clause 8.4 in connection with a Project, the Department may direct the Port Manager to suspend or terminate the Project, in which case the Port Manager must comply with all directions given by the Department in connection with that suspension or termination (as the case may be).
- 8.4.8 If the Department suspends a Project under clause 8.4.7, it may, but is not obliged to, direct the Port Manager to recommence the Project at any time. If the Department directs the Port Manager to recommence a suspended Project, the Port Manager must do so as soon as reasonably practicable after that direction is given.
- 8.4.9 Where the Department is of the opinion that the Port Manager:
 - 8.4.9.1 has failed to fulfil or breached any obligations under a Project Schedule; or

8.4.9.2 has engaged or may engage in any conduct that adversely affects, or may adversely affect, the goodwill or reputation of the Port Manager, the Department, a Minister or the State,

the Department may, in its absolute discretion:

8.4.9.3 withhold, suspend or cancel the provision of the Project Funding or any part (including an Instalment) thereof;

8.4.9.4 by written notice, request a refund of the whole or part of the Project Funding previously paid; and/or

8.4.9.5 by written notice, immediately terminate the Project.

8.5 Port Revenue

8.5.1 The Port Manager must, in accordance with the Pricing for Value Guide, utilise its legislative power under section 44D of the *Port Management Act 1995 (Vic)* to impose a charge for use of any facility in the Ports, having regard to issues of equity of use and access, to maximise the user pays component of its income. In addition, to the extent permitted by legislation, the Port Manager must endeavour to recover the full cost of all utilities (such as electricity and water) provided to Port users.

8.5.2 All Port Revenue must be used for the management of that Port by the Port Manager as contemplated under this Agreement. Unexpended Port Revenue must be dealt with in accordance with clause 8.7.1.

8.6 Unforeseen Events

8.6.1 In the event that unforeseen events (including storms) (**Unforeseen Events**) result in significant damage to any Assets, or otherwise hinders the use of, or access to or within, a Port, the Port Manager may submit to the Department, no later than 30 days following the Unforeseen Event:

8.6.1.1 an application to access funding for the purpose of repair, cleaning or removal of debris or other items, or otherwise restoring access to or within a Port; or

8.6.1.2 for reimbursement of costs already expended by the Port Manager for repairs, cleaning or removal of debris or other items, or otherwise restoring access to a Port, where those costs were approved in writing by the Department prior to them being incurred.

8.6.2 Any application for funds in accordance with clause 8.6.1 must include details of the material and labour costs required to undertake the works, and may only include costs incurred over and above the Annual Budget.

8.6.3 Upon receipt of a submission made under clause 8.6.1, the Department will reassess the state-wide funding for Victorian local ports and make payments to the Port Manager as the Department determines appropriate.

8.6.4 If the Department does not provide funding for the full cost of performing any works following a submission from the Port Manager under clause 8.6.1, nothing in this Agreement shall require the Port Manager to itself provide funding from its own resources. Nothing in this clause 8.6 in any way excludes, limits or reduces the Port Manager's statutory functions as a port manager of a local port under the *Port Management Act 1995 (Vic)*.

8.7 Interest and Unexpended Operating and Maintenance Funds

8.7.1 If the Port Manager:

8.7.1.1 does not expend the Operating and Maintenance Funds (or any part of the Operating and Maintenance Funds) during the Financial Year in which the Operating and Maintenance Funds are provided; and/or

8.7.1.2 earns interest on the Operating and Maintenance Funds; and/or

8.7.1.3 does not expend the Port Revenue during the Financial Year in which the Port Revenue is received; and/or

8.7.1.4 earns interest on the Port Revenue,

the Port Manager is permitted to retain those funds, including any interest earned, (together, **Unexpended Funds**) and must use the Unexpended Funds in accordance with the timetable for their expenditure in the then current Operational Services Plan reviewed by the Department under clause 7.1.2. For the avoidance of doubt, Unexpended Funds must only be used by the Port Manager for the undertaking of port management functions by the Port Manager, must be accounted for in the Annual Budget for the following financial year, and must be reflected in all reports required to be provided to the Department under this Agreement.

8.7.2 The Department retains the right to request a refund of the Unexpended Funds if the parties do not agree on the use of the Unexpended Funds in an Operational Services Plan. The Port Manager must comply with any such request.

8.8 Unexpended Project Funds

8.8.1 Subject to clause 8.8.2, the Port Manager must, within 20 Business Days or such longer period as the parties may agree, of the Project Completion Date for a Project, return to the Department any part of the Project Funding for that Project that has not been expended for an Approved Purpose and any interest earned on unexpended Project Funding (**Unexpended Project Funding**).

8.8.2 The Department may, in its absolute discretion, permit the Port Manager to retain Unexpended Project Funding for such purposes as the Department determines in consultation with the Port Manager. If the Department decides to permit the Port Manager to retain Unexpended Project Funding, the Department will notify the Port Manager in writing of the purposes for which the Unexpended Project Funding may be used and any other conditions applying to the Unexpended Project Funding, including applying the Unexpended Project Funding to a new Project.

9 PROJECT SCHEDULES

9.1 Projects

9.1.1 The Port Manager and the Department will agree a Project Schedule, substantially in the form set out in Schedule 4, for each Project.

9.1.2 Each Project Schedule (including all of its annexures, exhibits and attachments), once executed by both parties, forms part of and is governed by the terms of this Agreement. If and to the extent of any inconsistency between the terms of this Agreement and a Project Schedule, the terms of the Project Schedule will prevail.

