



Glenelg Shire Council
Minutes of the Council Meeting held on
Tuesday 14 December 2021 at 7:00 pm at
Glenelg Shire Municipal Offices
71 Cliff Street, Portland

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1. PRESENT

Cr Anita Rank (Mayor), Cr Scott Martin (Deputy Mayor), Cr Michael Carr, Cr Chrissy Hawker, Cr Jayden Smith, Cr Gilbert Wilson attended in person, and Cr Karen Stephens attended online via Microsoft Teams.

Also in attendance were the Acting Chief Executive Officer (Mr Paul Phelan), Director Corporate Services (Mr David Hol), Acting Director Assets (Mr Chris Saunders), Chief Information Officer (Ms Ann Kirkham) and Executive Assistant CEO Department (Ms Paige Kliese).

2. OPENING PRAYER

The Mayor opened the meeting with the Council Prayer.

3. ACKNOWLEDGEMENT TO COUNTRY

The Mayor read the Acknowledgement to Country.

4. RECORDING OF MEETINGS

The Chief Executive Officer will enable a recording of the meeting conducted and the recording of that meeting may be made available to the public.

5. RECEIPT OF APOLOGIES

Chief Executive Officer, Mr Greg Burgoyne.

6. QUESTION TIME**6.1. QUESTIONS FROM THE GALLERY**

Nil.

6.2. QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETING

1. Nelson Boat Hire Facebook Post

Mr Michael Byrne of Cape Bridgewater asked the following question:

What consultation has been has with DELWP and the Nelson Committee of Management on allowing this tourism business to continue offering this unique and special tourism adventure to the community of Nelson and all of the tourists that visit this unique tourist destination?

Mr Burgoyne, Chief Executive Officer advised that is is disturbing to receive this information this evening and thanked Mr Byrne for bringing this to our attention. The DELWP (Department of Land, Water and Planning) Regional Manager, Gavan Matheson was in the Shire a couple of weeks ago and Nelson was on the agenda to visit however this did not eventuate. Mr Burgoyne advised he would raise this as a matter of urgency with DELWP and seek as to why they haven't responded and ensure that they contact the owners of the Nelson Boat Hire business. Mr Burgoyne confirmed he would seek more information and clarification from the DELWP Regional Director tomorrow.

The Mayor also advised that Council has been consultation with the Nelson Committee of Management and advised that Council has previously made a commitment to contact the Nelson Committee of Management after COVID to sit down with the committee to discuss these issues in addition to discussing the Tourism Destination Action Plan to identify tourism opportunities. The Mayor confirmed Council have a good relationship with the Nelson community and it is a priority for us to meet with the committee following COVID as the Nelson community are important to us.

2. Resources to Support Tourism

Mr Michael Byrne of Cape Bridgewater asked the following question:

What resources do the Glenelg Shire Council provide to assist tourism providers in the Glenelg Shire to prosper and thrive in this challenging economic environment? Does Council have a specific officer or Councillor that is the contact for Tourism?

Mr Burgoyne, Chief Executive Officer advised resources are provided in both people and in money, we have a dedicated tourism manager who does a range of things with peak bodies in tourism. Mr Burgoyne also advised Council are a member of GORRT (Great Ocean Road Regional Tourism) who looks after Great Ocean Road tourism all the way to the Victorian and South Australian border. Mr Burgoyne advised that we financially support our tourism unit with marketing and promotional budgets. Mr Burgoyne advised he would take this

question on notice in terms of the total Council budget allocation provided for tourism and provide these details in a letter to Mr Byrne.

3. Strategy to Support Tourism

Mr Michael Byrne of Cape Bridgewater asked the following question:

18 months of COVID in Victoria has been particularly challenging to all tourist business providers and it is now paramount to be pro-active about supporting their endeavors to stay open and thrive going forward. What does Glenelg Shire Council think of the following strategy:

Take an extended car trip, Mayor, CEO and Deputy Mayor and visit tourism operators throughout the Glenelg Shire and check out how we can help them in anyway going forward?

Mr Burgoyne, Chief Executive Officer thanked Mr Byrne for the question and advised in terms of taking trips around the Shire to visit tourism operators we can do that however it is broader than individual tourism operators. Council have a good relationship with the Limestone Coast and with border restrictions lifting we will re-engage with this peak body soon. Mr Burgoyne confirmed that visits will be occurring soon and we will continue to engage with local and regional providers. Mr Burgoyne advised that the Glenelg Shire, Portland in particular, has not been as significantly impacted by the limitation on international visitation in comparison to neighboring municipalities.

7. DECLARATIONS OF CONFLICT OF INTEREST

Cr Wilson declared a General Conflict of Interest in item 14.7 Councillor Conduct Hearing Outcome and advised this prior to the meeting.

Cr Carr declared a General Conflict of Interest in item 14.8 Contract 2021-22-02 Portland Foreshore Connecting Paths and advised this prior to the meeting.

8. CONFIRMATION OF MINUTES**Recommendation**

That the minutes of the Council Meeting held on Tuesday 23 November 2021, as circulated, be confirmed.

MOTION**MOVED Deputy Mayor Cr Martin**

That the minutes of the Council Meeting held on Tuesday 23 November 2021, as circulated, be confirmed.

SECONDED Cr Carr**CARRIED**

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

AGAINST: Nil

9. PRESENTATIONS

Mayor Cr Rank and Cr Wilson made a presentation to Anne Grant in recognition of her 40 years' service to the Portland Family History Group.

