



Borough of Queenscliffe

Governance Rules

Adopted by Council:
28 September 2022

[NB – the table of contents, clause numbering and cross-referencing of clauses will be checked again for accuracy when finalising the Governance Rules. This note does NOT form part of the Governance Rules]

Introduction

1. Nature of Rules

These are the Governance Rules of the Borough of Queenscliffe Council, made in accordance with section 60 of the *Local Government Act 2020*.

2. Date of Commencement

These Governance Rules commence on [Insert date].

3. Contents

These Governance Rules are divided into the following Chapters:

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4. Definitions

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

Act means the *Local Government Act 2020*.

attend, attending and in attendance include attend, attending or in attendance by electronic means.

Chief Executive Officer means the person appointed by a Council to be its Chief Executive Officer or any person acting in that position ~~includes an Acting Chief Executive Officer.~~

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

Council means Borough of Queenscliffe Council.

Council meeting has the same meaning as in the *Act*.

~~Delegated Committee means a Delegated Committee established under section 63 of the Act.~~

Election Period has the same meaning as in the *Act*.

Mayor means the Mayor of Council, ~~and includes any Councillor acting as Mayor~~

these Rules means these Governance Rules.

Note: further definitions particularly relevant to meeting procedures are contained in Chapter 2

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Chapter 1 – Governance Framework

1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
 - (i) Council Plan; and
 - (ii) Councillor Code of Conduct

2. Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *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 views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (i) 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;
 - (ii) 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 has or persons have been provided with an opportunity to communicate their views and have their interests considered;
 - (iii) if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
 - (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

[NB – the table of contents, clause numbering and cross-referencing of clauses will be checked again for accuracy when finalising the Governance Rules. NB The table of contents below has not been updated to reflect the proposed changes. This note does NOT form part of the Governance Rules.]

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CHAPTER 2 - PART 1 - PRELIMINARY

1. TITLE

This Chapter will be known as the "Meeting Procedure Chapter".

2. PURPOSE OF THIS CHAPTER

The purpose of this Chapter is to:

- (a) provide for the election of Mayor and any Deputy Mayor;
- (b) provide for the appointment of any Acting Mayor;
- (c) facilitate the orderly conduct of meetings of Council and special committees;
- (d) provide for procedures governing the conduct of meetings including:
 - (i) the notice required for meetings;
 - (ii) the keeping of minutes.
- (e) 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;

3. DEFINITIONS

- (1) Expressions used in this Chapter have the same meaning as in the Local Government Act 2020 as defined in section 3 of that Act including Chief Executive Officer and municipal district.
- (2) In addition to the definitions contained in the Introduction of these this local law Governance Rules the following definitions apply to meeting procedures, 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 2020 ("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 to act on its behalf.
Chairperson	means the person who chairs a meeting of the Council or an Asset or Delegated Committee of the Council.
Chief Executive Officer	means the person appointed by a Council to be its Chief Executive Officer or any person acting in that position.
Committee	means an advisory committee or special committee elected or nominated by the Council for the

	purpose of advising and making recommendations to 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 30 of the Act.
Council Meeting	Means <u>has the same meaning contained in the introduction of these Governance Rules and includes</u> 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 <u>or electronic means including via</u> and Council's website.
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.
Municipal District	means the district under the local government of a Council.
Quorum	means the minimum number of members of a Council or of a Special Committee of Council required by this local law <u>these Governance Rules</u> to be present in order to constitute a valid meeting

of the Council or the Special Committee respectively.

Reasonable Notice

will depend on the circumstances but a minimum notice of 48 hours prior to a Council Meeting will always be provided

Suspension of Standing Orders

means the suspension of the provisions of this Chapter 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, is described at clause 88.~~

Vote

means an expression of opinion by a physical indication of voting intention (for example by a show of raising a hand), either in person or by virtual attendance.

4. LIMITATIONS

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

PART 2 – ELECTION OF MAYOR

5. PURPOSE

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

6. 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.

7. 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.

8. 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.

9. ELECTION PROCEDURE

- (1) The election of the Mayor and Deputy Mayor will be carried out by vote (subject to 9(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) ~~If~~ 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.

