

Governance Rules

July 2022

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Commitment

Good governance, integrity and accountability are central to the Local Government Act 2020 (the Act), to underpin local government democracy, accountability, conduct and enable our community to hold the Council to account. Council is committed to embedding the principles of good governance throughout its decision making, corporate governance and democratic governance by establishing and adhering to the Governance Rules established. The principles of good governance incorporate the principles outlined in the Act, including the overarching governance principles as well as the public transparency, community engagement, strategic planning, service performance and financial management principles.

Council decision making will be founded on good governance and conducted with transparency. The process by which decisions will be made is transparent and clearly articulated in these Governance Rules for the scrutiny of our community and accountability of Councillors and Council officers. Council recognises that accountability, integrity and transparency are of fundamental importance to our community and are critical for enhancing good governance.

Council seeks to apply good governance in order to:

- Engage our community in decision making;
- Achieve the best outcomes for the Cardinia community, including future generations;
- Ensure the transparency of Council decisions, actions and information;
- Ensure the ongoing financial viability of Council;
- Increase our performance;
- Drive out inefficiencies; and
- Reassure residents that we are spending public monies wisely.

Chapter 1 – Introduction

Purpose

These Governance Rules determine the way in which Council will:

- Make decisions:
 - in the best interest of the Cardinia community
 - fairly and on the merits of the question
 - in a way that ensures any person whose rights will be directly affected by a decision will be entitled to communicate their views and have their interests considered.
- Elect its Mayor and Deputy Mayor;
- Conduct meetings of Council and Delegated Committees;
- Require the disclosure and management of conflicts of interest.

The Governance rules also include:

- Expectations of the conduct of Councillor's during Election Periods through the Election Period Policy;
- Use of the common seal.

Principles

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the Local Government Act 2020. These principles are:

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

In giving effect to the overarching governance principles, Council must take into account the following supporting principles —

- a) the community engagement principles;
- b) the public transparency principles;
- c) the strategic planning principles;
- d) the financial management principles;

the service performance principles.

Chapter 2 – context

2.1 Affected persons rights and interests

Before making a decision that affects a person's rights, Council will identify whose rights may be affected and provide an opportunity for that person (or persons) to convey those views regarding the effect on their rights and consider those views.

This includes but is not limited to the rights outlined in the *Charter of Human Rights and Responsibilities Act 2006*.

2.2 Context

The Governance Rules are to be read in the context of and in conjunction with:

- Community Engagement Policy
- Public Transparency Policy;
- Councillor Code of Conduct;
- Employee Code of Conduct;
- Other relevant policies

2.3 Definitions

(1) In these Governance rules:

Act means the *Local Government Act 2020*;

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

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

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

Committee meeting means a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes a scheduled or unscheduled meeting (whether held as face to face attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in person and electronic attendance.

Common Seal means the common seal of Council;

Council means Cardinia Shire Council;

Councillor means a Councillor of Cardinia Shire Council;

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

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

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

Delegated Committee has the same meaning as in the *Act*;

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

General Manager means a senior member of Council staff holding the position of General Manager or another position (however designated) which reports directly to the *Chief Executive Officer*;

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

Meeting means a *Council Meeting* or a *Delegated Committee Meeting*;

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

Minister means the Minister for Local Government;

Minutes means the official record of the proceedings and decisions of a *Meeting*;

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

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

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

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

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

Urgent Business means a matter that relates to or arises out of a matter which has arisen since distribution of the *agenda* and cannot safely or conveniently be deferred until the next meeting;

and

(2) Definitions provided by the Act

The following definitions provided by the Act are applied to these Governance Rules:

Audit and Risk Committee means the Audit and Risk Committee established by a Council under section 53.

Confidential information means the following information—

- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- (b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;

- (d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- (g) private commercial information, being information provided by a business, commercial or financial undertaking that—
 - i. relates to trade secrets; or
 - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- (h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);
- (i) internal arbitration information, being information specified in section 145;
- (j) Councillor Conduct Panel confidential information, being information specified in section 169;
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition;
- (l) information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*;

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.

Electoral Matter means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposed of conducting an election.