10. DEPUTATIONS

Nil.

11. NOTICES OF MOTION

Nil.

12. PETITIONS

Nil.

13. COMMITTEE REPORTS

Nil.

14. MANAGEMENT REPORTS

14.1. COUNCILLOR AND CHIEF EXECUTIVE OFFICER LEAVE OF ABSENCE REGISTER

Director: Greg Burgoyne, Chief Executive Officer

Executive Summary

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

Recommendation

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

MOTION

MOVED Cr Smith

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

SECONDED Cr Hawker

CARRIED

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

AGAINST: Nil

Background/Key Information:

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

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

35 Councillor ceasing to hold office

(1) A Councillor ceases to hold the office of Councillor and the office of the Councillor becomes vacant if the Councillor:

- (e) subject to this section, is absent from Council meetings for a period of 4 consecutive months without leave obtained from the Council.

- (4) The Council must grant any reasonable request for leave for the purposes of subsection (1)(e).
- (6) A Councillor is not to be taken to be absent from Council meetings during the period of 6 months after the Councillor or their spouse or domestic partner:
- (a) becomes the natural parent of a child; or
 - (b) adopts a child under the age of 16 years

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

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

Section 35 of the *Local Government Act 2020*.

c. Consultation and/or communication processes implemented or proposed

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

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

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

d. Financial Implications and Collaboration

Nil.

e. Governance Principles

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

Attachment List

Separately circulated as Confidential attachment

14.2. 2022 AUSTRALIA DAY AWARDS

Director: Greg Burgoyne, Chief Executive Officer

Executive Summary

The purpose of this report is to provide a summary of the nominations received for the 2022 Australia Day Awards and provide recommendations regarding award winners and Australia Day events.

Recommendation

That Council:

1. Award the Citizen of the Year, Senior Citizen of the Year, Young Citizen of the Year and Community Group of the Year to the nominated recipients in accordance with confidential attachment 2, and recipients remain confidential until the announcement of award winners at the 2022 Australia Day events.
2. That Council provide financial assistance of \$400 each to both the Nelson Tennis Club and the Merino Digby Lions Club to assist with their 2022 Australia Day events subject to these events proceeding.

MOTION

MOVED Cr Hawker

That Council:

1. **Award the Citizen of the Year, Senior Citizen of the Year, Young Citizen of the Year and Community Group of the Year to the nominated recipients in accordance with confidential attachment 2, and recipients remain confidential until the announcement of award winners at the 2022 Australia Day events.**
2. **That Council provide financial assistance of \$400 each to both the Nelson Tennis Club and the Merino Digby Lions Club to assist with their 2022 Australia Day events subject to these events proceeding.**

SECONDED Cr Stephens

CARRIED

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

AGAINST: Nil

Background/Key Information:

Nominations for the annual Australia Day Awards were invited for the following four categories:

- Young Citizen of the Year;
- Citizen of the Year;
- Senior Citizen of the Year; and
- Community Group of the Year.

To be eligible for an Award, nominated individuals must be an Australian citizen and reside in the Glenelg Shire at the time of the nomination.

Glenelg Shire Young Citizen of the Year is awarded to a shire resident aged under 25 as at 26 January 2022, who has achieved the most distinguished performance and/or made the most outstanding contribution to the Shire community in the current year or over a number of years.

Glenelg Shire Senior Citizen of the Year is awarded to a shire resident aged 60 or over as at 26 January 2022, who has achieved the most distinguished performance and/or made the most outstanding contribution to the Shire community in the current year or over a number of years.

Glenelg Shire Community Group of the Year is awarded to an organised community group based in the Glenelg Shire which has made a significant contribution and exceptional service to the local community in the current year or over several years.

Outstanding achievement and demonstration of these key attributes is the basis of these awards.

Previous award winners are ineligible to win an award in the same category again.

Following an extensive advertising campaign throughout 2021 a total of 12 eligible nominations were received across all four award categories a (confidential attachment 1). All nominations received were presented to Council for assessment on 7 December 2021.

Nominees were assessed on the following criteria:

- Significance and impact of contributions made;
- Demonstrated level of commitment to the betterment of the Glenelg community;
- Nature and length of activity or service;
- Previous awards and recognition received;
- Personal attributes of the nominee such as being an inspirational/positive role model for their peers, showing vision, leadership, innovation and creativity;

- Personal, academic, and professional achievements; and
- Community groups must demonstrate that they meet a community need or priority and have provided exceptional service to the local community.

Australia Day Awards will be publicly announced at the Australia Day Celebrations in Portland and Casterton on Wednesday 26 January 2022, with all nominees to be invited to either of these events.

To assist with facilitation of community-based Australia Day events, financial assistance is provided annually to the Nelson Tennis Club and Merino/Digby Lions Club to assist with events in their respective townships. Financial assistance will only be provided should either of these community groups proceed with an Australia Day event for Wednesday 26 January 2022.

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

Not applicable.

c. Consultation and/or communication processes implemented or proposed

Communications were undertaken over a nine-month period throughout 2021, with the nomination period closing on 29 October 2021. Nomination forms were available electronically via the Your Say Glenelg website and hard copies via Customer Service location across the Shire. Invitation to nominate was promoted via radio, print media, social media and direct marketing to subscription groups.

d. Financial Implications and Collaboration

The estimated costs associated with the Australia Day celebrations are included within the 2021-2022 Council budget.

e. Governance Principles

All planning and decision-making processes are in alignment with relevant Council Procedures.