~~(3) A request to the Chairperson for a division must not be accepted.~~

~~(4)~~(3) 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.

10. MAYOR TO TAKE CHAIR

- (1) Upon completion of matters set out in 9 above, the Mayor must take the Chair.
- (2) The Mayor must take the Chair at all Council meetings at which they are 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 Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:
 - (a) resolving that a specified Councillor be so appointed; or
 - (b) following the procedure in clauses 8 and 9 (inclusive) of this Chapter at its discretion.

PART 3 – COUNCIL MEETINGS

DIVISION 1 - AGENDAS

Introduction: This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, and when and how business may be transacted at a meeting.

11. 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.

12. 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.

13. SPECIAL COUNCIL MEETING

- (1) The notice necessary to call a meeting ~~in accordance with section 84 of the Act must~~ will 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.

14. MEETINGS NOT FIXED BY COUNCIL

- (1) The Mayor or at least 3 Councillors may by a written notice call a Council meeting.
- (2) The notice must specify the date and time of the Council meeting and the business to be transacted.
- (3) The Chief Executive Officer must convene the Council meeting as specified in the notice.
- (4) Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

15. 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 will be distributed may be handed personally~~ to a Councillor by any means in any location within the time required, or may be delivered, including via electronic means 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 18(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.

16. 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.

17. 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

18. COUNCIL MEETINGS

The quorum required for all Council meetings will be a majority of the Councillors elected, i.e. three (3) Councillors.

19. COMMITTEE MEETINGS

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

20. 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.

21. 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.~~

- (1) If a quorum cannot be maintained after a Council meeting has begun due to Councillors having to leave the meeting, the meeting lapses.
- (2) If the meeting lapses, the undisposed business must be included in the agenda for the next Council meeting.
- (3) If a quorum cannot be maintained because of the number of Councillors who have a conflict of interest in a matter, in accordance with section 67 of the Act, the Council must consider whether the decision can be made by an alternative manner including:
 - (a) Resolving to split the matter into two or more separate parts so that a quorum can be maintained; or
 - (b) making prior decisions on component parts of the matter at a meeting for which a quorum can be maintained before deciding the overall matter at a meeting for which a quorum can be maintained.
- (4) If unable to establish a quorum using an alternative manner, the Council must, in accordance with section 67(4) of the Act, establish a delegated committee to make the decision in regard to the matter. The delegated committee must consist of:
 - (a) all the Councillors who have not disclosed a conflict of interest in regard to the matter; and
 - (b) any other person or persons the Council considers suitable.

22. 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**23. KEEPING OF MINUTES**

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

24. 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.

25. OBJECTION TO CONFIRMATION OF MINUTES

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

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

26. DEFERRAL OF CONFIRMATION OF MINUTES

Where an objection is raised under 25 above, Council may defer the confirmation of minutes until later in the meeting or until the next meeting as appropriate.

27. 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).
- (6) Video recordings of the meeting, where available, will be published on Council's website.

PART 5 – PROCEDURE AT COUNCIL MEETINGS

DIVISION 1 – ORDER OF BUSINESS

28. CHIEF EXECUTIVE OFFICER MAY INCLUDE ITEMS ON AN AGENDA

~~Taking into consideration advice of the Mayor (s.18(h)),~~ The Chief Executive Officer may include any matter on an agenda which they think should be considered by the meeting, noting that section 18(h) of the Act provides that one role of the Mayor is to provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings.

29. 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.

30. 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.

31. DISCLOSURE OF INTERESTS

- (1) All Councillors shall comply with Division 2 of Part 6 of the *Act* by disclosing any direct or indirect conflicts of interest.
- (2) Council Officers shall comply with Division 2 of Part 6 of the *Act* ~~of the Act~~ by disclosing any direct or indirect conflicts of interest.

32. 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

33. 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.

34. 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 61 of the *Act*, the Chairperson shall have a second vote.

35. 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.

36. 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.

37. 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

38. 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) Mayor or Deputy Mayor; or
 - (b) Chairperson.
- (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 the Officer's first name except the Chief Executive Officer who shall be addressed by their title.

39. 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.

40. 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

(c) is disruptive or unruly during a meeting.

41. 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.