Nomination Day means the last day on which nominations to be a candidate at a council election may be received in accordance with the Act and the regulations.

Chapter 3 – Meeting procedure

PART 1 PROCEDURE

Division 1 – Quorums, Convening meetings and Structuring meetings

3.1 Virtual Council Meeting

3.1.1 The Local Government Act 2020 allows Councillors and members of delegated committees to participate in meetings remotely by electronic means of communication.

3.1.2 A member's remote attendance can only be recorded as present where the member can confirm that:

1. They can hear proceedings:
2. They can see other members in attendance and can be seen by other members:
3. They can be heard (to speak)

3.1.3 Other than situations where COVID restrictions are such that face-to-face (in-person) meetings are not appropriate it is the Councils preference that Ordinary and Special Council Meetings and Committee meetings are held as face-to-face (in-person) meetings however if a Councillor is unable to attend in person that Councillor may, with approval, attend via electronic means.

3.1.4 Councillors who wish to attend a meeting via electronic means may submit a request to the Manager Governance in writing or verbally by midday of the day of the meeting stating the reason for requesting electronic attendance.

3.1.5 Approval to attend via electronic means will not be unreasonably withheld. It will remain the responsibility of the Councillor attending electronically to ensure that they have the required access and environment suitable for electronic communications, including sufficient safeguards to ensure that consideration of any confidential matters will not be seen or heard by other persons.

3.1.6 When a meeting is being held that involves both in person attendance and remote attendance (a hybrid meeting) and the Mayor is required to attend remotely the Deputy Mayor will assume the role as Chairperson of the meeting. If the Deputy Mayor is also not able to attend in person then a Temporary Chairperson will be elected from the Councillors present in person at the meeting

3.2 Quorum for Ordinary, Annual or Special meetings

A quorum for an Ordinary Meeting, Annual Statutory Meeting or Special Meeting or a call of the Council Meeting will be a majority of the number of Councillors.

If a quorum is not present within 30 minutes of the time appointed for the commencement of a meeting:

3.2.1 the meeting lapses;

3.2.2 the Mayor must convene another Council meeting and ensure that the agenda for it is identical to the agenda for the meeting which has lapsed; and

3.2.3 the Chief Executive Officer must give notice of the meeting convened by the Mayor to all Councillors.

If a quorum is lost after a meeting has commenced, the Chairperson must adjourn the meeting, and then reconvene the meeting within 30 minutes after it was adjourned, in which case:

- if a quorum is then present the meeting resumes; or

- if a quorum is not then present and if, after using his or her best endeavours to regain a quorum, the Chairperson is unsuccessful, the Chairperson must announce that the meeting has lapsed. In this event, the meeting lapses and the undisposed of business must, unless it has already been disposed of at another meeting, be included in the agenda for the next Ordinary Meeting.

Despite the loss of a quorum the business transacted at the meeting to that point remains valid and capable of being acted upon.

3.3 Quorum for Delegated Committees, Community Asset Committees or Advisory Committee

A quorum for a Delegated Committee, Community Asset Committees or Advisory Committee will be as determined by the Council when appointing the Special Committee or Advisory Committee, in the absence of which a majority of the number of positions comprising the Special Committee or Advisory Committee be required.

If a quorum is:

- not present within 30 minutes of the time appointed for the commencement of a meeting; or
- lost after a meeting has commenced,

the provisions of clause 3.2 will apply, with all modifications and adaptations.

3.4 Notice of meetings and reports

The Chief Executive Officer must give notice of Ordinary and Special Meetings and Committee meetings, together with agendas and all reports accompanying the same, by delivering them so as to reach each Councillor at least two (2) clear days before the time fixed for the holding of the meeting.

3.5 Ordinary meeting business

No business will be considered at an Ordinary Meeting unless it appears on the agenda or in any report accompanying the same, or it is business which has arisen since the preparation of the agenda and reports, is of such importance that a decision of the Council cannot be delayed, is submitted to the Council either in writing or is read by a member of Council staff in the form of a supplementary agenda or report so that it may be incorporated in the minutes, and which the Council resolves to be urgent.