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

Attachment List

Separately circulated as Confidential attachments.

14.3. GLENELG SHIRE COUNCIL FINANCIAL REPORT NOVEMBER 2021

Director: David Hol, Director Corporate Services

Executive Summary

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

Recommendation

That Council receives the Financial report for the period ending November 2021.

MOTION

MOVED Cr Carr

That Council receives the Financial report for the period ending November 2021.

SECONDED Cr Stephens

CARRIED

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

AGAINST: Nil

Background/Key Information:

The 2021/2022 Annual Budget was adopted by Council on 22 June 2021.

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

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

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

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

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

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

c. Consultation and/or communication processes implemented or proposed

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

d. Financial Implications and Collaboration

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

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

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

e. Governance Principles

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

Attachment List

1. Financial Statements 2021 2022 to 30 November 2021 [**14.3.1** - 7 pages]

14.4. CEO EMPLOYMENT AND REMUNERATION POLICY

Director: David Hol, Director Corporate Services

Executive Summary

The purpose of this report is to seek Council adoption of the Chief Executive Officer (CEO) Employment and Remuneration Policy (CPO-CEO-OD-001) in accordance with the *Local Government Act 2020* by 31 December 2021.

Recommendation

That Council adopts the CEO Employment and Remuneration Policy CPO-CEO-OD-001.

MOTION

MOVED Cr Wilson

That Council adopts the CEO Employment and Remuneration Policy CPO-CEO-OD-001.

SECONDED Deputy Mayor Cr Martin

CARRIED

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

AGAINST: Nil

Background/Key Information:

Section 45 of the *Local Government Act 2020* outlines the requirement for councils to develop and adopt a Chief Executive Officer (CEO) Employment and Remuneration Policy. The first CEO Employment and Remuneration Policy must be adopted by 31 December 2021.

The CEO Employment and Remuneration Policy must ensure access and availability of independent professional advice in relation to matters including recruitment and appointment, provisions, performance monitoring, appraisals and any other matter prescribed by the regulations.

Due to legislative reforms and Local Government Inspectorate comments, matters relating to the recruitment and performance of the CEO have become more prominent, requiring increased transparency of decision-making. Council's are required to formally decide outcomes of performance reviews, changes to performance criteria, changes to remuneration and any amendments to the contract of employment.

Consideration should be given to the establishment of a CEO Employment and Remuneration Committee to advise and make decisions on all matters contained within the policy. There is no statutory requirement for a CEO Employment and Remuneration Committee, however, this is best practice and very common.

If Council elect to establish a CEO Employment and Remuneration Committee consideration should also be given to the appointment of a chairperson. The committee may be chaired by a member of Council or an independent advisor.

Alternatively, Council can continue to address these matters in accordance with current process with the option to obtain independent professional advice for any matter dealt with within the Policy as required.

It is recommended that the policy allows for options to be determined as required.

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

Section 45 of the *Local Government Act 2020* outlines the requirement for councils to develop and adopt a CEO Employment and Remuneration Policy. The first CEO Employment and Remuneration Policy must be adopted by 31 December 2021.

c. Consultation and/or communication processes implemented or proposed

Not applicable.

d. Financial Implications and Collaboration

Remuneration for the CEO is accounted for in Council's Financial Plan 2021-2031.

e. Governance Principles

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

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

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

Attachment List

1. CEO Employment and Remuneration Policy CPO-CEO-OD-001 [14.4.1 - 7 pages]

14.5. COUNCIL POLICY REVIEW - COMPLAINTS POLICY CPO-CORPS-CUSTS-003

Director: David Hol, Director Corporate Services

Executive Summary

This paper seeks the adoption by Council, of the Draft Complaints Handling Policy, by 31 December 2021 in accordance with the *Local Government Act 2020*.

Recommendation

That Council adopt the Complaints Handling Policy CPO-CORPS-CUST-003.

MOTION

MOVED Cr Carr

That Council adopt the Complaints Handling Policy CPO-CORPS-CUST-003.

SECONDED Cr Hawker

CARRIED

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

AGAINST: Nil

Background/Key Information:

In 2015 the Victorian Ombudsman presented to Parliament a report into Councils and complaints – A report on current practice and issues. This enquiry was launched in 2014 when staff in the Ombudsman's Office identified that one of the main causes of complaints against local councils was the way those councils dealt with complaints. As part of this enquiry the Ombudsman also developed a Good Practice Guide to assist councils improve their complaint handling practices. Councils' complaint handling process was reviewed based on this information.

The *Local Government Act 2020* received the royal assent on 24 March 2020, Stage 3 of the Act requires the Council to adopt a Complaints Policy by 31 December 2021.

The Victorian Ombudsman released a Councils and Complaints Good practice Guide version 2 in July 2021. The Act defines a complaint and stipulates the need for the complaints process to remain independent.

The Glenelg Shire Council has had in place a Complaints Handling process, including website accessibility and internal procedures for some time.

The Policy has again been developed to reflect the findings of the Ombudsman's latest report and also ensure compliance with the *Local Government Act 2020*. The Council website is also currently being refreshed and a streamlined complaints process is being developed to ensure ease of use by customers and enable appropriate reporting to assist in continuous improvement opportunities.