42. 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 Chapter, the Chairperson may order that person to be removed from the gallery.

43. CALL TO ORDER

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

44. 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 Chapter.

45. CHAIRPERSON'S EXERCISE OF AUTHORITY

The Chairperson shall exercise the authority vested in them under this Chapter in a manner, which is judicious and consistent with the purposes of this Chapter.

46. 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, they, 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

47. 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.

48. 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;
- (d) 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 their 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.

49. 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.

50. NO RIGHT OF REPLY FOR AMENDMENTS

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

51. 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.

52. WHO MAY PROPOSE AN AMENDMENT

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

53. 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.

54. HOW MANY AMENDMENTS MAY BE PROPOSED

Any number of amendments may be proposed to a motion but only one amendment may be 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.

55. AN AMENDMENT ONCE CARRIED

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

56. FORESHADOWING MOTIONS

- (1) At any time during debate, a Councillor may foreshadow a motion to inform the Council of their 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 if** 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.

57. WITHDRAWAL OF MOTIONS

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

58. 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.

59. CHAIRPERSON MAY SEPARATE MOTIONS

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

60. 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.

61. 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.

62. 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 their right of reply – three minutes;
- (c) any other Councillor – three minutes.

DIVISION 5—EXTENSION OF SPEAKING TIME**63. GRANTED BY THE CHAIRPERSON**

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

64. 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 their debate.

65. 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**66. CHAIRPERSON TO DECIDE**

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

67. CHAIRPERSON MAY ADJOURN TO CONSIDER

- (1) The Chairperson may adjourn the meeting to consider a point of order otherwise they 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.

68. 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 they will maintain their 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.

69. 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.

70. 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.

71. 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.

72. 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.

73. 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.

74. 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.

75. 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.

76. 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.

77. 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.

78. 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

~~79. 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.~~

~~80. PROCEDURE~~

~~A Councillor may give notice of their intention to move a motion on any matter they want 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 them to deliver the notices to all Councillors at least 72 hours prior to the meeting for which notice was given.~~

~~81. REJECTION OF A VAGUE NOTICE~~

~~The Chief Executive Officer-~~

- ~~(a) may reject any notice of motion that is too vague, is not a matter for Council, or includes inaccurate or misleading information, 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.~~

82. 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.

83. REGISTER OF NOTICES

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

84. 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.

85. 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.

86. 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.

79. NOTICES OF MOTION

(1) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.

(2) A Notice of Motion must:

- (a) Be in writing, or sent electronically, and generally be in a form approved by the Chief Executive Officer; and
- (b) Be signed, including by electronic means, by the Councillor submitting the notice of motion; and
- (c) Be signed, including by electronic means, by another Councillor willing to second the motion for the purpose of debate at the meeting at which it will be considered; and
- (d) Be lodged with the Chief Executive Officer by 5pm 5 business days prior to the date of the meeting at which it is intended to be considered to ensure its inclusion in the agenda; and
- (e) relate to the objectives, role and functions of Council as outlined in the Act

(3) The Chief Executive Officer must reject any Notice of Motion which:

- (a) Is too vague (meaning that it is not explicit about what the motion will do, what action it requires, or what it will achieve if carried); or
- (b) Is defamatory; or
- (c) Is objectionable in language or nature; or
- (d) Is outside the powers of Council; or
- (e) Is submitted during an Election Period.

(4) The Chief Executive Officer may reject a proposed Notice of Motion that relates to a matter that can be addressed through the operational service request process.

(5) Prior to rejecting a notice of motion, the Chief Executive Officer must, if practicable, give the Councillor who lodged it an opportunity to amend the notice of motion and may suggest revised wording to the notice of motion to facilitate compliance with the requirements under this Division 7.

(6) If rejecting a notice of motion, the Chief Executive Officer must notify in writing the Councillor who lodged it and the Councillor seconding the motion of that rejection and the reasons for the rejection.

(7) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda.

(8) The Chief Executive Officer will give all Councillors notice of a notice of motion received and not rejected in accordance with this Division 7.

(9) The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.

(10) Except by resolution of Council, notices of motion before any Council meeting must be considered in the order in which they were recorded in the notice of motion register.

(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 Chair to do so, any other Councillor may move the motion.

