



Minutes

Special Meeting of Council

Wednesday 25 May 2016 at 6:00pm

Queenscliff Town Hall
50 Learmonth Street, Queenscliff

Distribution

Councillors

Cr. Helene Cameron (Mayor)

Cr. Bob Merriman

Cr. Peter Russell

Cr. Susan Salter

Cr. Sue Wasterval

Officers

Lenny Jenner - Chief Executive Officer

Lynne Stevenson - General Manager Corporate & Community Services

Phil Josipovic - General Manager Planning & Infrastructure



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Appendix	Title	Agenda Item	Distribution
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1. OPENING OF MEETING

The Meeting opened at 6:02pm

2. PRESENT & APOLOGIES

Present:

Cr. Helene Cameron (Mayor)

Cr. Bob Merriman

Cr. Peter Russell

Cr. Susan Salter

Mr. Lenny Jenner - Chief Executive Officer

Mr. Phil Josipovic - General Manager Planning & Infrastructure

Ms. Jessica Chappell – Executive Officer Community Engagement & Customer Services

Apologies:

Cr. Sue Wasterval

Ms. Lynne Stevenson - General Manager Corporate & Community Services

3. PECUNIARY INTEREST & CONFLICT OF INTEREST DISCLOSURES

Councillors must disclose a conflict of interest in accordance with Section 79 of the Local Government Act 1989.

Councillors: Nil

Officers: Nil



4. GOVERNANCE & FINANCE

4.1 Review of Council Policy CP005 Councillor Code of Conduct

File:	QG055-01-12
Report Author:	Chief Executive Officer
Strategic Objective:	A proactive and accountable Council
Portfolio:	Governance and Finance
Portfolio Holder:	Cr Bob Merriman

Purpose

The purpose of this report is for Council to consider a revised CP005 Councillor Code of Conduct policy which has been made in accordance with new requirements contained in S81AA of the Local Government Act 1989.

Background

Maintaining good governance is a core role of Council and the timely and regular review of Council policies is essential to ensuring that current and relevant direction and guidance is available to Council and Council officers in relation to the core corporate governance functions of Council.

Establishment of Council policies are typically influenced by a range of considerations, such as:

- Ensuring compliance with legislative requirements,
- Alignment with best practice guidelines applicable to the local government sector and/or business,
- Implementing internal and external audit recommendations, and
- Conveying Council's strategic intent to the organisation and/or the community in relation to a Council function or responsibility.

Council policies are typically reviewed on a cyclical basis or may also require review following an applicable legislative change, issue of updated best practice guidance documents or following an audit recommendation.

The revised policy included in this report forms part of management's regular program of review and continuous improvement.



Key Issues

1. The Code clearly articulates Councillor conduct standards.
2. New obligations under the recently amended section 81AA of the *Local Government Act 1989* have been included.
3. The role of a Councillor and functions of the Mayor is included as it is now clearly defined within the *Local Government Act 1989*.
4. Direct hyperlinks to sections of the relevant Acts and Council policies enables easy access to those references.

Discussion

The Council policy presented has been updated by Council officers in accordance with a regular program of review by management. The policy has been reviewed to ensure compliance with current legislation and some minor formatting changes.

This policy was last reviewed by Council on 18 September 2013. The purpose of the policy is to ensure compliance with the *Local Government Act 1989* and provide an assurance to the community that Councillors are committed to working together in the best interests of the people within the municipality by discharging their responsibilities to the best of their skill and judgment.

The major element prompting the revision of the policy is to include the new requirements contained within Section 81AA of the *Local Government Act 1989*, which states:

- (1) *A Council must develop and maintain an internal resolution procedure for the purposes of addressing an alleged contravention of the Councillor Code of Conduct by a Councillor.*
- (2) *The internal resolution procedure of a Council must—*
 - (a) *be specified in the Councillor Code of Conduct; and*
 - (b) *incorporate any prescribed processes including any application process; and*
 - (c) *provide for the selection of an arbiter who is suitably independent and able to carry out the role of arbiter fairly; and*
 - (d) *specify the role an arbiter is expected to undertake in the conduct of any internal resolution procedure including that the arbiter must—*
 - (i) *consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor; and*
 - (ii) *make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the arbiter must give to the Council; and*
 - (e) *provide processes to ensure that parties affected by an application alleging a contravention of the Councillor Code of Conduct are given an opportunity to be heard by the arbiter; and*
 - (f) *specify that the Council and the Councillor the subject of any application made alleging a contravention of the Councillor Code of Conduct are to be given written reasons for any findings made by an arbiter; and*



- (g) address any matters prescribed for the purposes of this section; and
(h) include any provisions prescribed for the purposes of this section.