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

Section 107 of the *Local Government Act 2020* requires Council to have a Complaints Policy.

c. Consultation and/or communication processes implemented or proposed

Staff were encouraged to provide feedback on the Complaints Policy prior to the Policy being adopted by Council.

d. Financial Implications and Collaboration

Management of complaints is included as part of operational budget expenses.

e. Governance Principles

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

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

Attachment List

1. Draft Council Complaints Policy CPO CORPS CUSTS 003 [**14.5.1** - 10 pages]

14.6. COUNCIL POLICY REVIEW - PROCUREMENT POLICY CPO-CORPS-CP-001

Director: David Hol, Director Corporate Services

Executive Summary

The purpose of this report is to enable Council to consider the review undertaken and adopt the Procurement Policy in accordance with section 108 of the *Local Government Act 2020* (Vic).

Recommendation

That Council:

1. That Council adopt the reviewed Procurement Policy CPO-CORPS-CP-001 as separately circulated.
2. That the Procurement Policy be effective from the 14 December 2021.

MOTION**MOVED Cr Smith**

That Council:

- 1. That Council adopt the reviewed Procurement Policy CPO-CORPS-CP-001 as separately circulated.**
- 2. That the Procurement Policy be effective from the 14 December 2021.**

SECONDED Cr Stephens**CARRIED**

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

AGAINST: Nil

Background/Key Information:

The Procurement Policy is a high-level policy document that addresses key operational standards and expectations required of councillors, officers, temporary/casual employees of Council in addition to contractors and consultants whilst engaged by Council.

Section 108 of the *Local Government Act 2020* (Vic) requires Council to prepare, approve and adopt a Procurement Policy which specifies the principles, processes and

procedures applying in respect of the purchase of goods and services by the Council, including for the carrying out of works.

Key aspects of the legislation are that:

- A Council must review its Procurement Policy at least once during each 4-year term of the Council and may, in accordance with this section, amend the procurement policy;
- A copy of the current procurement policy is to be made available for inspection by the public, both at council's offices and on council's website.

A Council is required to comply with its procurement policy.

The policy considers benefits and value for money, based on whole of life costs, as well as social and environmental impacts of its procurement processes to achieve the best outcomes for the community having regard to the long-term and cumulative effects of its decisions.

An external review has been undertaken by AFS & Associates Pty Ltd to assess compliance with the *Local Government Act* and Regulations and provide assessment regarding application to current industry standards and the Victorian Local Government Best Practice Procurement Guidelines.

Outcomes

The Policy was updated to reflect current Organisational standards and structure. Content was improved to provide clarity and functionality for all users.

The Glenelg Shire Council's weighting of up to 25% for Economic Contribution has been maintained and is significantly higher than other Councils in the region.

The external review found the draft policy to be compliant with the *Local Government Act 2020* and reflects the key principles as per the Victorian Local Government Best Practice Guidelines 2013. The review recommendations have been implemented or noted for procedural development as shown in the table below.

Item	Recommendation	Action
Removal of reference to <i>Local Government Act 1989 (Vic)</i>	Changed to reference <i>Local Government Act 2020</i>	Updated

Item	Recommendation	Action
Changes to sections no longer mandated under the <i>Local Government Act 2020</i>	Removal of reference to Australian and New Zealand Supplier preference. Exemptions from Procurement Policy - Changed reference from Ministerial Exemption to seeking exemption from Council	Updated
A Council must review its Procurement Policy at least once during each four-year term of the Council		Included
Determine the contract value above which Council must invite a tender or seek an expression of interest	Tender threshold \$200,000 (inc GST)	Updated
A description of how the Council will seek collaboration with other Councils and public bodies in the procurement of goods or services;	Insert Appendix B – reference to Collaborative Procurement	Included
\$5000 to \$14,999 - 2 quotes \$15,000 to \$149,999 goods & services - 3 quotes \$15,000 to \$199,999 works - 3 quotes \$150,000 and over for goods and services or \$200,000 and over for works public tender	\$5001 to \$50,000 - 2 written quotes \$50,001 to \$199,999 - 3 written quotes \$200,000 + public tender	Updated
Directors (or delegate) \$100,000 to \$149,999	Directors (or delegate) up to \$200,000	Updated
The level of commitment demonstrated to maximise environmental sustainability <i>Minimum Weighting 10%</i>	Environmental sustainability <i>Minimum Weighting 25%</i> <i>(increased annually over the term of the policy)</i> Year One 15% Year Two 18.5% Year Three 22% Year Four 25%	Updated
Consider the development of a Procurement Guideline Manual	Noted guideline to be developed	

a. Council Plan and Policy Linkage

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

This policy also dictates the delegation limits set for the organisation.

b. Legislative, Legal and Risk Management Considerations

All legal and legislative requirements have been considered in preparation of the policy.

c. Consultation and/or communication processes implemented or proposed

A consultation process was undertaken in reviewing the policy including;

- Consultation with staff and the South West Councils network group; and
- The engagement of an external consultant.

Following adoption of the policy by Council, it will be communicated to staff.

d. Financial Implications and Collaboration

The adoption of the procurement policy will not require additional direct budget implications.

e. Governance Principles

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

Attachment List

1. Procurement Policy CPO-CORPS-CP-001 [**14.6.1** - 24 pages]

Cr Wilson re declared a General Conflict of Interest in item 14.7 Councillor Conduct Hearing Outcome and left the meeting at 7:23pm.