-
- 9.1.3 The Port Manager must complete each Project in compliance with this Agreement and the relevant Project Schedule by the Project Completion Date and must comply with each Project Due Date (if any) applying to the Project.
 - 9.1.4 In relation to each Project, the Port Manager must, and as applicable must ensure that its Personnel and any contractor involved in delivering the Project, at all times;
 - 9.1.4.1 exercise due care, skill and judgement;
 - 9.1.4.2 comply with all Laws and obtain and comply with all permits, approvals and the like that are necessary to undertake the Project;
 - 9.1.4.3 observe and comply with all applicable Victorian Government policies;
 - 9.1.4.4 implement and observe appropriate monitoring and review processes to ensure that the Project is provided in accordance with this Agreement and the relevant Project Schedule;
 - 9.1.4.5 have regard to any matters notified in writing from time to time by the Department; and
 - 9.1.4.6 engage sufficient Personnel with appropriate qualifications, skills and experience to undertake the Project.
 - 9.1.5 Except to the extent the Project Schedule permits otherwise, the Port Manager must obtain the prior written consent of the Department in order to engage a contractor to perform any part of the Project. The Port Manager acknowledges and agrees that the Department may, in its absolute discretion, grant, deny or impose conditions on such consent.
 - 9.1.6 The Port Manager acknowledges and agrees that it will be responsible for the acts, defaults and omissions of any contractor it engages for or in connection with a Project as if the acts, defaults or omissions of the contractor were those of the Port Manager.
 - 9.1.7 The Port Manager must not change any aspect of a Project without prior written approval of the Department.
 - 9.1.8 For the purposes of obtaining approval of the Department for a change to a Project, the Port Manager must submit a proposal to the Department as soon as it becomes aware of the need for a change:
 - 9.1.8.1 detailing the nature of the proposed change;
 - 9.1.8.2 detailing any impact the change may have on the Port Manager meeting the Project Completion Date and/or any Project Due Dates;
 - 9.1.8.3 explaining why the change is necessary or desirable; and
 - 9.1.8.4 providing an estimate of the cost (including any quotes obtained) to make the change.

9.2 Governance

- 9.2.1 The Department may in its absolute discretion extend any Project Due Dates and/or the Project Completion Date for a Project.

9.2.2 If requested by either the Department or the Port Manager, the Department and the Port Manager must establish a reference group for a Project comprising up to two members from each party (**Project Reference Group**). Except to the extent otherwise agreed between the parties, the Project Reference Group will meet once a month during the Project Term.

9.2.3 The parties agree that the functions of the Project Reference Group will include:

9.2.3.1 overseeing and facilitating matters with respect to the Project, including but not limited to monitoring and reporting;

9.2.3.2 overseeing and reviewing the progress of the Project, including but not limited to issues relating to Project budget, deliverables, risk and quality;

9.2.3.3 facilitating discussions between the parties with a view to reaching a consensus on issues relating to the Project;

9.2.3.4 reviewing and commenting on any strategy or documentation to contract goods and/or services for the Project;

9.2.3.5 reviewing and commenting on any proposals to amend the Project Schedule (including the Project brief) and/or any proposed material variations, including considering any risk or liability issues arising from the amendments or variations;

9.2.3.6 suggesting and drafting amendments to the Project brief;

9.2.3.7 identifying and facilitating any approvals, consents or the like that may be required in order to carry out the Project or implement an amendment to the Project brief;

9.2.3.8 considering any matter relevant to the Project as may be raised by either party;

9.2.3.9 making recommendations to the parties in relation to any dispute or conflict between the parties in connection with the Project; and

9.2.3.10 any other functions that the parties agree from time to time.

9.2.4 Neither the Department nor the Port Manager will be bound by any recommendation made by the Project Reference Group, but may take into account any such recommendation in exercising their respective duties, discretions and powers under the Project Schedule.

9.3 Project Reporting

9.3.1 The Port Manager must provide to the Department each report specified in Schedule 4 at the times, and containing the information, specified in that schedule.

9.3.2 If requested by the Department, the Port Manager must submit to the Department, within the timeframe specified by the Department:

9.3.2.1 written certification signed by an authorised representative of the Port Manager that:

(A) the Project Funding has been expended solely for Approved Purposes; and

-
- (B) the terms and conditions of this Agreement and the relevant Project Schedule have been complied with or, where any terms or conditions have not been complied with, the reasons for such non-compliance; and

9.3.2.2 a financial report detailing expenditure in relation to the Project and each other Approved Purpose.

9.4 Project Records

The Port Manager must establish and maintain records of the Project related activities undertaken by, or on behalf of, the Port Manager to enable the Department to undertake an audit of such activities in accordance with clause 10.3.2.

10 FINANCIAL REPORTING

10.1 Accounts

10.1.1 The Port Manager must maintain a separate cost centre or identifiable charge line in its accounts for its functions as a port manager. The Port Manager must, within its accounting systems, account for Project Funding separately from the Operating and Maintenance Funds.

10.1.2 The Port Manager must establish and maintain proper books of account of all transactions relating to the Project Funding and Operating and Maintenance Funds and operating records necessary to afford a correct and complete record and explanation of all expenditure by the Port Manager of the Project Funding and Operating and Maintenance Funds, including:

10.1.2.1 statement of income;

10.1.2.2 proper books of account; and

10.1.2.3 disbursement records.

10.1.3 The Port Manager must comply with Australian Accounting Standards including the use of accrual not cash accounting.

10.1.4 Administrative costs (including all staff costs not directly attributable to on-ground works and services), must be separated from direct operating expenditure on facilities and functions.

10.1.5 Expenditure must be allocated to identifiable facilities, assets or services.

10.2 Annual Reporting

10.2.1 The Port Manager must, by no later than 30 September in each year of the Term, prepare and submit to the Department a report on the outcomes of the previous Financial Year's Operational Services Plan and Annual Budget as well as the following accounts and statements:

10.2.1.1 a statement of cash flows;

10.2.1.2 a statement of financial position (excluding valuations for Crown Land);

10.2.1.3 a statement of the accounting policy employed for the preparation of the annual accounts and statements;

