



**Borough of Queenscliffe**

**Local Law No. 1, 2010**  
**Processes of Municipal Government**

Adopted by Council:  
14 December 2010

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## **PART 1 - PRELIMINARY**

### **1. TITLE**

This Local Law is the Borough of Queenscliffe Local Law No. 1, 2010 – Processes of Municipal Government and referred to below as this Local Law.

### **2. OBJECTIVES OF THIS LOCAL LAW**

The objectives of this Local Law are to:

- (a) regulate and control proceedings for the election of Mayor;
- (b) facilitate the orderly conduct of meetings of Council and special committees;
- (c) regulate and control the procedures governing the conduct of meetings including:
  - (i) the notice required for meetings;
  - (ii) the keeping of minutes.
- (d) promote and encourage community participation in the system of local government by providing mechanisms for the Council to ascertain the community's views and expectations;
- (e) regulate and control the use of the Council's seal;
- (f) provide generally for the peace, order and good government of the municipal district; and
- (g) repeal any redundant local laws.

### **3. AUTHORISING PROVISIONS**

The Council's power to make this Local Law is contained in sections 91 and 111 of the Local Government Act 1989 and was prepared following due consideration of the Charter of Human Rights and Responsibilities Act 2006.

### **4. OPERATIONAL DATE OF THIS LOCAL LAW AND AREA OF OPERATION**

This Local Law:

- (a) comes into operation on the day following publication in the Victorian Government Gazette at which time Local Law No 1 2000 adopted by Council on 19 December 2000 will be revoked and cease to operate.
- (b) applies to and operates throughout the municipal district of the Borough of Queenscliffe.

## 5. DATE THIS LOCAL LAW CEASES OPERATION

This Local Law will cease to operate on the tenth anniversary of its commencement, unless otherwise revoked sooner.

## 6. DEFINITIONS

- (1) Expressions used in this Local Law have the same meaning as in the Local Government Act 1989 as defined in section 3 of that Act including Chief Executive Officer, municipal district, senior officer.
- (2) In this local law, unless the context otherwise requires -:

Absolute Majority	means a number of votes greater than one-half of the total number of votes cast.
Act	means the Local Government Act 1989 ("the Act").
Agenda	means the notice of a meeting setting out the business to be transacted at the meeting
Authorised Officer	means a Council Officer authorised by the Council under section 224 of the Act.
Chairperson	means the person who chairs a meeting of the Council or Special Committee of the Council.
Chief Executive Officer	means the Chief Executive Officer of the Council or a Council Officer appointed to act in place of the Chief Executive Officer.
Committee	means an advisory committee or special committee elected or nominated by the Council for the purpose of advising and making recommendations to Council.
Common Seal	means the Common Seal of the Council.
Council	means the Borough of Queenscliffe Council.

Councillor	means a person who is an elected member of the Council who has taken the oath of office in accordance with Section 63 of the Act.
Council Meeting	Means a meeting at which the Mayor is elected, an Ordinary meeting and a Special meeting of the Council.
Deliver	means to hand over in person or mail to a recipient, and includes transmission by email.
Division	means a formal count of those for and those against a motion generally to remove any doubt as to whether the motion is supported or opposed.
Formal Motion	means a motion which relates to a procedural matter only and which is not designed to produce any substantive result but used merely as a formal procedural measure.
Gallery	means the area set aside in the meeting room for the public.
Leave of Absence	means being absent from 3 consecutive ordinary meetings of Council.
Lot	is the method of determining which candidate is to be eliminated from a ballot in circumstances where there are an equal number of votes. In conducting the lot, candidate names are placed in a container and the first name drawn is deemed to be the defeated candidate.
Mayor	means the Mayor of the Council and includes any Councillor acting as Mayor.
Member	refers to a person who is entitled to vote at a meeting of the Council or a Special Committee of the Council.
Quorum	means the minimum number of members of a Council or of a Special Committee of Council required by this local law to be present in order to constitute a valid meeting of the Council or the Special Committee respectively.
Regulations	means the regulations created pursuant to section 243 of the Act.
Replica	means any representation which purports to be,



(in relation to the common seal of the Council)	looks like or is capable of being mistaken for the common seal whether fixed to or printed on a document or advertisement or sign and includes any use of a symbol resembling the common seal which is capable of misleading a person into believing it is issued with the authority of the Council.
Suspension of Standing Orders	means the suspension of the provisions of this Local Law to facilitate full discussion on an issue without formal constraints.
Urgent Business	means an item of business that requires immediate deliberation of Council and that which cannot be deferred to a following meeting.

## **7. LIMITATIONS**

Where a situation has not been provided for under this Local Law, the Council may determine the matter by resolution.

## **PART 2 – ELECTION OF MAYOR**

### **8 PURPOSE**

The purpose of this Part is to regulate the proceedings for the election of the Mayor in accordance with Section 71 of the Act, and if the Council so decides, a Deputy Mayor.

### **9. CALLING OF MEETING**

The meeting to elect the Mayor shall be held as soon as possible after any vacancy in the office of Mayor occurs, but not later than is required by the Act.

### **10. WHO WILL PRESIDE**

At any meeting to elect the Mayor, the Chief Executive Officer shall be appointed as a temporary Chairperson to preside over:

- (a) determination of term of office of the Mayor;
- (b) the receipt of nominations for the election of Mayor;
- (c) the election of the Mayor; and
- (d) if the meeting so decides, the receipt of nominations for and the election of a Deputy Mayor.