14.7. COUNCILLOR CONDUCT HEARING OUTCOME

Director: David Hol, Director Corporate Services

Executive Summary

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

Recommendation

That Council:

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

MOTION

MOVED Cr Smith

That Council:

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

SECONDED Cr Stephens

CARRIED

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

AGAINST: Nil

Background/Key Information:

An application for an internal arbitration process to make a finding of misconduct against Cr Gilbert Wilson was lodged on the 5 August 2021 relating to actions undertaken at the Council meeting on the 22 June 2021. The application has been made by Cr Anita Rank as the approved representative on behalf of Cr Chrissy Hawker, Cr Michael Carr, Cr Scott Martin and Cr Jayden Smith.

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

A directions hearing was undertaken on the 16 November and the Arbitration Hearing conducted at the Portland Municipal Offices of the 6 December.

A copy of the Arbitrator's decision and statement of reasons is provided as an attachment to this report.

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

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

c. Consultation and/or communication processes implemented or proposed

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

d. Financial Implications and Collaboration

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

e. Governance Principles

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

Attachment List

1. Glenelg Findings - Final version 12 Dec 2021 [14.7.1 - 8 pages]

Copy of Internal Arbitration Report and Determination**INTERNAL ARBITRATION PROCESS - GLENELG SHIRE COUNCIL CITY**

In the matter of an Application by Councillor Anita Rank and Other Councillors
concerning Councillor Gilbert Wilson

**HEARING PURSUANT TO DIVISION 5 OF PART 6 OF THE
LOCAL GOVERNMENT ACT (2020)**

Applicants:	Councillor Anita Rank (appointed representative) Councillor Chrissy Hawker Councillor Michael Carr Councillor Scott Martin, and Councillor Jayden Smith
Respondent:	Councillor Gilbert Wilson
Date of Hearing:	6 December 2021
Arbiter:	Helen Buckingham

DETERMINATION

The Arbiter is satisfied that there has been no breach of the prescribed standards by Councillor Gilbert Wilson. As a consequence, no finding of misconduct is made.

The application is dismissed.

STATEMENT OF REASONS FOR DECISION**The Application**

1. The application dated 5 August 2021 was seeking a finding of misconduct against the respondent, Councillor Gilbert Wilson relating to two allegations that are summarised below.
2. The application alleged that Councillor Wilson breached the following standards:
 - Clause 1 (c) of Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020 (the Regulations) in that he engaged in abusive, obscene or threatening behaviour in his dealings with Councillor Rank and the other applicants, when he threw a copy of the Council's Governance Rules on to the floor and said "this is crap" during an Ordinary Council Meeting of June 22, 2021.
 - Clause 4 (1) which requires that in performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
3. Written evidence was submitted by the applicant. A directions hearing was held electronically in this matter at 10.30am on Tuesday, 16 November 2021. The applicants through their appointed representative were asked to lodge any further material on which they intended to rely, including witness statements on or before 29 November 2021.
4. The respondent, Councillor Wilson, was also asked to lodge any material on which he intended to rely, including witness statements, on or before 29 November 2021.
5. The applicant chose not to supply any additional information. Two of her co-applicants did make written submissions. Councillor Chrissy Hawker on 1 December 2021 and Councillor Scott Martin on 2 December 2021.
6. Councillor Karen Stephens also offered to make a confidential submission to the Arbiter. After deliberation and observing that time frames had not been adhered to by some, the Arbiter decided the fairest way forward was to invite all councillors who wished to contribute verbally to be given the opportunity to speak at the Arbitration Hearing on 6 December 2021. This invitation was made through the Council's Councillor Conduct Officer.

7. An Arbitration Hearing was held on 6 December 2021 in Portland at the Glenelg Shire Offices
8. The Arbiter, the applicant's appointed representative, the respondent, the Council's Councillor Conduct Officer and a court recording officer were in attendance. Councillor Stephens also attended for a specific period to give evidence.

Background

9. A notice of motion on the issue of dogs off leash areas in the municipality had been brought to a Council meeting in the second half of 2020 by Councillor Wilson. A further report on the issue from council officers, came to the April meeting of Council. Councillor Wilson stated that he had brought this issue to Council for discussion as a result of constituents raising concerns with him. At the briefing session before the Council meeting in April, the new report and motion was discussed, questions were asked and issues raised. Councillor Wilson laid on the table the motion and asked for more work to be done. The reworked report was the one put to the June meeting of Council.
10. The Council Agenda is published on the Council website prior to each meeting. Councillor Rank and Councillor Wilson both gave evidence that at the Councillor briefing session held before the June Council meeting no issues were raised by anyone concerning the pending motion. The motion was not seeking a ruling on off leash areas, it was seeking further investigation and public consultation on dogs off leash areas. The motion, at Agenda Item 13.5 was moved by Councillor Wilson and seconded by Councillor Stephens and Councillor Wilson spoke to the motion.
11. An audio recording (commencing at 27 minutes forty eight seconds) of the Council meeting notes that Councillor Hawker moved an alternate motion which addressed three areas, that then became part of the alternate motion.
 - (1) To take off the table the report titled "Dog control areas in Glenelg Shire Council."
 - (2) That there be no change to existing local by laws.
 - (3) To update and add new signage.

This alternate motion was seconded by Councillor Carr.