-
- 10.2.1.4 an income statement showing revenue and expenditure (including any Port Revenue);
 - 10.2.1.5 a statement showing capital expenditure;
 - 10.2.1.6 a statement of funds provided to the Port Manager during previous Financial Years that remain unexpended including a reasonable allocation of interest earned on accumulated cash funds over the year; and a statement detailing cash which is earmarked for specific purposes (e.g. employee benefits) showing committed and uncommitted cash (e.g. future major works);
 - 10.2.1.7 a report which shows budget and actual revenue and expenditure and commentary on material variations;
 - 10.2.1.8 a statement showing maintenance expenditure (annual cost of asset maintenance) for each class of Asset (e.g. jetties, navigation aids, etc.);
 - 10.2.1.9 any known contingent liabilities;
 - 10.2.1.10 program reporting (in respect of capital and recurrent works other than as a part of a Project):
 - (A) details of operations in comparison to budget;
 - (B) cash flow details in comparison to budget;
 - (C) details of works progress against works program;
 - (D) a commentary in respect of any substantial variation regarding the preceding items;
 - (E) where dredging operations are performed, a statement on the cost of the dredging, an estimate of the amount of dredging performed (either number of days in operation or volumes dredged) and whether access to the Port has been restricted by a failure/inability to dredge; and
 - (F) significant (known or anticipated) events that may adversely impact on the Port Manager's ability to perform its task as port manager; and
 - 10.2.1.11 Incident reporting, including:
 - (A) a summary of each and every Incident which was reported or recorded in the Port during the course of the year; and
 - (B) a separate report on any Incident for which further information was requested through the Port Manager's insurers.
 - 10.2.2 The report(s) provided to the Department in accordance with clause 10.2.1 must contain, as a minimum, the information set out in Schedule 5.

10.3 Auditing

- 10.3.1 If requested by the Department or an auditor appointed by the Department, the Port Manager must provide to the Department its accounts and all records and documentation evidencing all funding received and costs, losses or expenses incurred

by the Port Manager related to the Port, (including any Port Revenue) as soon as possible and in any event within five Business Days of receiving such a request.

10.3.2 If requested by the Department or an auditor appointed by the Department, the Port Manager must provide to the Department documentation evidencing costs, losses or expenses incurred by the Port Manager in undertaking a Project, or part of a Project, as soon as possible and in any event within five Business Days of receiving such a request.

10.3.3 The accounts to be provided to the Department in accordance with clause 10.2.1, and any accounts or records required to be maintained under this Agreement or a Project Schedule, must be prepared in accordance with Australian Accounting Standards and audited and signed off by an independent certified company auditor in accordance with Australian Auditing Standards.

11 INSURANCE AND LIABILITY

11.1 Insurance

11.1.1 For the duration of the Term and subject to clause 11.4, the Port Manager will:

11.1.1.1 insure and keep insured the Non-Fixed Assets against damage by theft, fire, explosion, storm and tempest, riots, strikes, accidental and malicious damage, earthquake, impact by vehicles vessels or aircraft, internal water and flood, as appropriate, and in accordance with good business practice; and

11.1.1.2 maintain employer's liability insurance (including WorkCover insurance) as required by law.

11.1.2 The Department will maintain the following insurance cover as appropriate:

11.1.2.1 insurance for the Fixed Assets (through the Department's Property Insurance policy);

11.1.2.2 an endorsement for Local Port Operators (through the Department's Combined Liability policy); and

11.1.2.3 insurance for Floating Plant (through the Department's Property Insurance policy).

11.1.3 The Department will pay any deductibles (excess) arising under the insurance policies listed in clause 11.1.2 or will provide self insurance at an appropriate level in consultation with the Port Manager.

11.1.4 If there is an Incident, the Port Manager must notify the Department as soon as practicable and without undue delay and provide written details about the Incident in the form requested by the Department.

11.2 Project Insurance

11.2.1 If the Port Manager is undertaking a project itself, on and from each Project Commencement Date, the Port Manager must effect and maintain any and all insurance required by Law and appropriate insurance cover for its operational and business risks related to the Project (**Insurance Cover**) with one or more of the following:

11.2.1.1 the Victorian Managed Insurance Authority or Liability Mutual Insurance;

11.2.1.2 an insurer authorised under the *Insurance Act 1973* (Cth); or

11.2.1.3 an insurer approved in writing by the Department.

11.2.2 Subject to clause 11.4, for each Project, the Port Manager must maintain Insurance Cover for the Project Term.

11.2.3 The Port Manager must:

11.2.3.1 provide the Department with proof of Insurance Cover (including copies of certificates of currency) on request; and

11.2.3.2 undertake periodic reviews to make sure the operational and business risks are adequately insured by the Insurance Cover, particularly in regard to public and products liability and professional indemnity risks.

11.3 Contractor Insurance

11.3.1 Clauses 11.3.2 and 11.3.3 apply unless otherwise specified in a Project Schedule for a specific Project.

11.3.2 Subject to clause 11.4, for the duration of the Term, the Port Manager must ensure that any third party it engages to provide goods, services or works effects and maintains:

11.3.2.1 employer's liability insurance (including WorkCover insurance) – as required by law;

11.3.2.2 professional indemnity insurance - \$20 million per occurrence;

11.3.2.3 public liability insurance - \$20 million per occurrence;

11.3.2.4 product liability insurance (if applicable);

11.3.2.5 motor vehicle insurance (if applicable);

11.3.2.6 insurance of vessels, plant and equipment (if applicable); and

11.3.2.7 contract works insurance – 130% of the value of the works, which must include appropriate cover for the Assets affected by or located near the relevant works and, in the case of a Project, such other amounts of contract works insurance specified in the relevant Project Schedule,

(Contractor Insurance Cover).

11.3.3 The Port Manager must seek from any third party it engages to provide goods, services or works, proof of Contractor Insurance Cover (including copies of certificates of currency). The Port Manager must provide the Department with proof of Contractor Insurance Cover on request.

11.4 Period of Insurance

Any insurance policy underwritten on a 'claims made' basis, must be held throughout the Term and for at least seven years following the expiry or termination of this Agreement.

11.5 Indemnities

11.5.1 For so long as:

11.5.1.1 the Department is a government body and is insured by the Victorian Managed Insurance Authority; and

11.5.1.2 the Port Manager is a municipal council within the meaning of the *Local Government Act 1989* (Vic) and insured by Liability Mutual Insurance,

the parties agree, having regard to the Indemnity Policy, that it is unnecessary to include an indemnity or insurance clause in this Agreement, as the insurance of both parties is adequate to cover foreseeable losses arising out of their own potential liabilities and is provided on the assumption that the common law will prevail.

11.5.2 The parties further agree that this Agreement is an appropriate mechanism to identify and state the respective roles and responsibilities of each of the parties.

11.5.3 Any dispute relating to any actions, claims or losses (including liability for loss) arising from or in connection with this Agreement shall be determined in accordance with clause 15.