### **11. NOMINATION PROCEDURE**

- (1) The person presiding must call for nominations and a seconder of each nomination.
- (2) Any Councillor may move or second a nomination for a Councillor for the office of Mayor or Deputy Mayor.
- (3) Upon the nomination of a Councillor being moved and seconded, that Councillor must either accept or decline the nomination. If the nomination is accepted, the Councillor becomes a candidate.

## **12. ELECTION PROCEDURE**

- (1) The election of the Mayor and Deputy Mayor will be carried out by show of hands (subject to 12(2) below).
- (2) In determining the election of the Mayor or Deputy Mayor, the following will apply:
  - (a) where only one nomination is received, that Councillor must be declared elected;
  - (b) where two nominations are received, the Councillor with the majority of votes cast will be declared elected;
  - (c) where there are two or more nominations and all votes cast are equally divided between two or more nominees, the election must be determined by lot;
  - (d) where there are more than two nominations received and the result has not been determined under paragraphs (b) or (c) the nominee with the fewest number of votes cast must be eliminated (and if more than one of them, the nominee determined by lot) and the names of the remaining nominees must be put to the vote again;
  - (e) the procedure in paragraph (d) must be repeated until the circumstances in paragraph (c) apply or until there are only two nominees remaining in which case a further vote must be taken and the nominee with a majority will be declared elected or, if there is an equal division of votes, the election must be determined by lot.
- (3) A request to the Chairperson for a division must not be accepted.
- (4) If the meeting resolves to appoint a Deputy Mayor, the provisions contained in this Part for the election of Mayor will apply to the election of a Deputy Mayor.

## **13. MAYOR TO TAKE CHAIR**

- (1) Upon completion of matters set out in 10 above, the Mayor must take the Chair.
- (2) The Mayor must take the Chair at all Council meetings at which he or she is present unless precluded from doing so because of a conflict of interest.
- (3) In the absence of the Mayor, the Deputy Mayor shall take the Chair and shall also where required be the 'acting Mayor' within the meaning of the Act.
- (4) If a Deputy Mayor is not elected and the Mayor is absent, the longest serving Councillor (determined by total years on Council including time as Mayor) shall be elected to take the Chair of the meeting and shall also where required be the 'acting Mayor' within the

meaning of the Act, and if more than one Councillor meets this requirement then a Councillor shall be elected Deputy Mayor in accordance with the provisions contained in this Part.

## **PART 3 – COUNCIL MEETINGS**

### **DIVISION 1 - AGENDAS**

#### **14. DATES AND TIMES OF MEETINGS**

- (1) Council shall determine the date, time and place of all Council meetings.
- (2) The Chief Executive Officer must ensure that reasonable notice is provided to the public of any Council meeting.

#### **15. COUNCIL MAY ALTER MEETING DATES**

The Council may by resolution, change the date, time and place of any Council meeting which has been fixed and must provide reasonable notice of the changes to the public.

#### **16. SPECIAL COUNCIL MEETING**

- (1) The notice necessary to call a meeting in accordance with section 84 of the Act must be delivered to the Chief Executive Officer in sufficient time to enable reasonable notice to be given to Councillors.
- (2) In giving such notice, Councillors should have regard to any need for preparatory investigations to enable the business to be undertaken and shall provide the Chief Executive Officer with notice at least 72 hours prior to a proposed Special Council meeting.

#### **17. AGENDA OF MEETING**

- (1) The Agenda for any meeting must state:
  - (a) the date, time and place of the meeting; and
  - (b) the business to be dealt with at the meeting.
- (2) An Agenda of meeting specifying the business to be dealt with must be served on every Councillor (subject to 18 below):
  - (a) For an ordinary meeting at least 72 hours before the meeting; and

- (b) For a special meeting at least 48 hours before the meeting; and
  - (c) For a Committee meeting at least 48 hours before the meeting.
- (3) The Agenda for any meeting must state the date, time and place of the meeting and the business to be dealt with and must be delivered to each Councillors' place of residence or usual place of business (if applicable) or as otherwise specified by the Councillors.
  - (4) An Agenda notice may be handed personally to a Councillor in any location within the time required, or may be delivered to another destination, provided a written authorisation of the relevant Councillor is held by the Chief Executive Officer.
  - (5) The Agenda for any meeting which has been served on every Councillor in accordance with clause 17(2) must be made available to the public at least 48 hours before the meeting except where that meeting is to be closed or confidential.

## **18. LEAVE OF ABSENCE**

It will not be necessary for a notice of meeting or agenda to be served on any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting to be held during the period of his or her absence.

## **19. CONVENING OR CANCELLATION OF A COUNCIL MEETING**

- (1) In the case of an emergency or in other justifiable circumstances, following reasonable attempts to consult with the Mayor, the Chief Executive Officer may call or postpone a meeting of the Council, without the necessity to comply with Clause 14 provided reasonable attempts are made to notify every Councillor.
- (2) The Chief Executive Officer must submit a full written report of the circumstances requiring this action to the next ordinary meeting of the Council.

## **DIVISION 2 – QUORUMS**

### **20. COUNCIL MEETINGS**

The quorum required for all Council meetings will be a majority of the Councillors elected.

### **21. COMMITTEE MEETINGS**

The quorum for all Committee meetings will be not less than a majority of the members appointed to that Committee.