(12) The Chairperson, having lodged a notice of motion in accordance with this rule, must vacate the chair of the Council meeting to move the notice of motion and the Deputy Mayor or, in the absence of any Deputy Mayor, temporary Chairperson appointed by the Council (as per clause 9 of these Rules), will take the chair for the duration of consideration of the item.

(13) If a notice of motion, whether amended or not, is lost or lapsed, a similar motion cannot again be put before the current Council for a period of three calendar months from the date it was lost.

(14) If a notice of motion is not moved and seconded at the Council meeting at which it is listed, it lapses.

(15) Before the notice of motion is put to the vote, it may be withdrawn by the Councillor.

DIVISION 8 – NOTICE OF AMENDMENT OR RESCISSION

8780. 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.

818. 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.

829. 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.

8390. 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.

8491. IF NOT MOVED

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

8592. 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.

8693. 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.

8794. 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.

8895. 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.~~

(1) Business must not be admitted as Urgent Business unless:

(a) It relates to or arises out of a matter which has arisen since distribution of the agenda; and

(b) It cannot safely or conveniently be deferred until the next Council meeting; and

(c) The Council resolves to admit an item considered to be Urgent Business.

(2) Notices of motion will not be admitted into Urgent Business and will be dealt with in accordance with clause 79.

DIVISION 9– QUESTIONS, ~~AND~~ PETITIONS, ~~AND~~ DEPUTATIONS

8996. 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).

907. 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 they have a question. A Councillor who indicates they have a question may then address question/s 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.

918. OTHER QUESTIONS

The Chairperson may allow a Councillor 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.

929. QUESTIONS FROM THE PUBLIC

- (1) A maximum of one question will be accepted by any one person per Council meeting.
- (2) A maximum of ~~30~~20 minutes has been allocated for the answering of questions during the Council meeting, unless otherwise determined by the Chairperson.
- (3) Only questions submitted in writing, preferably in accordance with the Public Question Time Guidelines, via ~~or~~ the 'Public Question Time' Form (refer Schedule 1), or via email to info@queenscliffe.vic.gov.au, ~~before 3pm~~ received no later than four (4)

hours prior to the scheduled opening of the meeting will be accepted, unless otherwise accepted by the Chairperson. All questions will be acknowledged in writing and provided with a link to the meeting minutes containing the response.

~~(3)~~(4) The Chairperson and/or Chief Executive Officer may group public questions and, if a common theme is present, may deem it appropriate to provide one response as a whole. Where questions have been grouped together due to a common theme the Chairperson will read out or direct that the question be read out.

~~(4)~~(5) The Chairperson will nominate the appropriate person to respond to each question.

~~(5)~~(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 a 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 (if the meeting is being held in person) and will ask the person if they wish to read out their question. If the person declines or is not present in the gallery the Chairperson will read out or direct that the question be read out. The answer will 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.~~

(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 their 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) Once the answer has been read out, the Chairperson has the discretion to ascertain whether the person asking the question has understood the answer and may permit the person to ask ~~a up to two one~~ additional question clarifying the answer provided the clarification required is brief and does not give rise to debate. The Chairperson, at their discretion, will dis may allow the asking of a disallow any subsequent question that is more properly classified as an additional question noting this additional question may need to be taken on notice rather than a brief, clarifying question regarding the answer given.
- (13) 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.

93100. PETITIONS AND JOINT LETTERS

- (1) 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.
- (2) As a guide, petitions or joint letters received five (5) or more business days before an ordinary meeting of Council will be laid on the table at that next ordinary meeting. Petitions or joint letters received with less than five (5) business days before an ordinary meeting of Council will not be able to be included on the agenda of the next ordinary meeting and will be laid on the table at the following ordinary meeting.
- (3) At the meeting of Council at which the petition or joint letter is tabled, up to 1 (one) nominated representative of that petition or joint letter may be invited to speak to that petition or joint letter. An invitation to speak shall be provided by the Chief Executive Officer and shall be listed as an item of business on the Council agenda. A maximum of 5 (five) minutes shall be allowed for a delegation to speak to their petition or joint letter.
- ~~(2)~~(4) Every petition or joint letter presented to the Council must be in writing (other than pencil), typing or printing, contain the request of the signatories and be signed by at least 12 people.
- ~~(3)~~(5) Every petition or joint letter must be signed by the persons whose names and addresses are appended to it.
- (6) If a petition or joint letter relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.
- ~~(4)~~(7) As guidance, a petition means a formal written request, typically one signed by many people, that is calling on Council to take, or not take, a particular action. A joint letter means formal correspondence to Council in the form of a letter that has been signed by at least 12 people.