12. Councillor Wilson questioned the meeting procedure. He believed an amendment to the original motion was being moved. Councillor Rank, who as Mayor was chairing the meeting, ruled it was an alternate motion, she sought clarification of the Governance Rules covering meeting procedures, suspended the meeting, and left to seek advice from a Council officer.

13. On resuming the meeting, Councillor Rank, reiterated that she was accepting the alternate motion and cited 2.7.2 of the Governance Rules. Councillor Rank provided no explanation as to why 2.7.2 of the Governance Rules applied in this situation.
14. Councillor Wilson continued to seek clarification, saying that Governance Rules on meeting procedures at 2.7.2 do not mention the process of putting an alternate motion and he respectfully called points of order, finally throwing a copy of the Governance Rules on the floor in front of him, stating "this is crap."

Evidence of the Applicant

15. Councillor Rank spoke to her submission. Councillor Rank emphasised on many occasions that she did not see this application as a question of governance but of what constitutes an acceptable standard of behaviour. She stated that Councillor Wilson's behaviour was unacceptable, and that she felt belittled and threatened by his behaviour
16. When questioned, Councillor Rank stated that she could not remember an alternate motion being put in this way previously, nor did she have any prior knowledge that it was going to happen that evening, though she "sensed there would be conversation on this issue".
17. At 34 minutes 59 seconds into the audio taping of the Council Meeting (immediately after his statement about the Governance Rules), Councillor Wilson apologised to both Councillor Rank and the Council officer who had given advice. On the issue, Councillor Rank gave evidence that she did not perceive this to be a sincere apology. She believed Councillor Wilson's unacceptable behaviour continued. When challenged, she clarified that this continuance of unacceptable behaviour was not for the rest of the meeting but only during the discussion of Agenda item 13.5.
18. Councillor Rank gave further evidence that she felt personally belittled by the incident.

Applicants Witnesses.

19. None of the other applicants appeared at the hearing to give evidence.
20. Two written statements were received, from Councillors Hawker and Martin.
21. Councillor Hawker reiterated her belief that Councillor Wilson's actions were disrespectful, she offered no further explanation of the alternate motion that she raised at the Council Meeting on 22 June 2021.

22. Councillor Martin used his written submission to explain the personal impact that Councillor Wilson's behaviour had on him. The Arbiter acknowledges the conciliatory observation made by Councillor Martin that Councillor Wilson brings significant wisdom to the chamber and to the group and that this was most welcome and needed.

Evidence of the Respondent

23. Councillor Wilson said he felt set up. He stated (and this was supported by Councillor Rank's evidence) that there had been no indication at the Councillor Briefing Session prior to the Council Meeting that there were any concerns with his motion.
24. Initially he believed that Councillor Hawker was moving an alternate motion and he questioned the validity of this. He checked the Governance Rules at 2.7.2 and found they make no mention of an alternate motion. He continued to question the validity of the ruling by Councillor Rank.
25. Councillor Wilson conceded his behaviour was childish but stated it was not threatening, it was not abusive and that his behaviour was aimed at the decision about meeting procedures and not at Councillor Rank specifically. He explained he was frustrated and he lost control of his emotions, he stated on many occasions he was sorry for his behaviour. He pointed out that the immediate verbal apology was sincere. Councillor Wilson produced three emails. One sent at 8.08 am the morning after the incident. It was addressed to the Mayor (Councillor Rank), all other councillors, the CEO and the Council officer who made the governance interpretation at the meeting. The email stated as follows:

"Dear Madam Mayor

I wish to humbly apologise again for my childish behaviour at last night's Council Meeting. I should not have reacted in that way and I ask for your understanding and forgiveness."
26. Councillor Wilson stated that a record of the incident was reported in the Portland Observer June 25. The newspaper article noted that Councillor Wilson had apologised for his actions in the meeting. This article was supplied and cited by the Arbiter.

Respondent's Witness

27. Councillor Stephens attended and gave evidence at the hearing. Councillor Stephens described the same confusion that Councillor Wilson had described over compliance with meeting procedures. Councillor Stephens also thought that Councillor Hawker had moved an amendment to Councillor Wilson's motion. She said she actually spoke to Councillor Hawker when Councillor

Rank suspended the meeting, seeking clarification as to whether she had moved an amendment. Councillor Stephens later discovered that Councillor Hawker had moved an alternate motion which Councillor Stephens pointed out had not been foreshadowed.

28. As a councillor of many years' experience, Councillor Stephens said she could not remember an alternate motion being put in this way before, ever, when there was a motion on the table that had been seconded. She said that she was very confused by the meeting procedure as she thought that Councillor Hawker had moved an amendment rather than an alternate motion. Councillor Stephens believed Councillor Wilson found the situation frustrating because like her he believed it was out of order that two motions were on the table together.
29. Councillor Stephen's made the observation that given the voting on the alternate motion, which was passed 5 votes for and 2 against, if the original motion of Councillor Wilson had been put and voted on it would have been defeated and Councillor Hawker could then have foreshadowed an alternate motion. This would have been a less contentious way of handling this process. Councillor Wilson had also raised this same observation in his evidence.
30. Councillor Stephens emphasised that she had seconded Councillor Wilson's motion because it did not seek a ruling or changes to the off-leash areas, it sought a report and public consultation on the issue.
31. Councillors Stephens identified a need for greater clarification on meeting procedure. She acknowledged that when the chair of a meeting in general makes a ruling, often the actual practise of governance is "not spelt out" or explained.
32. Councillor Stephens believes Council works well together and when there is a difference of opinion this is part of the political process, "that you have differences of opinion about things, then you move on."
33. The Arbiter found the witness to be most credible and conciliatory.