## **22. INABILITY TO GAIN A QUORUM**

If a quorum is not present within thirty (30) minutes of the scheduled starting time of a meeting:

- (a) the meeting shall be deemed to have lapsed;
- (b) the Chairperson must convene another Council or Committee meeting as the case may be within a period not exceeding seven days from the date of adjournment and ensure that the agenda for such meeting is identical to the agenda for the meeting that was deemed to have lapsed; and
- (c) the Chief Executive Officer must give all Councillors or Committee members as the circumstances require notice of the meeting convened by the Chairperson.

## **23. INABILITY TO MAINTAIN A QUORUM**

If during any meeting a quorum cannot be achieved and maintained, those Councillors or Committee members present, or if there are no Councillors or Committee members present, the Chief Executive Officer may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

## **24. INABILITY TO ACHIEVE OR MAINTAIN A QUORUM DUE TO CONFLICT OF INTERESTS OF COUNCILLORS**

If during any meeting a quorum cannot be achieved or maintained due to the number of declarations of conflicts of interest by Councillors, the Chief Executive Officer may adjourn debate on that item to a further meeting to enable an exemption for the affected Councillors to be obtained from the Minister in accordance with Section 80 of the Local Government Act 1989.

## **25. NOTICE OF ADJOURNED MEETING**

The Chief Executive Officer may provide written notice of an adjourned meeting but where that is not practicable because time does not permit that to occur then, provided a reasonable attempt is made to contact each member, notice by telephone, facsimile, email, in person or by some other means will be sufficient, provided such attempts are recorded in writing.

## **PART 4 – MINUTES OF COUNCIL MEETINGS AND COMMITTEE MEETINGS**

### **26. KEEPING OF MINUTES**

The Chief Executive Officer is responsible for arranging the keeping of minutes on behalf of the Council for all Council meetings.

### **27. NO DEBATE ON CONFIRMATION OF MINUTES**

No discussion or debate on the confirmation of minutes will be permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

### **28. OBJECTION TO CONFIRMATION OF MINUTES**

If a Councillor is dissatisfied with the accuracy of the minutes of a Council meeting, then he or she must:

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

### **29. DEFERRAL OF CONFIRMATION OF MINUTES**

Where an objection is raised under 28 above, Council may defer the confirmation of minutes until later in the meeting or until the next meeting as appropriate.

### **30. CONTENTS OF MINUTES**

- (1) In keeping the minutes of any meeting, the Chief Executive Officer, or in the case of a Committee meeting any other nominated person, must arrange the recording of minutes so as to show (as relevant in the circumstances):
  - (a) the names of Councillors and whether they are PRESENT, an APOLOGY, or LEAVE OF ABSENCE;
  - (b) the names of Officers IN ATTENDANCE with their organisational title;
  - (c) all declarations of direct and indirect interests by Councillors, members of Special Committees or Officers in relation to matters on the agenda of the meeting;



- (d) every motion and amendment moved, including the mover of any motion or amendment;
  - (e) the outcome of every motion, that is, whether it was put to the vote and the result of either CARRIED, LOST, CARRIED UNANIMOUSLY, WITHDRAWN, LAPSED, AMENDED
  - (f) where a valid division is called, a table of the names of every Councillor and the way their vote was cast; either FOR or AGAINST;
  - (g) when requested by a Councillor, a record of that Councillor's support or opposition for any motion;
  - (h) details of failure to achieve or maintain a quorum and any adjournment whether as a result or otherwise;
  - (i) details of any question directed or taken upon notice;
  - (j) details of any deputations made to the Council;
  - (k) the time and reason for any adjournment of the meeting or suspension of standing orders; and
  - (l) any other matter which the Chief Executive Officer, or in the case of Committee meetings other relevant person, thinks should be recorded to clarify the intention of the meeting or the reading of the Minutes or which is required by the Act.
- (2) In addition, the Minutes should:
- (a) bear the date, time and place the meeting was commenced, adjourned, resumed and concluded;
  - (b) be consecutively page numbered; and
  - (c) contain consecutive item numbers which are clearly headed with a subject titles and where appropriate sub-titles and file references.
- (3) Every minute and the item that it relates to be indexed through a central indexing system established and maintained by the direction of the Chief Executive Officer.
- (4) The Chairperson must sign the minutes when they have been confirmed.
- (5) Minutes of the meeting, unconfirmed, must be made available to the public within 14 days after the meeting (save for minutes of any closed or confidential meeting).

## **PART 5 – PROCEDURE AT COUNCIL MEETINGS**

### **DIVISION 1 – ORDER OF BUSINESS**

#### **31. CHIEF EXECUTIVE OFFICER MAY INCLUDE ITEMS ON AN AGENDA**

The Chief Executive Officer may include any matter on an agenda which he or she thinks should be considered by the meeting.

#### **32. THE PROCEDURE AND ORDER OF BUSINESS**

- (1) The procedure and order of business of Council meetings will be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government.
- (2) Although preparation should aim at consistent agendas from meeting to meeting, this should not preclude altering the order of business to enhance the fluent and open process of government of the Council, to meet identified needs of Council or to take advantage of opportunities which may arise from time to time.
- (3) In determining the agenda, the Chief Executive Officer should consider
  - (a) the general attitude of the Council;
  - (b) convenience to the community and interested community groups particularly in relation to the administration of the municipal district;
  - (c) the sensitivity of issues;
  - (d) the interest of the community and community groups; and
  - (e) any other relevant factor which may impact on the fluent and open processes of the government of the Council.