12 RISK MANAGEMENT

12.1 Risk Audit

The Port Manager must undertake a risk audit as part of its preparation of each Operational Services Plan and report to the Department by 31 March each year of the Term on actions taken to address identified risks.

12.2 Safety and Environment Management Plan

The Port Manager must develop and submit for audit its Safety and Environment Management Plan as required in Part 6A of the *Port Management Act 1995* (Vic), and will monitor, report on and update its plan as required. In addition to the requirements set out in section 91D of the *Port Management Act 1995* (Vic), the Port Manager must prioritise the measures and strategies to be implemented by the Port Manager to prevent or reduce risks associated with the operation of the Ports in the Safety and Environment Management Plan.

12.3 Incident Reporting

12.3.1 The Port Manager must promptly report to the Department any damage to persons or property in relation to the Ports, including as a result of an Unforeseen Event.

12.3.2 The report(s) provided to the Department in accordance with clause 12.3.1 must:

12.3.2.1 include as much information as permitted by the Port Manager's insurer; and

12.3.2.2 be provided as soon as reasonably practicable.

13 ASSET MANAGEMENT PLAN

The Port Manager must:

- 13.1.1 regularly monitor, report on and update its Asset Management Plan as required under that plan;
- 13.1.2 prioritise asset maintenance projects in its Asset Management Plan; and
- 13.1.3 undertake a detailed review of its Asset Management Plan at least once every five years and submit it to the Department by 30 September of the relevant year, for the Department's review and comment.

14 DOCUMENTATION

14.1 Submission of Documentation

- 14.1.1 Where the Port Manager is required to submit any documentation or plans to the Department under or in connection with this Agreement, the process in the remainder of this clause 14 will apply.
- 14.1.2 Unless otherwise specified in this Agreement, within 20 Business Days (or such other period as is reasonable having regard to the nature of the document) of the date on which the Department receives draft documentation from the Port Manager, the Department will notify the Port Manager in writing whether it:
 - 14.1.2.1 has no feedback on the documentation and therefore agrees with the form of the documentation; or
 - 14.1.2.2 has feedback on the documentation, in which case the Department may specify the feedback and request amendments to the documentation which must be considered by the Port Manager prior to its finalisation of the documentation.
- 14.1.3 Within 15 Business Days of the Department providing feedback on any documentation under clause 14.1.2.2, the Port Manager must submit a revised draft of the documentation, taking into consideration the Department's requested modifications (if any), to the Department.
- 14.1.4 The Department will respond to revised documentation submitted by the Port Manager under clause 14.1.3 in accordance with clause 14.1.2 and the process will continue until the Department has no further feedback on the documentation.
- 14.1.5 If the Port Manager is required to, or otherwise wishes to, update any documentation following its finalisation, the Port Manager must submit its proposed amendments to the documentation to the Department and the process in clauses 14.1.2 to 14.1.4 will apply.
- 14.1.6 Until the Department has no further feedback on a proposed amendment to documentation, the original documentation will remain in effect.

15 DISPUTE RESOLUTION

If there is a dispute between the parties related to this Agreement, then the dispute will be resolved in accordance with the Dispute Guidelines.

16 PUBLICATION OF PROMOTIONAL MATERIAL

16.1 Consent

16.1.1 Except as required by law, the Port Manager must not, without the prior written consent of the Department, make any public announcement or issue any promotional material or media release relating to:

16.1.1.1 any negotiations between the Port Manager and the Department; or

16.1.1.2 the existence or subject matter or terms of this Agreement.

16.2 Acknowledgement

16.2.1 Where the Department gives consent under clause 16.1.1, or where otherwise requested by the Department, the Port Manager must acknowledge the Department's assistance in all publications and promotional materials relating to its engagement under this Agreement or any Project by prominently displaying in such publications and on such promotional materials the statement by the Department and logo to be provided by the Department.

17 CONFIDENTIAL INFORMATION

17.1 Return of Property

17.1.1 Upon the termination or expiration of this Agreement, if requested by the Department, the Port Manager must return to the Department all manuals, drawings, computer programs and other documents supplied by the Department to the Port Manager and any other property belonging to the Department relating to management of the Port. The Port Manager must not retain any copies of any document(s) being returned to the Department unless otherwise agreed in writing by the Department.

17.2 Use of Information

The Port Manager must not, whether during or after the Term, make any improper use, or use that does not comply with this Agreement of:

17.2.1 any Confidential Information belonging to, used by or relating to the Department in the conduct of its business or gained as a result of the Port Manager's involvement with the Department at any time;

17.2.2 the position of the Department on any Confidential Information; or

17.2.3 any other information which may be detrimental to the interests of the Department or any other person who has provided Confidential Information to the Department, unless the Port Manager is required to disclose the information by law.

17.3 Non-Disclosure

17.3.1 The Port Manager must not disclose to any third party or use any material or information referred to in clauses 17.2.1 to 17.2.3 without the prior written consent of the Department which may be withheld in the Department's absolute discretion or subject to conditions required by the Department.

17.3.2 The Port Manager may only use any material or information referred to in clause 17.2.1 to 17.2.3 provided by the Department for the sole purpose of managing the Port.

17.3.3 The Port Manager must take or cause to be taken all necessary precautions to maintain the secrecy and confidentiality of any material or information referred to in in clauses 17.2.1 to 17.2.3, including using their best endeavours to prevent improper publication or disclosure by a third party.

17.3.4 The Port Manager acknowledges that the Department may be required to publish either summary details of this Agreement or this Agreement itself on the internet or otherwise and the Port Manager consents to the Department fulfilling any such requirement.

17.4 Survival

17.4.1 This clause 17 survives expiration or termination of this Agreement and will continue to have full force and effect.

18 TERMINATION

18.1 Termination Events

18.1.1 The parties may agree in writing to terminate this Agreement or any Project at any time.

18.1.2 The Department may terminate this Agreement at any time without cause on three months' written notice to the Port Manager. To avoid doubt, on termination of this Agreement, all then current Projects will also be terminated.

18.1.3 The Department may terminate a Project at any time without cause on 30 days' written notice to the Port Manager.

18.1.4 This Agreement will immediately terminate if the Port Manager ceases to be a port manager under the *Port Management Act 1995* (Vic) in respect of the Port.