Findings of the Arbiter

34. The Arbiter is satisfied that there has been no breach of the prescribed standards by Councillor Gilbert Wilson. As a consequence, no finding of misconduct is made.
35. As there has been no breach of the prescribed standards of conduct, the application is dismissed.

Reasons for the Arbitrator's Decision

36. With regard to the first allegation that Councillor Wilson breached the following standard:

Clause 1 (c) of Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020 the Regulations) in that he engaged in abusive, obscene or threatening behaviour in his dealings with Councillor Rank and the other applicants, when he threw a copy of the Council's Governance Rules on to the floor and said "this is crap" during an Ordinary Council Meeting of 22 June 2021.
38. Councillors are entitled to seek clarification on compliance with governance procedures from the Mayor during meetings but should be mindful to do so in an appropriate manner.
39. The respondent presented as a credible and honest witness whose evidence was corroborated by Councillor Stephens. I also note that at no time during the audio recording can the respondent be heard raising his voice and accept that his behaviour appears to be a momentary lapse in judgement resulting in childish behaviour, unbecoming to a Councillor
40. The Arbitrator was particularly impressed with the respondent's repeated attempts to both acknowledge and apologise for his poor behaviour at the meeting, on the following day and during the hearing.
41. After reviewing the audio of the meeting and hearing the evidence of the applicant, the respondent, and Councillor Stephens and reviewing the written evidence submitted, I do not find that Councillor Wilson engaged in abusive, obscene or threatening behaviour. I believe he was driven by frustration and an inability to understand a procedural ruling that was stated but never explained.
42. Councillor Wilson immediately verbally apologised in the public meeting and followed that up with a further written apology the next morning to the Mayor, all Councillors, the CEO and the Council Officer concerned, whom he also emailed on two occasions with an additional individual apology.
43. There is no reason to doubt the sincerity of these apologies and Councillor Stephens' corroborating evidence supports Councillor Wilson's explanation for his behaviour.
44. It is also alleged that Councillor Wilson's actions breached a further standard:

Clause 4 (1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.

45. During the hearing Councillor Wilson stated that his questioning of the meeting procedure and subsequent challenge to the ruling on accepting an alternate motion was never personal. Councillor Rank was unable to accept this or the sincerity of Councillor Wilson's verbal and written apologies. Councillor Rank believed it was a challenge to her and that Councillor Wilson's behaviour was belittling. Councillor Rank stated that she felt Councillor Wilson could have approached her personally and individually after the meeting and apologised. The Arbiter acknowledges this and agrees that there was a need for mediation after this incident.
46. The Arbiter believes there could have been an attempt at solving this issue internally through discussion and mediation as set out in the Council's Code of Conduct. Then the possibility of conciliation may have mitigated the need for this arbitration process.
47. Councillor Wilson's behaviour did not bring discredit on the Council. Before this incident occurred, the public Council meeting was well chaired, orderly and uneventful. Immediately after this incident the meeting continued in the same orderly fashion with Councillor Wilson moving and speaking on two more motions.
48. The audio recording of the Council Meeting and the evidence does not support the contention that Councillor Wilson's behaviour discredited the Council in any way, and the Arbiter is unable to accept the submission of the Councillor Rank on this point.
49. The Arbiter notes that procedural defects were identified in legal advice sought by the CEO after this incident. The Arbiter trusts that the process of raising alternate motions from the floor will be examined and addressed in compliance with the Governance Rules.

Helen Buckingham OAM
Arbiter

Date: 10 December 2021

Cr Wilson returned to the meeting at 7:29pm.

Cr Carr re declared a General Conflict of Interest in item 14.8 Contract 2021-22-02 Portland Foreshore Connecting Paths and left the meeting at 7:29pm.

14.8. CONTRACT 2021-22-02 PORTLAND FORESHORE CONNECTING PATHS

Director: Chris Saunders, Acting Director Assets

Executive Summary

This report is to brief Council on the tender evaluation process for the Portland Foreshore Connecting Paths under Contract 2021-22-02 and provides recommendations regarding the awarding of this contract.

Recommendation

That Council:

1. Award Contract 2021-22-02 for the Portland Foreshore Connecting Paths to GR Carr Pty Ltd ATF The Gavin Family Trust, subject to the successful negotiation of contract terms and conditions.
2. Authorise the Director Assets to negotiate terms and conditions to be included in the contract.
3. Authorise the Chief Executive Officer to execute all documents relating to this contract.
4. Authorise the Director Assets to complete all financial payments and endorse variations as applicable relating to this contract.

MOTION

MOVED Cr Stephens

That Council:

1. **Award Contract 2021-22-02 for the Portland Foreshore Connecting Paths to GR Carr Pty Ltd ATF The Gavin Family Trust, subject to the successful negotiation of contract terms and conditions.**
2. **Authorise the Director Assets to negotiate terms and conditions to be included in the contract.**
3. **Authorise the Chief Executive Officer to execute all documents relating to this contract.**
4. **Authorise the Director Assets to complete all financial payments and endorse variations as applicable relating to this contract.**

SECONDED Cr Wilson

CARRIED

FOR: Mayor Cr Rank, Deputy Mayor Cr Martin, Cr Hawker, Cr Smith , Cr Stephens and Cr Wilson

AGAINST: Nil

Background/Key Information:

On the 9 September 2020 Council was successful in securing a grant from the State of Victoria Department of Jobs, Precincts and Regions as part of the Infrastructure Stimulus Fund. The Grant for up to \$3,000,000 included works for the design and construction of fully integrated and all abilities accessible pathways and boardwalks that will connect the existing pathways on the Portland foreshore.