#### **33. CHANGE TO ORDER OF BUSINESS**

Once an agenda has been sent to Councillors, the order of business for that meeting may only be altered by resolution of the Council.

**34 DISCLOSURE OF INTERESTS**

- (1) All Councillors shall comply with Division 1A of Part 4 of the Act by disclosing any direct or indirect conflicts of interest.
- (2) Council Officers shall comply with Division 1A of Part 4 of the Act of the Act by disclosing any direct or indirect conflicts of interest.

**35. LEAVE OF ABSENCE**

Any Councillor seeking leave of absence from Council duties must do so in writing addressed to the Chief Executive Officer. Applications for leave shall be listed for consideration at the next Ordinary Meeting of Council.

**DIVISION 2 – VOTING****36. HOW DETERMINED**

- (1) In determining a question before a meeting of Council, the Chairperson will first call for those in favour of the matter before Council and then those opposed to the matter before Council.
- (2) Unless otherwise prohibited by the Act, each Councillor or member of the special committee present must vote.
- (3) Voting on any matter will be by show of hands.
- (4) The Chairperson shall declare the result of any vote as soon as it has been taken.

**37. CHAIRPERSON MAY VOTE**

- (1) The Chairperson is entitled to cast a vote.
- (2) In the event there is an equality of votes and subject to section 90(2) of the Act, the Chairperson shall have a second vote.

**38. WHEN A DIVISION IS PERMITTED**

- (1) A division may be requested by any Councillor on any matter.

- (2) The request must be made to the Chairperson either immediately prior to or immediately after the vote has been taken but cannot be requested after the next item of business has commenced.
- (3) A Councillor is not prevented from changing their original vote at the voting on the division.
- (4) The voting by division will determine the Council's resolution on the issue.

### **39. PROCEDURE FOR DIVISION**

- (1) When a division is called for, the vote already taken must be treated as a nullity and the division shall decide the motion or amendment.
- (2) Once a division has been requested the Chairperson will call for a show of hands by those Councillors voting in the affirmative and then those Councillors voting in the negative.
- (3) The Chairperson shall state, and the Chief Executive Officer (or the Officer authorised to attend the meeting and take the minutes of the meeting) must record the names of those Councillors voting in the affirmative and those voting in the negative.
- (4) The Chairperson must then declare the result of the vote or division as soon as it is taken.

### **40. NO DISCUSSION ONCE DECLARED**

Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion is:

- (a) for a Councillor to request that their opposition to the motion be recorded in the minutes; or
- (b) where a subsequent notice of motion follows a rescission motion.

## **DIVISION 3 – CONDUCT**

### **41. ADDRESSING THE COUNCIL**

- (1) Except for the Chairperson, any Councillor or person who addresses a Council meeting may stand and must direct all remarks through the Chairperson unless granted an exemption by the Chairperson.

- (2) Any person addressing the Chairperson should refer to the Chairperson as:
  - (a) Madam, Mrs, Ms, or Miss and then Mayor or Deputy Mayor;
  - (b) Mr. Mayor or Deputy Mayor;
  - (c) Madam, Mrs, Ms, or Miss and then Chairperson; or
  - (d) Mr. Chairperson, as the case may be.
- (3) All Councillors, other than the Mayor, should be addressed as Councillor and then the Councillor's surname.
- (4) All Officers should be addressed as Mrs., Ms., Miss or Mr and then the Officer's surname except the Chief Executive Officer who shall be addressed by his or her title.

#### **42. PRIORITY OF ADDRESS**

In the case of competition for the right to speak, the Chairperson must decide the order in which the Councillors concerned will be heard.

#### **43. CHAIRPERSON'S DUTY TO REJECT**

- (1) Any motion, question, statement or amendment which:
  - (a) is defamatory of any Councillor, Council Officer or member of the public; or
  - (b) is objectionable in language or nature; or
  - (c) is outside the powers of the Council; or
  - (d) is not relevant to the item of business on the Agenda and has not been admitted as Urgent Business; or
  - (e) purports to be an amendment but is not;must not be accepted by the Chairperson.
- (2) The Chairperson must call to order any person who:
  - (a) contravenes sub-clause 1; or
  - (b) is disruptive or unruly during a meeting.

**44. ORDER WITHDRAWAL OF REMARK**

- (1) The Chairperson may require a Councillor to withdraw any remark, which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- (2) A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

**45. VISITORS**

- (1) Visitors must not interject or take part in debate.
- (2) Silence shall be preserved in the gallery at all times.
- (3) If any visitor is called to order by the Chairperson and again acts in breach of this Local Law, the Chairperson may order that person to be removed from the gallery.

**46. CALL TO ORDER**

A person who has been called to order including any Councillor must comply with the Chairperson's direction.

Infringement Notice Penalty: 5 penalty units  
Maximum Penalty: 20 Penalty Units

**47. REMOVAL FOR DISRUPTION**

The Chairperson has discretion to cause the removal of any person including a Councillor who disrupts any meeting or fails to comply with a direction under the provisions of this Local Law.

**48. CHAIRPERSON'S EXERCISE OF AUTHORITY**

The Chairperson shall exercise the authority vested in him/her under this Local Law in a manner, which is judicious and consistent with the purposes of this Local Law.