94101. SIGNING PETITIONS

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

95102. COUNCILLOR PRESENTING A PETITION - OBLIGATIONS

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

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

Draft

96403. INVITATION TO ADDRESS MEETING (DEPUTATION)

- (1) The chairperson of an Ordinary Meeting of Council, including a closed meeting, may invite a person –
- a. to address the meeting; and
 - b. to make statements or deliver reports to the meeting.
- (2) The chairperson may invite a person to address the meeting having received and considered a written request from the person that includes:
- a. An outline of the subject to be presented
 - b. An explanation of the relevance of the subject to Council business
 - c. The outcome the person is seeking
- (3) The request must be received by CEO seven (7) days prior to the Council meeting.
- (4) The CEO will write to the person seeking the request to advise if an invitation has been extended by the Chairperson.
- (5) If invited, the person has up to 10 (ten) minutes to speak.
- (6) The Chairperson may allow questions of clarification from Councillors.

PART 6 – MISCELLANEOUS**974034. PHYSICAL AND REMOTE ATTENDANCE****974034.1 Mode of attendance**

Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:

- 103.1.1 Wholly in person;
- 103.1.2 Wholly by electronic means; or
- 103.1.3 Partially in person and partially by electronic means

403497.2 The indication in the notice of meeting must be consistent with any resolution of Council that has expressed a preference for, or otherwise specified, when Council meetings are to be conducted:

- 103.2.1 Wholly in person;
- 103.2.2 Wholly by electronic means; or
- 103.2.3 Partially in person and partially by electronic means.

403497.3 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.

403497.4 Any request made under sub-rule **40397.3** must:

- 1043.4.1 Be in writing;
- 1043.4.2 Be given to the Chief Executive Officer at least 24 hours prior to the commencement of the relevant *council meeting* unless exceptional

circumstances arise, noting that the timing of a late exceptional circumstances request must allow the Chief Executive Officer to be able to comply with sub-rule [40397.5](#); and

[404397.4.3](#) Specify the reasons why the councillor is unable or does not wish to attend the Council meeting in person.

[403497.5](#) The Chief Executive Officer must ensure that any request received in accordance with sub-rule [40397.3](#) and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.

[404397.6](#) Council may approve and must not unreasonably refuse any request.

[404397.7](#) A Councillor who is attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the Council meeting.

[404397.8](#) Without detracting from anything said in sub-rule [97403.7](#), a Councillor who is attending a meeting by electronic means must be able to:

103.8.1 Hear the proceedings;

103.8.2 See all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;

103.8.3 Be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and

103.8.4 Be heard when they speak.

[404397.9](#) If the conditions of sub-rule [40397.8](#) cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:

[40397.9.1](#) The Council meeting will nonetheless proceed as long as a quorum is present; and

[40397.9.2](#) The relevant Councillor (or Councillors) will be treated as being absent from the Council meeting or that part of the Council meeting

Unless the Council meeting has been adjourned in accordance with these rules.

[403497.10](#) Nothing in this rule [403-97](#) prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-rule [40397.7](#) even if the council meeting has already commenced or has continued in their absence.

[404598](#). MEETINGS CONDUCTED REMOTELY

If a Council meeting is conducted wholly or partially by electronic means, the Chairperson may, with the consent of the meeting, modify the application of any of the clauses in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

[405699](#). CRITICISM OF MEMBERS OF COUNCIL STAFF

(1) The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at Council meeting criticizing them or any member of Council staff.

- (2) A statement under sub-clause ~~107599~~ (1) must be made by the Chief Executive Officer, through the chairperson, as soon as practicable after the Councillor who made the statement has resumed their seat.