18.1.5 Either party may terminate this Agreement in the event that the other party commits a breach of this Agreement and fails to remedy the breach within 90 days of notice of the breach and where the breach has not been resolved by the procedure in clause 14 of this Agreement.

18.2 Consequences of Termination

If this Agreement is terminated under clause 18.1:

18.2.1 clause 6.2.2 will apply except on the expiry of this Agreement;

18.2.2 the Port Manager must mitigate its costs, including by terminating any contracts it has in place which will not be transitioned to an Incoming Port Manager; and

18.2.3 the Port Manager will return any Unexpended Funds and any Unexpended Project Funding to the Department.

18.3 Consequences of Termination of any Project

If any Project is terminated under clause **Error! Reference source not found.**:

18.3.1 the Port Manager must mitigate its costs in relation to that termination; and

18.3.2 the Port Manager will return any Unexpended Project Funding to the Department.

19 TRANSITION IN

19.1 Permits

The Port Manager must accept, recognise and confirm all permits issued by the Outgoing Port Manager for each Port.

19.2 Transfers

19.2.1 The Port Manager must accept the novation or assignment of all liabilities and contracts of the Outgoing Port Manager that relate to the management and operation of each Port.

19.2.2 The Port Manager must cooperate with the Outgoing Port Manager, including, if required, entering into a transitional services arrangement with the Outgoing Port Manager to ensure smooth transition of port management responsibilities from the Outgoing Port Manager to the Port Manager.

20 TRANSITION OUT

20.1 Non-Fixed Assets

20.1.1 The Port Manager acknowledges and agrees that title in all Non-Fixed Assets held by the Port Manager for which the Department has provided funding under this Agreement, automatically vests in the Incoming Port Manager or other entity as notified by the Department upon expiration or termination of this Agreement.

20.1.2 The Port Manager will, at the Department's request, either:

20.1.2.1 return the Non-Fixed Assets for which the Department has provided Project Funding or any other funding under this Agreement, to the Department; or

20.1.2.2 facilitate the transfer of the Non-Fixed Assets for which the Department has provided Project Funding or any other funding under this Agreement, to the Incoming Port Manager or other entity as notified by the Department.

20.2 Contracts and Liabilities

20.2.1 The Port Manager acknowledges and agrees that all liabilities of the Port Manager for which the Department has provided funding automatically vest in the Incoming Port Manager or other entity as notified by the Department upon expiration or termination of this Agreement. The Port Manager agrees to provide a register of all such liabilities to the Incoming Port Manager or other entity as notified by the Department in a timely manner.

20.2.2 The Port Manager will cooperate and assist the Incoming Port Manager as its substitute in any proceeding, agreement or arrangement commenced or made by or against, or in relation to, the Port Manager immediately before the Incoming Port Manager or other entity as notified by the Department becomes the manager of the Port.

20.3 Transition

20.3.1 The Port Manager must comply with its obligations under this clause 20 in a cost effective and efficient manner.

-
- 20.3.2 The Port Manager acknowledges and agrees that there may be costs associated with the transition under this clause 20, and the Port Manager agrees to bear reasonable costs to ensure a smooth transition of the management of the Port(s) to the Incoming Port Manager or other entity as notified by the Department.
- 20.3.3 The Port Manager must comply with all obligations under this Agreement until the Incoming Port Manager or other entity as notified by the Department has taken over all responsibilities of the port manager for the Port(s).
- 20.3.4 The Port Manager must cooperate with the Incoming Port Manager, including, if required, entering into a transitional services arrangement with the Incoming Port Manager or other entity as notified by the Department.

21 GENERAL

21.1 Amendment

This Agreement may only be varied or replaced by a document duly executed by the parties.

21.2 Entire Understanding

This Agreement contains the entire understanding between the parties as to the subject matter contained in it.

21.3 Waiver and Exercise of Rights

- 21.3.1 A single or partial exercise or waiver of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.
- 21.3.2 No party will be liable for any loss or expense incurred by another party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

21.4 Assignment

- 21.4.1 The Port Manager must not assign its rights under this Agreement without the prior written consent of the Department, which may be withheld or given subject to conditions, in the Department's absolute discretion.
- 21.4.2 The Department may, by written notice to the Port Manager, assign, novate or sublicence any or all of its rights under this Agreement.

21.5 Time of the Essence

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

21.6 GST

21.6.1 In this clause 21.6 unless expressed or implied to the contrary:

Adjustment has the same meaning given to that term in the GST Act;

Adjustment Note has the same meaning given to that term in the GST Act;

Consideration means consideration payable under this Agreement in return for a Taxable Supply, but does not include any amount on account of GST;

GST has the same meaning given to that term in the GST Act;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

GST Amount has the meaning given to that term in clause 21.6.3;

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act;

Recipient has the same meaning given to that term in the GST Act;

Supplier means the entity making a Supply to the Recipient;

Supply has the same meaning given to that term in the GST Act. Tax Invoice has the same meaning given to that term in the GST Act; and

Taxable Supply has the same meaning given to that term in the GST Act.

- 21.6.2 Except as otherwise provided by this clause, all Consideration payable under this Agreement in relation to any Supply is inclusive of GST.
- 21.6.3 To the extent that any Supply under this Agreement constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.
- 21.6.4 Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Agreement, without any right of set-off or deduction (unless otherwise provided in this Agreement).
- 21.6.5 If this Agreement requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier, the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled to claim in respect of the outgoing, in addition to any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.
- 21.6.6 The Supplier must issue the Recipient with a valid Tax Invoice at or prior to the time of payment of any GST Amount.
- 21.6.7 To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within five Business Days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within five Business Days after the date of receipt of the Adjustment Note.

22 NOTICES

22.1 Service of Notice

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

22.1.1 personally on the person specified in clause 22.2.1;

22.1.2 by leaving it at the person's current address for service;

22.1.3 by posting it by prepaid post addressed to that person at the person's current address for service; or

22.1.4 by email to the person's current email address for service, provided that the party giving notice obtains a confirmation report or other written evidence that the email reached the recipient's mailbox.

22.2 Particulars for Service

22.2.1 The particulars for service of each of the parties are the particulars for their Representatives set out in Schedule 1.