**49. INTERRUPTION, INTERJECTIONS AND RELEVANCE**

- (1) A Councillor must not be interrupted except by the Chairperson or upon a point of order.

- (2) If a Councillor is interrupted by the Chairperson or upon a point of order, he or she must remain silent and be seated until the Chairperson has ceased speaking or the point of order has been determined.
- (3) A Councillor shall not digress from the subject matter of the motion or business under discussion.

## **DIVISION 4 - MOTIONS**

### **50. CHAIRPERSON'S DUTY**

Any motion or amendment which-

- (a) is defamatory; or
  - (b) is objectionable in language or nature; or
  - (c) is outside the powers of the Council; or
  - (d) is not relevant to the item of business on the Agenda and has not been admitted as urgent business; or
  - (e) purports to be an amendment but is not,
- must not be accepted by the Chairperson.

### **51. MOVING A MOTION**

The procedure for any motion is-

- (a) the mover must state the motion without speaking to it;
- (b) unless the motion is a formal motion, it must be seconded by a Councillor other than the mover;
- (c) if a motion is not seconded and is not a formal motion, the motion will lapse for want of a seconder;
- (d) if the motion is seconded, the Chairperson must ask, "Does the mover wish to speak to the motion", and if so ask,
  - (i) the mover to address the meeting on the motion, and then ask,
  - (ii) the seconder to address the meeting on the motion, who may, without speaking on the motion, reserve his or her address until later in the debate:

- (e) Following the address of the mover and/or the seconder the Chairperson must ask, "Is the motion opposed";
- (f) If no Councillor indicates opposition, the motion must be immediately put to the vote without any further discussion or debate.
- (g) If a Councillor indicates opposition, the Chairperson must request any other Councillor for and against the motion to speak in turn.

## **52. RIGHT OF REPLY**

- (1) The mover of an original motion which has not been amended may, once debate has been exhausted, have a right of reply to matters raised during debate.
- (2) After the right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate.

## **53. NO RIGHT OF REPLY FOR AMENDMENTS**

No right of reply is available where an amendment is before the Council.

## **54. MOVING AN AMENDMENT**

A motion having been moved and seconded may be amended by leaving out, inserting or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole.

## **55. WHO MAY PROPOSE AN AMENDMENT**

An amendment may be proposed or seconded by any Councillor, other than the mover of the original motion.

## **56. WHO MAY DEBATE AN AMENDMENT**

A Councillor may address the meeting once on any amendment, whether or not they have spoken to the original motion but debate must be confined to the terms of the amendment.

## **57. HOW MANY AMENDMENTS MAY BE PROPOSED**



Any number of amendments may be proposed to a motion but only one amendment maybe accepted by the Chairperson at any one time. No second or subsequent amendment, whether to the original motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.

## **58. AN AMENDMENT ONCE CARRIED**

If the amended motion is carried, it then becomes the question before the Chairperson.

## **59. FORESHADOWING MOTIONS**

- (1) At any time during debate, a Councillor may foreshadow a motion to inform the Council of his or her intention to move a motion at a later stage in the meeting, but 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 that a particular motion before the Chairperson is 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 Chief Executive Officer is not required to have foreshadowed motions recorded in the Minutes until the foreshadowed motion is formally moved, but may do if it is thought appropriate.

## **60. WITHDRAWAL OF MOTIONS**

Before any motion is put to the vote, it may be withdrawn with leave of the Council.

## **61. SEPARATION OF MOTIONS**

Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts.

## **62. CHAIRPERSON MAY SEPARATE MOTIONS**

The Chairperson may decide to put any motion to the vote in separate parts.

**63. MOTIONS IN WRITING**

- (1) The Chairperson may require any motion to be submitted in writing where it is lengthy, unclear or for any other reason.
- (2) The Chairperson may suspend the meeting while the motion is being written or may request the Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

**64. DEBATE MUST BE RELEVANT TO THE MOTION**

- (1) Debate must always be relevant to the question before the Chairperson, and if not, the Chairperson may request the speaker to confine debate to the subject motion.
- (2) If after being requested to confine debate to the motion before the Chairperson, the speaker continues to debate irrelevant matters, the Chairperson may require the speaker to be seated and not speak further in respect of the matter then before the Chairperson.

**65. SPEAKING TIMES**

Unless a motion for an extension of time has been carried, the maximum speaking times will be:

- (a) the mover of a motion - five minutes;
- (b) the mover of a motion when exercising his or her right of reply - three minutes;
- (c) any other Councillor - three minutes.

**DIVISION 5—EXTENSION OF SPEAKING TIME****66. GRANTED BY THE CHAIRPERSON**

An extension of speaking time may be granted by the Chairperson.

**67. NO EXTENSION AFTER NEXT SPEAKER COMMENCED**

A request of an extension of speaking time cannot be accepted by the Chairperson if another speaker has commenced his or her debate.

**68. LENGTH OF EXTENSION**

Any extension of speaking time must not exceed three minutes, without the authority of the Chairperson.

**DIVISION 6 - POINTS OF ORDER AND PROCEDURAL MOTIONS****69. CHAIRPERSON TO DECIDE**

The Chairperson will decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.

**70. CHAIRPERSON MAY ADJOURN TO CONSIDER**

- (1) The Chairperson may adjourn the meeting to consider a point of order otherwise she or he must rule on it as soon as it is raised.
- (2) All other matters before the Council are to be suspended until the point of order is decided.