3.6 Order of business

The order of business at an Ordinary Meeting must be as follows, or as near thereto as practicable, but for the greater convenience of the Council at any particular meeting, it may be altered by resolution to that effect:

- 3.6.1 Opening & Prayer;
- 3.6.2 Traditional owner's acknowledgement;
- 3.6.3 Apologies;
- 3.6.4 Adoption and confirmation of minutes of previous meetings;
- 3.6.5 Declaration of any interest of any Councillor;
- 3.6.6 Ordinary Business;
- 3.6.7 Reports or Minutes of Committees;
- 3.6.8 Reports by Councillors
- 3.6.9 Presentation of Petitions;
- 3.6.10 Notices of Motion;
- 3.6.11 Community Question Time;

- 3.6.12 Urgent Business
- 3.6.13 Councillor Question Time;
- 3.6.14 Confidential Business;

3.7 Declaration of Interest

Any declarations of interest must be made in accordance with the Order of Business, with details of the interest provided to the Chairperson in writing and in accordance with Chapter 4 of these rules

3.8 Special meeting business

- 3.8.1 The Mayor, Chief Executive Officer or at least four Councillors may by a written notice call a Special Meeting.
- 3.8.2 The notice calling the Special Meeting must list the business to be considered and state the date, time and venue for the holding of the Special Meeting.

3.9 Special meetings

- 3.9.1 The order of business at Special Meetings will be as it appears on the notice unless the Council by resolution at any particular meeting changes the order of business.
- 3.9.2 Despite the requirements of clause 3.4, the Chief Executive Officer is not required to send the agenda for a special meeting so that it is received two (2) clear days before the meeting if in the circumstances it is not practicable to do so.

Division 2 – Motions and Amendments

3.10 Content of Motion or Amendment

A motion or amendment must be:

- within the Council's functions and powers;
- relevant to an item of business properly before the meeting;
- clear and unambiguous; and
- neither defamatory nor objectionable in language or nature.

3.11 Motion of same effect as negatived motion

A motion to the same effect as any motion which has been negatived by the Council must not again be entertained within a period of three (3) months of the motion being so negatived.

3.12 Motion lapses and no discussion if not seconded

A motion or amendment which is not seconded shall lapse; and no motion or amendment shall be discussed or put to the vote until it is seconded, except that a Councillor may require compliance with any of the provisions of these rules by drawing the Chairperson's attention to any breach thereof.

3.13 Limitation on speaking times

Except by leave of the Chairperson in any particular case to grant an extension of time, no Councillor shall speak or seek clarification of any question for a longer period than:

The mover of a motion	for five (5) minutes
Any other Councillor	for three (3) minutes
The mover of a motion exercising a right of reply	for two (2) minutes

Provided that no Councillor, when speaking, may be interrupted, except by the Chairperson or upon a point of order (in which case the period allowed shall be extended accordingly).

3.14 Right of reply

The mover of every original motion at any meeting of the Council but not of any amendment will (even if that person has spoken on any amendment to such original motion) have a right of reply to be exercised at the conclusion of the debate, (including debate on any such amendment). Except for this, no Councillor will be allowed to speak more than once on the same question, unless permission is given by the Chairperson to explain or unless for the purpose of calling the attention of the Chairperson to a point of order. For the purposes of this clause, a motion will be deemed to be an original motion, even although any amendment to it has been carried.

3.15 Proposal of and discussion on Amendment

Any Councillor, except the mover or seconder of the original motion, may propose or second an amendment. Any Councillor may address the meeting on an amendment, whether or not that Councillor has spoken to the motion; a Councillor who has spoken on a motion without moving an amendment must not subsequently propose an amendment to that motion, except by leave of the Council.

3.16 Successive Amendments

No Councillor may move more than two (2) amendments in succession.

3.17 Withdrawal of Motion or Amendment

No motion or amendment can be withdrawn without the consent of the meeting.

3.18 Lodgement of Notice of Motion

All notices of motion, other than those relating to revocation or alteration of a previous resolution, must be signed and given by the intending mover to the Chief Executive Officer in sufficient time before the next meeting of the Council to permit the Chief Executive Officer to give at least three (3) clear days notice of them to all Councillors. The Chief Executive Officer must number all notices of motion and enter the same in the Notice of Motion File in the order in which they were received.