22.2.2 Any party may change the address for service by giving notice to the other party.

22.2.3 If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.

22.3 Time of Service

A notice or other communication is deemed served:

22.3.1 if served personally or left at the person's address, upon service;

22.3.2 if posted within Australia to an Australian address, six Business Days after posting and in any other case, seven Business Days after posting;

22.3.3 if served by email, subject to clause 22.3.4 at the time the notice or other communication comes to the attention of the addressee;

22.3.4 if received after 6.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

23 INTERPRETATION

23.1 Governing Law and Jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

23.2 Persons

In this Agreement, a reference to:

-
- 23.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
 - 23.2.2 a person includes the legal personal representatives, successors and permitted assignees of that person; and
 - 23.2.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

23.3 Legislation

In this Agreement, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

23.4 This Agreement, Clauses and Headings

In this Agreement:

- 23.4.1 a reference to this or other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 23.4.2 a reference to a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this Agreement all of which are deemed part of this Agreement;
- 23.4.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 23.4.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Agreement;
- 23.4.5 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; and
- 23.4.6 where the expression 'including' is used, it means 'including without limitation'.

23.5 Severance

- 23.5.1 If a provision in this Agreement is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 23.5.2 If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Agreement.

23.6 Counterparts

This Agreement may be executed in any number of counterparts all of which taken together constitute one instrument.

23.7 Electronic execution and notices

23.7.1 This Agreement may be signed by the authorised representatives of the parties affixing their electronic signatures to this document. If executed by electronic method, an electronic copy of this document duly executed by both parties will be taken to be an original.

23.7.2 Notices under this Agreement may be given electronically to the addresses noted in Schedule 1 or such other address(es) as may be notified by a party to the other party from time to time.

23.8 Number and Gender

In this Agreement, a reference to:

23.8.1 the singular includes the plural and vice versa; and

23.8.2 a gender includes the other genders.

23.9 Relationship of Parties

This Agreement is not intended to create a partnership or joint venture relationship between the parties.

EXECUTED as an agreement

Signed by Praveen Reddy, Executive Director,)
Freight Victoria as authorised representative for)
Hon Melissa Horne MP, Minister for Ports and)
Freight on behalf of the State of Victoria in the)
presence of:)



Witness (Signature)

Sarah Bowtell

Witness (Print name)



Signature of Authorised Representative

Praveen Reddy

Name of Authorised Representative

Date: 18/12/2023

EXECUTED for and on behalf of GLENELG SHIRE COUNCIL by the following authorised delegates of GLENELG SHIRE COUNCIL

Complete this section including name and position details

Name and position of authorised representative

.....

Sign here:.....

Date:.....

Name and position of second authorised
representative:

.....

.....

Sign here:.....

Date:.....

Schedule 1 Representatives and Port Details

Item	Item Description	Details
1	Port Manager	Glenelg Shire Council
2	Local Port/s	The land and waters declared to be port land and waters of Portland Bay by order dated 9 April 2013, published in Government Gazette number G15 on 11 April 2013, page 786 (as amended or replaced).
3	Commencement Date	1 February 2024
4	Completion Date	30 September 2028
5	Term	The Term of this Agreement is as specified in clause 3.
6	Annual Operating and Maintenance funds	Amount to be confirmed annually in accordance with clause 8.1.
7	Department's Representative (for day to day administration of this Agreement)	<p>Person: Lynn Kisler</p> <p>Title: Manager Local Ports, Freight Victoria</p> <p>Address: GPO Box 2392, Melbourne, Victoria, 3001</p> <p>Ph: 0400 578 664</p> <p>Email address: lynn.kisler@transport.vic.gov.au</p>
8	Port Manager's Representative (for day to day administration of this Agreement)	<p>Person: Scott Easson</p> <p>Title: Port Manager – Local Port of Portland Bay</p> <p>Address: PO Box 152 Portland, Victoria, 3305</p> <p>Ph: 0408 627 296</p> <p>Email address: seasson@glenelg.vic.gov.au</p>

Timetable for the provision of Operating and Maintenance funds

Date by which the Department will provide confirmation of Operating and Maintenance Funds and an estimate of Operating and Maintenance Funds for future Financial Years	Financial Year to which the confirmation of Operating and Maintenance Funds will relate	When the Department will pay the Operating and Maintenance Funds to the Port Manager	Financial Years to which the estimate of Operating and Maintenance Funds will relate
31 August 2023	2023-24	As soon as practicable after 31 August 2023	2024-25 and 2025-26
31 August 2024	2024-25	As soon as practicable after 31 August 2024	2025-26 and 2026-27
31 August 2025	2025-26	As soon as practicable after 31 August 2025	2026-27 and 2027-28
31 August 2026	2026-27	As soon as practicable after 31 August 2026	2027-28
31 August 2027	2027-28	As soon as practicable after 31 August 2027	

Schedule 2 Fixed Assets and Floating Plant

Fixed Assets

- Trawler Wharf, floating pontoons and walkways
- Trawler Wharf toilet block
- Trawler Wharf navigation aid

Floating Plant

Nil

Schedule 3 Non-Funded Assets

- Fish gantry at Boat Ramp North
- Heritage cranes
- Transit Jetty
- Town Jetty
- Boardwalks
- Dinghy launch beach
- Boat Ramp North, Boat Ramp South and associated wharfs and pontoons
- Portland Bay Marina
- Foreshore Rock Revetment
- 4 no. Navigation aids – 2 either side of boat ramp north, 1 adjacent to swing moorings and 1 on Town Jetty
- Swing mooring/s block and tackle

Schedule 4 Form of Project Schedule

1 DETAILS

No.	Item	
1.	Project Name	
2.	Port Manager details	[insert full entity name] ABN [insert] [insert address]
3.	Project Commencement Date:	[day/month/year]
4.	Project Completion Date:	[day/month/year]
5.	Project Term:	
6.	Milestones:	
7.	Port Manager Representative	[insert name] Email: [insert] Phone: [insert]
8.	Department Representative	[insert name] Email: [insert] Phone: [insert]
9.	Project Funding	\$ [insert] ex GST \$ [insert] incl GST
10.	Engagement of Contractors	Yes/No
11.	Reports	