These works will see pathways connecting the All Abilities Play Space to the Maritime Discovery Centre, with boardwalks at the Portland Maritime Discovery Centre and Town Jetty. There may also be the opportunity to formalise the existing gravel paths from the Maritime Discovery Centre to the Lee Breakwater.

Public Tenders were called on Tuesday 17 August 2021 and closed at 3pm on Friday 22 October 2021. At the closure of the tender submission period a total of five (5) submissions were received from the following:

- Mibus Bros (Aust) Pty Ltd;
- GR Carr Pty Ltd ATF The Gavin Family Trust;
- Portland Earthmovers Pty Ltd;
- Eifer's Civil Pty Ltd; and
- Wagstaff Piling VIC Pty Ltd

The Tender Evaluation Panel considered the tender submissions, taking into account the selection criteria and weighting which covers tender price, resources and capacity of the tenderer, quality, reliability and past performance of the tenderer, OHS, economic contribution to the Glenelg Shire and environmental sustainability considerations.

The Tender Evaluation Panel has recommended that Council award Contract 2021-22-02 Portland Foreshore Connecting Paths GR Carr Pty Ltd ATF The Gavin Family Trust, subject to clarification of contractual items and negotiation regarding terms and conditions.

a. Council Plan and Policy Linkage

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

b. Legislative, Legal and Risk Management Considerations

All legal and legislative requirements have been considered.

If this contract is not awarded there is a risk that these fully funded project works may not be delivered in accordance with the funding agreement and works will not progress past this point. Funding may then have to be returned.

c. Consultation and/or communication processes implemented or proposed

Tenders were invited in accordance with Council's procurement policy and communications with prospective tenderers were via Council's Tender link website to ensure a fair and transparent platform for tendering.

Notification to the preferred tenderers will also be provided following Council's resolution to relating to this contract.

d. Financial Implications and Collaboration

Expenditure associated with the Portland Foreshore Connecting Paths project has been incorporated into current and future Council budget forecasts.

e. Governance Principles

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

Attachment List

Separately circulated as a Confidential attachment.

Cr Carr returned to the meeting at 7:34pm.

15. CONFIDENTIAL REPORTS**Recommendation**

That the Council Meeting be closed to members of the public pursuant to Section 66(2)(f) and Section 3(1)(f) of the *Local Government Act 2020*, excluding:

Director Corporate Services
Executive Assistant CEO Department to consider the following reports:

15.1 Chief Executive Officer Employment Matter

MOTION

MOVED Cr Wilson

That the Council Meeting be closed to members of the public pursuant to Section 66(2)(f) and Section 3(1)(f) of the *Local Government Act 2020*, excluding:

**Director Corporate Services
Executive Assistant CEO Department to consider the following reports:**

15.1 Chief Executive Officer Employment Matter

SECONDED Cr Carr

CARRIED

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

AGAINST: Nil

15.2 RE-OPENING OF THE MEETING TO THE PUBLIC**Recommendation**

That the Council Meeting be opened to members of the public.

MOTION

MOVED Deputy Mayor Cr Martin

That the Council Meeting be opened to members of the public.

SECONDED Cr Stephens

CARRIED

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

AGAINST: Nil

16. URGENT BUSINESS

16.1. SUPPORTING ACTIONS TO KEEP VICTORIANS SAFE LETTER FROM MINISTER FOR LOCAL GOVERNMENT, THE HON SHAUN LEANE MP

MOTION

MOVED Cr Carr

That Council determine that this item be designated as urgent business, within the Council Meeting, in accordance with clause 2.5.3 of the Glenelg Shire Council Governance Rules adopted 25 August 2020.

SECONDED Cr Wilson

CARRIED

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

AGAINST: Nil

MOTION

MOVED Cr Carr

- 1. That Council receives the letter from the Minister for Local Government, the Hon Shaun Leane MP, supporting actions to keep Victorians safe.**
- 2. That Council write to the Minister confirming that all Councillors attending Council Meetings at the Glenelg Shire Council are fully vaccinated.**

SECONDED Cr Wilson

CARRIED

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

AGAINST: Nil

17. SEPARATELY CIRCULATED ATTACHMENTS**Recommendation**

That the documents separately circulated to Councillors, CEO, Directors and to the Public, as listed above, be received.

MOTION**MOVED Cr Wilson**

That the documents separately circulated to Councillors, CEO, Directors and to the Public, as listed above, be received.

SECONDED Cr Carr**CARRIED**

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

AGAINST: Nil

18. CLOSURE OF COUNCIL MEETING

THERE BEING NO FURTHER BUSINESS, THE MAYOR DECLARED THE MEETING CLOSED AT 7:43pm.

I HEREBY CERTIFY THAT PAGES 1 TO 38 CONFIRMED AND ARE A TRUE AND CORRECT RECORD.

CR ANITA RANK
MAYOR

25 JANUARY 2022

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