**71. FINAL RULING ON A POINT OF ORDER**

- (1) The decision of the Chairperson in respect to a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present move a motion of dissent.
- (2) A motion of dissent on a point of order must contain the provision, rule, practice or precedent in substitution for the Chairperson's ruling.
- (3) A motion of dissent in relation to a point of order is not a motion of dissent in the Chairperson and the Chairperson must at all times remain in the Chair and he or she will maintain his or her right to a second vote.
- (4) A motion of dissent on a point of order will take precedence over all other business and if carried must be acted on instead of the ruling given by the Chairperson.

**72. PROCEDURE FOR POINT OF ORDER**

A Councillor raising a point of order must:

- (a) state the point of order; and
- (b) the clause, paragraph or provision constituting the point of order.

### **73. VALID POINTS OF ORDER**

A point of order may be raised in relation to:

- (a) a procedural matter;
- (b) a Councillor who is or appears to be out of order; or
- (c) any act of disorder.

### **74. CONTRADICTION OF OPINION**

Rising to express a mere difference of opinion or to contradict a speaker will not be treated as a point of order.

### **75. ADJOURNMENT AND RESUMPTION OF MEETING**

- (1) The Chairperson or the Council may adjourn any meeting until a time and place to be determined at the time of the adjournment.
- (2) For the purpose of stating the time to which the meeting is adjourned, that time may be indicated as at the adjournment or conclusion of another meeting or event.

### **76. FORMAL MOTIONS**

- (1) Unless otherwise prohibited, a formal motion, if seconded, may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) The mover of a formal motion must not have moved, seconded or spoken to the question before the Chairperson or any amendment of it.
- (3) A formal motion cannot be moved by the Chairperson.
- (4) Unless otherwise provided, debate on a formal motion is not permitted and the mover does not have a right of reply.
- (5) Unless otherwise provided, a formal motion cannot be amended.

**77. LAYING THE QUESTION ON THE TABLE**

- (1) A motion may be moved "That the (question, letter, document, report etc.) lay on the table"-
- (2) The motion in sub-clause (1):
  - (a) is a formal motion which may be debated and, if carried, has the effect of adjourning any further debate on the matter currently before the Council until such time (if any) as the Council resolves to take the question from the table; and
  - (b) if carried in respect to an amendment, has the effect that both the original motion and the amendment will be adjourned; and
  - (c) prevents debate on the matter currently before the Council proceeding until a motion to take the question from the table is passed.

**78. PROCEEDING TO THE NEXT BUSINESS**

- (1) A motion may be moved "That the meeting proceed to the next business"-
- (2) The motion in sub-clause (1):
  - (a) is a formal motion which cannot be moved during the election of Chairperson; and
  - (b) if carried in respect to an original motion, requires the Chairperson to direct the meeting to the next item of business; and
  - (c) if carried in respect to a formal motion, disposes of the formal motion immediately and permits debate upon the original motion to proceed; and
  - (d) if carried in respect to an amendment, disposes of the amendment immediately and permits debate upon the original motion to proceed but no similar amendment may be moved at that meeting or any adjournment of it.

**79. THE PREVIOUS QUESTION**

- (1) A motion may be moved "That the question be NOT now put"-
- (2) The motion in sub-clause (1):
  - (a) is a formal motion which cannot be moved while there is an amendment before the Chairperson or during the election of a Chairperson; and

- (b) if carried, prevents the original motion to which it relates being dealt with at that meeting or any adjournment of it; and
  - (c) if lost, requires that the original or substantive motion to which it relates be put to the vote immediately without any further debate or amendment.
- (3) The Chairperson has the discretion to reject a motion for the previous question if the matter is contentious by nature or has not been adequately debated.
- (4) Adequate debate arises when every Councillor who wishes to put a view has had an opportunity to do so.

## **80. THE CLOSURE**

- (1) A motion "That the motion be now put"-
- (2) The motion in sub-clause (1):
- (a) is a formal motion which if carried in respect to an original motion, requires that the original motion must be put to the vote immediately without any further debate, discussion or amendment; and
  - (b) if carried in respect to an amendment, requires that the amendment be put to the vote immediately without any further debate or discussion and allows debate on the original motion to continue; and
  - (c) if lost, allows debate to continue unaffected.
- (3) The Chairperson has the discretion to reject such a motion for closure if the motion upon which it is proposed has not been sufficiently debated.
- (4) Sufficient debate arises when those possessing different views have been given an opportunity to state them.

## **81. ADJOURNING THE DEBATE**

- (1) A motion may be moved "That the motion and amendments now before the meeting be adjourned until....."-.
- (2) The motion in sub-clause (1):
- (a) is a formal motion which cannot be moved while any person is speaking or during the election of a Chairperson; and

- (b) may be debated but may only be amended in relation to the time, date and place of the proposed adjournment.
- (c) should provide a date or time to which the adjournment is sought but if no date or time is included, it may be relisted at the discretion of the Chief Executive Officer or upon a subsequent resolution of Council.

## **DIVISION 7–NOTICE OF MOTION**

### **82. MUST BE LISTED ON AGENDA**

A notice of motion cannot be accepted by the Chairperson unless it has been listed on the agenda as a Notice of Motion for the meeting at which it is proposed to be moved.