2 PROJECT DESCRIPTION

[insert]

3 FUNDING AND PAYMENT DETAILS

3.1 Payment Instalments

Item	Payment conditions	Payment date	Instalment amount (ex GST)
3.1.1			
3.1.2			

Item	Payment conditions	Payment date	Instalment amount (ex GST)
3.1.3			
3.1.4			
		Total	

3.2 Reallocated Funding [delete if not needed]

Item	Previous Project	Amount (ex GST)
3.2.1		
3.2.2		
		Total

3.3 Contribution [delete if not needed]

Item	Description	Amount (ex GST)
3.3.1		
3.3.2		
		Total

3.4 Total Funding

	Description	Date to be provided
3.4.1	Payment instalments	
3.4.2	Reallocated funding [delete if not needed]	
3.4.3	Contribution [delete if not needed]	
	Project Funding Total	

4 DELIVERABLES

Item	Milestone & Deliverable	Due Date
4.1		
4.2		

4.3		
-----	--	--

5 SPECIAL CONDITIONS

[insert]

6 PORT MANAGER AND/OR CONTRACTOR INSURANCE [delete if not needed]

8.1 Subject to clause 11.4, for the duration of the Term, the Port Manager must ensure that it or any third party it engages to provide goods, services, or works effects and maintains the following insurances:

Description	Amount
Employer’s liability insurance (including WorkCover insurance)	as required by law
Contract Works Insurance – Asset Cover Amount (if no amount is specified, the amount in section Error! Reference source not found. of the Agreement applies).	
Professional indemnity insurance	
Public liability insurance	

9 REPORTING

Terms of Reference [delete if not needed]

The Terms of Reference for the Project Reference Group must be provided by the relevant Due Date specified in Schedule 3 and must contain the following information as a minimum:

- purpose
- project organisation chart
- membership
- functions and escalation
- meetings, agenda and minutes
- term.

Project Plan (type A) [delete if not needed]

The Project Plan must be provided by the relevant Due Date specified in Schedule 3 and must contain the following information as a minimum:

- Project Delivery Methodology, outlining how the Port Manager proposes to achieve the Project Brief;

-
- a Project Program, detailing the key Project activities and tasks to be completed by the Port Manager and its contractors against the Project timeline, including appropriate references to critical path, key milestones and deliverables;
 - a Project Budget, including a Cash Flow Forecast, commitments and contingencies, and key supporting assumptions;
 - a progress/status report for works completed to date;
 - a Project Risk Register, including key risk management/mitigation strategies and protocols; and
 - a Stakeholder Engagement and Communications Plan (or similar).

Project Plan (type B) [delete if not needed]

The Project Plan must be provided by the relevant Due Date specified in Schedule 3 and must contain the following information as a minimum:

- outline how the Port Manager proposes to achieve the Project Brief;
- opportunities and timing of communication of Project outcomes through signage and media;
- an overview of the Project's scope, budget and responsibilities; and
- a Project timeline.

Project Brief [delete if not needed]

The Project Brief must be provided by the relevant Due Date specified in Schedule 3 and must contain the following information as a minimum: <update as needed>

- Project objective(s);
 - scope of works;
 - delivery schedule;
 - Project organization and stakeholders;
 - Project delivery model;
 - approvals required for Project delivery;
 - key risks and mitigations; and
 - a Project budget consistent with the Office of Projects Victoria's *Risk, time, cost and contingency – Identifying, quantifying and managing risk, time, cost and contingency (2021)* (or other guidance as confirmed by the Secretary) containing the following information as a minimum:
 - a Project risk register identifying and quantifying Project delivery risks. Mitigation strategies must be developed for Project risks rated as moderate or above; and
 - a Project budget prepared by a qualified Quantity Surveyor including base cost estimate, base risk estimate and excess risk estimate (refer Figure 5 of the OPV guidance). The Project budget should include all design, approvals, procurement, project and contract management and construction costs.

Progress Reports (type A) [delete if not needed]

A Progress Report must be prepared by the Port Manager and provided to the Project Reference Group on a monthly basis during the Term, to reach it within seven (7) days after the end of the month. Each progress report must provide updates in relation to the Project Plan, including as a minimum: <update as needed>

- a statement of performance – summarising key project activities completed and in progress against the Project Program, including commentary on any material program changes, particularly those relating to critical path, key milestones and deliverables; and details of milestones to be achieved in next period;
- details of any health and safety-related incidents on site;
- details of any material contract(s) entered into by the Port Manager in that period, or otherwise as requested by the Secretary;
- updates in relation to the Project Budget and the Cash Flow Forecast (eg commitments, contingencies and assumptions), including commentary in relation to any material variation between actual expenditure and budget;
- updated Project Risk Register, including any issues identified to date or emerging issues, and mitigations; and
- stakeholder consultation and communications actions against the agreed plan.

Monthly Project Reference Group Meetings will be scheduled 14 days after the end of the month (or as close to) to consider and discuss the Monthly Progress Reports, and any other Project matters requiring consideration.

Progress Reports (type B) [delete if not needed]

Progress reports must be provided on a six-monthly basis [update as needed] during each year of the Term to reach the Department on 30 September and 31 March [update as needed]. Each progress reports must report on the following information as a minimum: <update as needed>

- details of works progress against the work program;
- project cashflow in comparison to budget;
- a commentary in relation to any substantial variation between actual expenditure and budget;
- a statement of project activities and performance against KPIs; and
- any issues to date or emerging issues.

Contract Summary Report [delete if not needed]

The Summary Report must be provided by the relevant Due Date specified in Schedule 3 and must contain the following details of proposed and executed contract/s as a minimum:

- contractor's name
- type of contract
- status of contract
- description of works
- value of contract

-
- start date, end date, and expiry date for defects period.

Final Report

The Final Report must be provided by the relevant Due Date specified in Schedule 3 and must contain the following information as a minimum: <update as needed>

- evidence that the Project has been completed;
- evidence that the infrastructure is operating;
- provision of as built drawings and maintenance plan
- finalised Project Program, Project Budget and expenditure, and Risk Register
- summary of key outcomes achieved in relation to the Project Brief (for example in terms of quality, timing, budget, risks and stakeholders);
- any issues, opportunities or lessons that arose in relation to the Project; and
- an updated contract register showing contracts for all works performed pursuant to the Project, that includes the following details:
 - contractor's name
 - type of contract
 - description of works
 - value of the contract
 - payments to date
 - outstanding payments
 - start date, end date, and expiry date for defects period
 - any other matter relating to finalisation of the contract.