Draft

SCHEDULE 1



Borough of Queenscliffe

PUBLIC QUESTION TIME

Please complete details below, and submit to the Chief Executive Officer by 3pm no later than four (4) hours prior to the scheduled 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 and Data Protection Act. It is your option as to whether your name and/or address (street name only) appears within the Council minutes.

CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES**1. Meeting Procedure Generally**

If Council establishes a Delegated Committee:

- 1.1 all of the provisions of Chapter 2 apply to meetings of the Delegated Committee; and
- 1.2 any reference in Chapter 2 to:
 - (a) a Council meeting is to be read as a reference to a Delegated Committee meeting;
 - (b) a Councillor is to be read as a reference to a member of the Delegated Committee; and
 - (c) the Mayor is to be read as a reference to the Chair of the Delegated Committee.

2. Meeting Procedure Can Be Varied

Notwithstanding Rule 1, if Council establishes a Delegated Committee that is not composed solely of Councillors:

- 2.1 Council may; or
- 2.2 the Delegated Committee may, with the approval of Council

resolve that any or all of the provisions of Chapter 2 are not to apply to a meeting of the Delegated Committee, in which case the provision or those provisions will not apply until Council resolves, or the Delegated Committee with the approval of Council resolves, otherwise.

CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES**1. Introduction**

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*.

2. 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*.

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CHAPTER 5 – DISCLOSURE OF CONFLICTS OF INTEREST

1. Introduction

The following Rules in this Chapter apply ~~only~~ upon Division 1A of Part 4 of the ~~Local Government Act 1989~~ being repealed.⁴

1.1. The Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.

1.2. The Act defines a relevant person having ‘a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person’s private interests could result in that person acting in a manner that is contrary to their public duty’ (with some exceptions).

1.3. The Act defines a relevant person having ‘a **material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter’. It also defines what associations would make a person an affected person.

1.4. The Act also states that Council must include procedures for disclosures of conflicts of interest in its Governance Rules, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.

1.5. These Rules provide the procedures for disclosures of conflicts of interest.

2. Definition

In this Chapter: “meeting conducted under the auspices of *Council*” means a meeting of the kind described in section 131(1) of the Act, and includes a meeting referred to in Rule 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and

a member of a *Delegated Committee* includes a Councillor.

3. Obligations with Regard to Conflict of Interest

3.1 Councillors, members of Delegated Committees and Council staff are required to:

3.1.1 Avoid where practicable all situations which may give rise to conflicts of interest

3.1.2 Identify any conflicts of interest; and

3.1.3 Disclose or declare all conflicts of interest

3.4. Disclosure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Council meeting* at which they:

⁴At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.

~~3.14.1~~ are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered; or

~~3.24.2~~ intend to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:

~~3.2.14.2.1~~ advising of the conflict of interest;

~~3.2.24.2.2~~ explaining the nature of the conflict of interest; and

~~3.2.34.2.3~~ detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:

- (a) name of the other person;
- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- (c) nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

The Councillor must, in either event, leave the *Council meeting* immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the consideration of the matter has ~~been disposed of~~ concluded.

4.5. **Disclosure of Conflict of Interest at a Delegated Committee Meeting**

A member of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee* meeting at which they:

~~4.15.1~~ are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or

~~4.25.2~~ intend to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Delegated Committee meeting commences a written notice:

~~4.2.15.2.1~~ advising of the conflict of interest;

~~4.2.25.2.2~~ explaining the nature of the conflict of interest; and

~~4.2.35.2.3~~ detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:

- (a) name of the other person;

- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

[4.2.45.2.4](#) nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

The member of a *Delegated Committee* must, in either event, leave the *Delegated Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the consideration of the matter has concluded~~been disposed of~~.

5.6. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Community Asset Committee* meeting at which they:

[5.16.1](#) are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or

[5.26.2](#) intend to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:

[5.2.16.2.1](#) advising of the conflict of interest;

[5.2.26.2.2](#) explaining the nature of the conflict of interest; and

[5.2.36.2.3](#) detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:

- (a) name of the other person;
- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

[5.2.46.2.4](#) nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

The Councillor must, in either event, leave the *Committee Asset Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the consideration of the matter has concluded~~been disposed of~~.