### **83. PROCEDURE**

A Councillor may give notice of their intention to move a motion on any matter he or she wants discussed at a meeting by delivering a notice of motion in writing outlining the subject and the motion proposed for discussion to the Chief Executive Officer in sufficient time to allow him or her to deliver the notices to all Councillors at least 72 hours prior to the meeting for which notice was given.

### **84. REJECTION OF A VAGUE NOTICE**

The Chief Executive Officer-

- (a) may reject any notice of motion that is too vague, but before rejecting it must give the Councillor delivering the notice an opportunity to amend it; and
- (b) must notify the relevant Councillor of any notice of motion which has been rejected and give the reasons for its rejection.

### **85. LISTING NOTICE ON AGENDA**

Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the notice of motion and if more than one, in the order they were received, on the next appropriate meeting agenda.

## **86. REGISTER OF NOTICES**

The Chief Executive Officer must cause every notice of motion received to be sequentially numbered and maintained in a register.

## **87. MAY BE MOVED BY ANY COUNCILLOR AND AMENDED**

A notice of motion listed on a meeting agenda, may be moved by any Councillor present and, except where the notice of motion is to confirm a previous resolution of the Council, may be amended.

## **88. EXCEPT FOR CONFIRMATION OF PREVIOUS RESOLUTION**

If a notice of motion to confirm a previous resolution of the Council cannot be carried in its original form, it is lost.

## **89. IF LOST**

Unless the Council resolves to re-list at a future meeting a notice of motion which has been lost, a similar motion must not be put before the Council for at least three months from the date it was last lost.

## **DIVISION 8 – NOTICE OF AMENDMENT OR RESCISSION**

### **90. PROCEDURE**

- (1) A Councillor may propose a motion to amend or rescind a decision of the Council provided:
  - (a) the previous motion has not been acted upon; and
  - (b) a notice is delivered to the Chief Executive Officer outlining;
    - (i) the decision proposed to be amended or rescinded; and
    - (ii) the meeting and date when the decision was made.
- (2) A decision will be acted upon once its details have been formally communicated to persons affected by or reliant on the resolution or where a statutory procedure has been carried out as a result of that decision.



## **91. LISTING NOTICE ON AGENDA**

Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the notice of amendment or rescission, and if more than one, in the order they were received, on the next appropriate meeting agenda, together with a brief report outlining the criteria required for the motion to be amended or rescinded.

## **92. CRITERIA TO AMEND OR RESCIND A MOTION**

For a decision of the Council to be amended or rescinded, the motion for amendment or rescission must be carried by a majority of the votes cast.

## **93. IF LOST**

Unless the Council resolves to re-list at a future meeting a notice to amend or rescind which has been lost, a similar motion must not be put before the Council for at least three months from the date it was last considered.

## **94. IF NOT MOVED**

If a notice of amendment or rescission is not moved at the meeting for which it is listed, it will lapse.

## **95. MAY BE MOVED BY ANY COUNCILLOR**

A notice of amendment or rescission listed on a meeting agenda may be moved by any Councillor present but cannot be amended.

## **96. WHEN NOT REQUIRED**

A notice of amendment or rescission is not required where the Council wishes to change a previous decision relating to policy of the Council.

## **97. REGISTER OF NOTICES**

The Chief Executive Officer must cause every notice of amendment or rescission received to be sequentially numbered and to be maintained in a register.

**98. URGENT BUSINESS**

The acceptance of urgent business, as defined in clause 6, which has not been listed on the agenda shall be determined by the Chairperson.

**DIVISION 9– QUESTIONS AND PETITIONS****99. QUESTIONS WITH NOTICE**

- (1) A Councillor who wishes to give notice of a question to the Mayor or to an Officer and to have that question answered at a meeting of the Council, must deliver that question in writing to the Chief Executive Officer specifying the meeting of the Council at which the answer is required, at least seven clear days before the meeting as specified.
- (2) The Chief Executive Officer must then –
  - (a) include the question in the agenda for the meeting specified; and
  - (b) endeavor to arrange for a written or verbal answer to be given at that meeting.
- (3) A Councillor must not give notice of more than three questions to be answered at a meeting under sub-clause (1).

**100. QUESTIONS WITHOUT NOTICE**

- (1) If the agenda for a meeting of Council includes as an item 'Questions Without Notice', then, when the agenda item is being dealt with, the Chairperson must ask each Councillor in turn whether he or she has a question. A Councillor who indicates he or she has a question may then address questions to the Chief Executive Officer or to the Mayor. The person to whom a question is addressed must then endeavour to answer the question.
- (2) The Chairperson must disallow frivolous questions or questions not related to business of the Council or of the municipal district.
- (3) If a Councillor has asked three questions, as provided in sub-clause (1), the Chairperson may disallow any further questions by that Councillor.

## 101. OTHER QUESTIONS

The Chairperson may allow a member to ask a question of the mover of a motion or of an officer of the Council who is present at the meeting in order to clarify the intent of a motion or to obtain information which, in the opinion of the Chairperson, is relevant to a motion or other matters then being considered by the meeting.