EXECUTED as an agreement

Signed by an authorised representative of **Hon
Melissa Horne MP, Minister for Ports and
Freight** for and on behalf of the State of Victoria
in the presence of:)
)
)

Witness (Signature)

Signature of Authorised Representative

Witness (Print name)

Name of Authorised Representative

Date

Executed for and on behalf of **GLENELG
SHIRE COUNCIL** by its authorised
representative in the presence of:)
)
)

Witness (Signature)

Signature of Authorised Representative

Witness (Print name)

Position of Authorised Representative

Date:

Schedule 5 Annual Report Template

This template is provided as a guide only for Local Port Managers in the preparation of their Annual Report. The Annual Report must contain, as a minimum, the sections described here.

Cover Sheet

Table of Contents

Introduction

--

Chair's Report

--

Executive Officer's Report

--

Committee/Board

Description
Include details of: <ul style="list-style-type: none">• Members of the committee/governing body• Number of meetings held• Attendance of members at each meeting

Summary of Operations

Description
This is a non-financial summary of operations and may include: <ul style="list-style-type: none">• Number of berths and mooring permits• Number of itinerant vessel berthing• Amount of dredging undertaken• Major works completed/underway/planned• Maintenance works completed• Events

Performance /Program Reporting

Description
Include details of performance against: <ul style="list-style-type: none">• Program delivery (as per clause 10.2.1(x) of the Operational Services Agreement)• Objectives and projected performance, including explanations of objectives or projected performance not achieved• Safety and Environmental Management Plan (SEMP), SEMPA annual report and SEMPA audit recommendations• Incident reports (as per 10.2.1(xi) of the Operational Services Agreement)

Projected Performance for the coming year

--

Disclosures

Description
This includes details of disclosures, if any, under: <ul style="list-style-type: none">• <i>The Freedom of Information Act 1982 (Vic)</i>• <i>The Protected Disclosure Act 2012 (Vic)</i>

FOI Disclosures

--

Annual Financial Report

As per clause 10.2.1 of the Operational Services Agreement.

Schedule 6 Operational Services Plan Template

This template is provided as a guide only for Local Port Managers in the preparation of their annual Operational Services Plan. The Operational Services Plan must contain, as a minimum, the sections described here.

Cover Sheet

Table of Contents

Executive Summary

Purpose of the Operational Services Plan

Organisational Structure

Description
<p>The Executive Summary provides:</p> <ul style="list-style-type: none">• an overview of the local port;• briefly mentions major events; and• identifies the strategic direction of the organisation over the time frame of the plan.• An executive summary can outline past achievements, strengths, outlines future challenges and performance targets and recommendations <p>Hint: write last</p>

Purpose of the Operational Services Plan

Description
<p>This section will describe why the operational services plan is being developed.</p> <p>Likely reasons are to enable all stakeholders to understand:</p> <ul style="list-style-type: none">• future directions• needs and challenges• proposed implementations <p>Hint: Consider who will read this – e.g. the Department, users</p>

Organisational Structure

Description
<p>This would include:</p> <ul style="list-style-type: none">• brief outline of governance arrangements e.g. Committee of Council• the organisational chart

Business Overview

Description
<p>This can include the following sections:</p> <ol style="list-style-type: none">1. Background and Organisational History2. Local Port Facilities A brief overview of what facilities are available3. Accountability Detail the responsibilities of the Department, Safe Transport Victoria, Local Port, Other – make it clear to all4. Key activities/responsibilities e.g. dredging, mooring allocation Capital works program <p>Hint: write for external audience.</p>

Major Assumptions

Description
<p>This section should include details on short and long term:</p> <ul style="list-style-type: none">• goals;• objectives;• strategies; and• action plans, <p>and the underlying assumptions on which they are based.</p> <p>Some sample assumptions could be:</p> <ul style="list-style-type: none">• The organisation will receive funding from Government of \$X per annum over a three year period.• The port manager has to comply with statutory obligations.• The port manager will require additional administration support staff.

SWOT

Description
<p>This section demonstrates your understanding of the potential and limitations of the business. The following are examples:</p> <p><u>Strengths</u></p> <ul style="list-style-type: none">• good reputation with users

Description
<ul style="list-style-type: none"> sheltered harbour good quality facilities high user demand strong tourism <p><u>Weaknesses</u></p> <ul style="list-style-type: none"> demand for berthing exceeds supply no support facilities such as slipway or pump out facilities <p><u>Opportunities</u></p> <ul style="list-style-type: none"> growth in recreational fishing and boating strong tourist town <p><u>Threats</u></p> <ul style="list-style-type: none"> declining grant funding opportunities increasingly stringent dredging requirements <p>Hint: Use standard SWOT analysis techniques</p>

Risk Analysis

Description
<p>This would generally be in table format and include:</p> <ul style="list-style-type: none"> description of the risk impact mitigation strategy <p>The SEMP covers the some of the operational risks, and can be attached as an appendix.</p>

Goals and Strategies

Description
Describe goals and strategies to achieve goals

3 Year Financial Plan including detailed Annual Budget

Attach the budget prepared in accordance with clause 7.2.1 of the Operational Services Agreement.

Schedule 7 Reporting

Report to Department	Date	Who	Clause
Operational Services Plan	31 March	Port Manager	7.1.1
Annual Budget	31 March	Port Manager	7.2.1
Asset Register	31 March	Port Manager	6.6
Annual Report	30 September	Port Manager	10.2.1
Asset Management Plan	As soon as practicable upon entry into this Agreement, and then 30 September 2028 (and every 5 years thereafter)	Port Manager	13.1.3
Incident	As soon as practicable and without undue delay	Port Manager	11.1.4

Response by Department	Date	Who	Clause
Operational Services Plan	31 May	Department	Error! Reference source not found.
Annual Budget	31 May	Department	7.2.2