A summary of the proposed amendments to CP005 are as follows:

Section	Reason for proposed Amendment
CONTEXT	<ul style="list-style-type: none">• Hyperlink references to <i>Local Government Act 1989</i> and <i>Evidence (Miscellaneous Provisions) Act 1958</i>
DEFINITIONS	<ul style="list-style-type: none">• insert definition of 'Misconduct' as defined in the <i>Local Government Act 1989</i> to provide clarity in point 15.7
POLICY 2. Councillor Conduct Principles 3. Councillor Behaviours 4. Role of a Councillor 5. Role of the Mayor 7. Confidential Information 8. Access to and Use of Council Information 9. Use of Council Resources 10. Relationships with Staff 11. Gifts 12. Fraud 14. Conflict of Interest Procedures 15. Dispute Resolution Procedures	<ul style="list-style-type: none">• Insert 1989, after <i>Local Government Act 1989</i> and hyperlink reference to sections 76B and 76BA of the Act.• Insert reference to point 14. Conflict of Interests• Insert new point 4. Role of a Councillor, as this has now been clearly defined in the recent amendment to the <i>Local Government Act 1989</i> and hyperlink reference to section 65 and section 94A of the Act.• Insert new point 5. Role of the Mayor, as defined in the <i>Local Government Act 1989</i> and hyperlink reference to sections 73, 65, 76B, 76BA and 76C of the Act• Hyperlink reference to section 77 of the Act• Hyperlink reference to section 77 of the Act and change reference to <i>Information Privacy Act 2000</i> (repealed) to <i>Privacy and Data Protection Act 2014</i>• Insert reference to relevant Council policies and hyperlink to policy documents• Hyperlink to section 76E of the Act and replace CEO with Chief Executive Officer• Insert reference to relevant Council policy and hyperlink to policy document• Insert reference to relevant Council policy and hyperlink to policy document• Insert reference to and hyperlink relevant sections of the <i>Local Government Act</i> relating to Conflict of Interests• Insert new point 15.5 to detail internal resolution



Section	Reason for proposed Amendment
	<p>process and the appointment of an independent arbiter.</p> <ul style="list-style-type: none">• Insert new point 15.6 to detail the application process to commence the internal resolution process• Insert new point 15.7 to clearly articulate that not participating in the internal resolution procedure or a written direction given by the Council may result in a Councillor being found guilty of misconduct.
POLICY REVIEW	<ul style="list-style-type: none">• Inclusion of a regular schedule of review, in accordance with the <i>Local Government Act 1989</i>
REFERENCES	<ul style="list-style-type: none">• Include reference to <i>Evidence (Miscellaneous Provisions) Act 1958</i> and <i>Privacy Data and Protection Act 2014</i> as they are referred to in policy.• Include reference to Council policies CP009 Gifts Benefits & Hospitality, CP008 Fraud Prevention, CP018 Councillor Support, Resources & Facilities and CP021 Election Caretaker Period, as they are referred to in policy.• Remove reference to Minutes of Statutory Meeting of Council – 14 November 2012

Council Plan

The draft Council policies align with Strategic Objective 5 in the Council Plan 2013 – 2017 “A *proactive and accountable Council.*” The draft policies are consistent with the related Council Plan Strategy to “*Provide transparent, open and accountable governance and ensure compliance with relevant legislation*”.

Financial

There are no financial implications of this report.

Social

The Councillor Code of Conduct includes conduct principles and behaviours that inform communications and interaction between Councillors, between Councillors and officers and between Councillors and the general public.

Environmental

There are no environmental implications of this report.



Risk Management

In adopting the revised Councillor Code of Conduct, Council meets its obligations under the recently amended *Local Government Act 1989*.

Officer Direct or Indirect Interest

Under Section 80C (1) (2) of the Local Government Act 1989, Council staff and persons engaged under a contract to provide advice or a report to a meeting of the Council or a special committee, and who have a direct or indirect interest in a matter to which the advice or report relates, must disclose the type of interest when providing the advice or report and before the advice or report is considered by the Council or the committee.

Officers involved in developing the report have no direct or indirect interests.

Conclusion

In adopting the Councillor Code of Conduct, Council meets its obligations under the *Local Government Act 1989* and establishes conduct principles and behaviours that will inform communications and interaction between Councillors, between Councillors and officers and between Councillors and the general public.

Councillors Merriman / Russell:

That Council adopt Council Policy CP005 - Councillor Code of Conduct as presented in Appendix 1 and that all Councillors make a declaration in writing before the Chief Executive Officer, within one month of adoption, stating that they will abide by the Councillor Code of Conduct.

Carried unanimously

Councillor Request (Cr Merriman):

Request officers provide a briefing (with external advice as necessary) on the recent advice received from the Minister for Local Government and the associated report tabled in State Parliament as well as Susan Halliday's report, on matters related to the City of Greater Geelong operations and the subsequent dismissal of the Council, and if there are any specific implications for the Borough of Queenscliffe Council.

5. CLOSE OF MEETING

The Meeting closed at 6:16pm