6-7. Disclosure at a Meeting Conducted Under the Auspices of Council

A Councillor who has a conflict of interest in a matter being considered by a meeting held under the auspices of *Council* at which they are present must:

6-17.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;

6-27.2 absent themselves from any discussion of the matter; and

6-37.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

7-8. Disclosure by Members of Council Staff Preparing Reports for Meetings

7-18.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:

7-1-18.1.1 *Council meeting*;

7-1-28.1.2 *Delegated Committee meeting*;

7-1-38.1.3 *Community Asset Committee meeting*

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest.

7-28.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 87.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

7-38.3 If the member of Council staff referred to in sub-Rule 87.1 is the *Chief Executive Officer*:

7-3-18.3.1 the written notice referred to in sub-Rule 87.1 must be given to the *Mayor*; and

7-3-28.3.2 the obligation imposed by sub-Rule 87.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

8-9. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power

8-19.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

8-29.2 If the member of Council staff referred to in sub-Rule 98.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

9.10. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function

9.10.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

9.10.2 If the member of Council staff referred to in sub-Rule **109.1** is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

10.11. Retention of Written Notices

The *Chief Executive Officer* must retain all written notices received under this Chapter for a period of three years.

CHAPTER 6 – MISCELLANEOUS

41.12. Informal Meetings of Councillors

If there is a meeting of Councillors that:

41.112.1 is scheduled or planned outside of an Ordinary Meeting of Council for the purpose of discussing the business of *Council* or briefing Councillors; and

41.212.2 is attended by at least one senior member of Council staff; and

41.312.3 all Councillors have been invited by the Chief Executive Officer; and

41.412.4 a majority of Councillors are present; and

41.512.5 is not a *Delegated Committee* meeting or *Community Asset Committee* meeting

11.6 the *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:

- (a) tabled at the next convenient *Council meeting*; and
- (b) recorded in the minutes of that *Council meeting*.


42.13. Confidential Information

42.113.1 If, ~~after the repeal of section 77(2)(c) of the *Local Government Act 1989*~~, the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.

42.213.2 Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

CHAPTER 7 – ELECTION PERIOD POLICY

COUNCIL POLICY

Election Period	Adopted By Council:	23/05/2012	
	Date/s Revised:	19/09/2012;	
		24/02/2016; 19/09/2019	
	Next Review Date:	06/2023	
	Document No:	CP021	
	Directorate:	Executive	
	Responsible Officer:	Chief Executive Officer	

CONTEXT

This policy applies to Council during the election period for a general election and is a requirement under Section 69 of the *Local Government Act 2020* (the Act). The *Local Government Act 2020* states:

69 Election period policy

- (1) A Council must include an election period policy in its Governance Rules.
- (2) An election period policy must prohibit any Council decision during the election period for a general election that—
 - (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
 - (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; or
 - (c) the Council considers could be reasonably deferred until the next Council is in place; or
 - (d) the Council considers should not be made during an election period.
- (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.
- (4) A Council decision made in contravention of subsection (2)(a) or (b) is invalid.
- (5) Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.

PURPOSE

The purpose of this policy is to ensure that the ordinary business of the Council will continue throughout the election period in a responsible and transparent manner and in accordance with statutory requirements. The intention of this policy is to assure the community that Council and Councillors will not use public resources in election campaigning.

DEFINITIONS

As defined in the *Local Government Act 2020* the following definitions apply:

election day	means the day of an election determined under section 257 or 260
election period	(a) starts at the time that nominations close on nomination day; and (b) ends at 6 pm on election day
electoral material	means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting

For the purpose of this policy, the following other definitions apply:

inappropriate decisions	made by a Council during an election period including any of the following decisions that could be reasonably deferred until the next Council is in place
major policy decision	means any decision: (a) relating to the appointment or remuneration of a Chief Executive Officer but not to the appointment or remuneration of an acting Chief Executive Officer; (b) committing the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and the service rates and charges in the preceding financial year.
publish	means publish by any means including by publication on the Internet
social media	means online communication channels dedicated to community-based input, interaction, content-sharing and collaboration and includes, but is not limited to social blogs, wiki pages, Facebook, Twitter, YouTube, Flickr, LinkedIn, Pinterest and instant messaging.