## 102. QUESTIONS FROM THE PUBLIC

- (1) A maximum of one question will be accepted by any one person per Council meeting.
- (2) A maximum of 20 minutes has been allocated for the answering of questions during the Council meeting, unless otherwise determined by the Chairperson.
- (3) The person submitting the question must be in attendance at the meeting for the question and answer to be read out at the meeting. If the person is not in attendance a written response will be forwarded to them by the Chief Executive Officer.
- (4) Only questions submitted in writing on the 'Public Question Time' Form (refer Schedule 1) prior to the opening of the meeting will be accepted, unless otherwise accepted by the Chairperson.
- (5) The Chairperson will nominate the appropriate person to respond to each question.
- (6) The Chairperson or Chief Executive Officer may disallow any question which is considered to:
  - (a) relate to a matter beyond the power or duties of Council;
  - (b) be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
  - (c) be confidential in nature or of legal significance;
  - (d) be repetitive of a question already answered (whether at the same or any earlier meeting);
  - (e) be aimed to embarrass a Councillor, or member of Council staff;
  - (f) relate to personnel matters;
  - (g) relate to the personal hardship of any resident or ratepayer;
  - (h) relate to proposed developments or legal advice;

- (i) relate to matters affecting the security of Council property;
  - (j) relate to any other matter which Council considers would prejudice the Council or any person.
- (7) The Chairperson will ascertain that the person asking the question is present in the gallery and will read or direct that the question be read.
- (8) The Chairperson has the discretion to seek clarification of the question if deemed necessary but otherwise the person asking the question is not permitted to enter into debate with or directly question Councillors or members of Council staff.
- (9) The person nominated to respond to a question has the right to have the question put on notice if an answer is not immediately available, in which case a written answer will be forwarded.
- (10) A Councillor or a member of Council staff may advise the meeting that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or member of Council staff will state briefly the reason why the reply should be so given and Council shall determine whether a resolution to close the meeting is required.
- (11) A Councillor responding to a question may seek additional information from a Council officer to assist in the answering of that question.
- (12) The Chairperson shall advise the meeting in regard to any question which has been disallowed and such question shall be available to Councillors on request.

### **103. PETITIONS AND JOINT LETTERS**

A petition or joint letter presented to the Council must lay on the table until the next ordinary meeting of the Council and no motion, other than to receive the petition or joint letter may be accepted by the Chairperson, unless the Council agrees to deal with it earlier.

### **104. SIGNING PETITIONS**

A person must not fraudulently sign a petition or joint letter which is presented to the Council.

Infringement Notice Penalty: 5 penalty units  
Maximum Penalty: 20 Penalty Units

### **105. COUNCILLOR PRESENTING A PETITION - OBLIGATIONS**

Any Councillor presenting a petition or joint letter will be responsible for ensuring that-

- (a) he or she is familiar with the contents and purpose of the petition or joint letter; and
- (b) the petition or joint letter is not derogatory or defamatory.

## **PART 6 – COMMON SEAL**

### **106. THE COUNCIL'S COMMON SEAL**

- (1) The Chief Executive Officer may use the common seal consistent with his or her delegations.
- (2) Outside of the Chief Executive Officer's delegations, the common seal may be used only on the authority of the Council.
- (3) When the common seal is used on the authority of the Council the document must be signed by the Chief Executive Officer and at least one Councillor.
- (4) The Chief Executive Officer must keep a register of documents to which the common seal is affixed under delegation by the Chief Executive Officer or by resolution of Council.
- (5) A person must not use the Council's common seal, or any replica, without authority

Infringement Notice Penalty: 10 penalty units  
Maximum Penalty: 20 penalty units

- (6) The Chief Executive Officer must keep the common seal in safe custody.

## **PART 7 – ENFORCEMENT AND PENALTIES**

### **107. INFRINGEMENT NOTICES**

- (1) An authorised officer may issue an infringement notice in accordance with the Infringement Act 2006 and associated regulations and requirements.
- (2) The fixed penalty in respect of an infringement is the amount set out in Schedule 2.

### **108. PAYMENT OF PENALTY**

- (1) A person issued with an infringement notice may pay the penalty indicated to the Chief Executive Officer, Borough of Queenscliff, PO Box 93, Queenscliff, Victoria 3225.
- (2) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (3) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

# SCHEDULE 1



## Borough of Queenscliffe

### PUBLIC QUESTION TIME

Please complete details below, and submit to the Chief Executive Officer prior to the opening of the Ordinary Meeting of Council.

**Please refer to the full procedural guidelines attached to this form.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

or Name of Organisation represented: \_\_\_\_\_

Contact Telephone: \_\_\_\_\_

Date of Council Meeting: \_\_\_\_\_

**\* PRIVACY – Declaration**

I am willing to opt for my personal information to appear in the Council minutes. Please tick appropriate box. **Name:**  Yes  No **Address:**  Yes  No

**QUESTION(s)**

Please be as brief and as concise as possible and PRINT using BLOCK LETTERS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* Note: Council is committed to the privacy principles as prescribed by the Information Privacy Act. It is your option as to whether your name and/or address (street name only) appears within the Council minutes.



## SCHEDULE 2

### PENALTIES FIXED FOR INFRINGEMENTS

Clause	Offence	Penalty Units
46	Any person who has been called to order including any Councillor who fails to comply with the Chairperson's direction will be guilty of an offence.	5
105	Fraudulently signing a petition or joint letter	5
107	Using the common seal or a replica of the seal without authority	10

Note: The Sentencing Act 1991 prescribes the value of a penalty unit in the Local Law at \$100. Penalty units are indexed annually.  
The Penalty Unit is currently indexed at \$119.45 for 2010-2011 Financial Year.