POLICY**1. Council Decisions**

In accordance with the *Local Government Act 2020* Council is prohibited from making 'major policy decisions' and 'inappropriate decisions', as defined in this policy, during the election period.

It shall be the responsibility of the Chief Executive Officer to determine if a matter is a major policy decision or an inappropriate decision. Where possible, the Chief Executive Officer will ensure that matters are scheduled for Council to ensure that major policy or inappropriate decisions are resolved prior to the commencement of the election period or scheduled for determination by the incoming Council.

Council must not make any decisions that it considers should not be made during an election period.

2. Council Reports

During the election period, the Chief Executive Officer will ensure that a “Caretaker Statement” is included in every report submitted to the Council or to a delegated committee of Council for a decision.

The “Caretaker Statement” will specify one or more of the following:

- The recommended decision is not a “major policy decision” or an “inappropriate decision” within the meaning of the Election Period Policy.

During the election period, the Council will not make a decision on any matter or report that does not include one of these Caretaker Statements.

3. Council Resources

It is essential that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. It is also important that all Councillors have access to the resources necessary to fulfil their elected roles.

In order to ensure the proper use of Council resources during the election period the following will apply:

- Council resources, including offices, support staff, hospitality, equipment, email, mobile phones and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning. Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate’s election campaign, advice will be sought from the relevant General Manager or the Chief Executive Officer.
- Reimbursements of Councillors’ out-of-pocket expenses in the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate’s election campaign.
- Council logos, letterheads, or other Borough of Queenscliffe branding must not be used for, or linked in any way to, a candidate’s election campaign.
- Council staff, including support staff for the Mayor and Councillors, must not be asked to undertake any tasks connected directly or indirectly with a candidate’s election campaign.
- No local community forums utilising Council resources will be held by Councillors during the election period.
- No election material or active campaigning is to be conducted at Council sponsored festivals, events or displays.

4. Information

The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and

transparency will be observed and practised in the provision of all information and advice during the election period.

Information and briefing material prepared by staff for Councillors during the election period will relate only to factual matters or to existing Council policies and services. Such information will not relate to new policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

All requests for information are to be directed to the Chief Executive Officer or in his/her absence the General Manager, Corporate & Community Services.

The office of the Chief Executive will maintain an Information Request Register during the election period. This Register will be a public document that records all requests for information by Councillors and candidates, and the responses given to those requests. Only information that can be reasonably accessed will be released.

5. Publicity

It is recognised that Council publicity is intended to promote normal services or operations of the Council. Council publicity will not be used in any way that might be construed as intended to influence the outcome of the Council election.

During the election period, no Council employee may make any public statement that could be construed as influencing the election. This does not include statements of clarification that are approved by the Chief Executive Officer.

During the election period, publicity campaigns, other than for the purpose of conducting the election, will be avoided. Where a publicity campaign is deemed necessary for a Council service or operation, it must be approved by the Chief Executive Officer. In any event Council publicity during the election period will be restricted to promoting the normal services or operations of the Council.

Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive Officer. In any event, no media advice and/or assistance or media releases will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors.

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of matters that could be construed as relating to an election campaign.

Councillor participation in festivals and events should promote Council as a whole and not be used or be construed to gain advantage in support of an election campaign.

Information published on Council's website with regard to sitting Councillors will be limited to statements of facts about their roles and responsibilities as a Councillor. For example, contact details, roles and responsibilities as assigned by Council resolution.

Any publication on social media sites during the election period must be certified by the Chief Executive Officer. Staff responsible for administering Council social media sites will be required to monitor their respective sites during the election period and use moderation features to ensure no electoral matter is posted.

6. Assistance to Candidates

All candidates for the Council election will be treated equally.

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to all candidates in advance.

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.

7. Communicating the Policy

It shall be the responsibility of the Chief Executive Officer to inform Council staff, contractors, volunteers and election candidates of the adopted Election Period Policy prior to the election period.

CONTINUOUS IMPROVEMENT

This policy will be reviewed on a continuous basis, but as a minimum it will be reviewed and, if required, amended no later than 12 months before the commencement of each general election.

OTHER REFERENCES

Local Government Act 2020

END