3.19 Absence of Mover and Notice of Motion

A Councillor who has given a notice of motion, but who will be absent from the meeting at which the motion is to be considered, may ask the Mayor or Chief Executive Officer to inform the meeting of the reasons for his/her absence and of the Councillor's desire that the motion be held over until the next Ordinary Meeting.

3.20 Deliberations upon Notice of Motion

Notwithstanding Clause 3.18, if a Councillor who has given notice of motion:

- is absent; or
- does not move the motion

when it is called by the Chairperson, any other Councillor may move it forthwith, or move to defer consideration of it, but if the motion is not so moved it will be deemed to have been withdrawn.

3.21 Urgent business

3.21.1 A motion which is not listed on the agenda can only be considered as Urgent Business.

3.21.2 A motion can only be considered as Urgent Business if:

- 3.21.2.1 it relates to or arises out of a matter which has arisen after the deadline for lodgement of motions with notice;
- 3.21.2.2 it cannot safely or conveniently be deferred until the next Ordinary Meeting; and
- 3.21.2.3 the Council resolves to admit it as Urgent Business.

3.22 Rescission motion

A proposed motion contrary to a resolution previously adopted by the Council, but not acted upon in whole or in part, must not be considered until the previous resolution with which it is inconsistent has been rescinded or altered following notice of motion to such effect.

3.23 A notice of motion to rescind or after a previous resolution

A notice of motion to rescind or alter a previous resolution:

- 3.23.1 must be dated and signed by both the intending mover and the intending seconder and lodged before the motion to which the rescission motion relates has been acted on;
- 3.23.2 given by the intending mover to the Chief Executive Officer in sufficient time before the next meeting of Council to enable the Chief Executive Officer to give at least two (2) clear days notice to all Councillors;
- 3.23.3 will be deemed withdrawn if not moved at the next meeting at which such business may be transacted; and
- 3.23.4 if it is a second or subsequent notice to rescind or alter an earlier resolution, must not be accepted by the Chief Executive Officer until a period of one month has elapsed after the date of the meeting at which the first or last motion of revocation or alteration was dealt with.

3.24 Majority required for successful motion

A motion to rescind or alter a previous resolution must be passed by a majority of the Councillors.

Division 3 – Debate

3.25 Withdrawal of remark and apology

The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, offensive, abusive or objectionable in language or substance and a Councillor required to withdraw a remark must do so immediately and make an apology to the meeting.

3.26 Refusal to apologise

Any Councillor having been required by the Chairperson to withdraw a remark and apologise under Clause 3.25 and refusing to do so will be dealt with in accordance with Clause 3.44

3.27 Interruptions to Speaker

A Councillor may be interrupted by the Chairperson or upon a point of order, at which time the Councillor must resume his/her seat (if applicable) and remain silent until the Chairperson has ceased speaking or the point of order has been disposed of.

3.28 Suspensions and removal

- 3.28.1 The Chairperson may suspend from a meeting any Councillor whose actions have disrupted the business of the Council and have impeded the orderly conduct of the meeting.
- 3.28.2 The duration of any suspension effected under clause 3.28.1 will be in the Chairperson's discretion but must not exceed the balance of the meeting.
- 3.28.3 The Council may resolve to ask any member of Council staff or member of the Victoria Police to remove from the chamber any Councillor who has been suspended under clause 3.28.1 but who has refused or neglected to leave the chamber.

3.29 Chairperson may address meeting

The Chairperson may address any meeting upon any matter under discussion, and will not be deemed to leave the chair on such occasions.

3.30 Voting

The Chairperson must put the question to the Council first in the affirmative then in the negative, and thereupon announce the result which will be recorded in the minutes.

3.31 Divisions

- 3.31.1 Immediately after a vote is taken, the Chairperson or any Councillor may demand a division. In that event, the vote already taken will be treated as a nullity and the question will be decided on the division.
- 3.31.2 A division will be taken by those voting in favour of the motion or amendment standing and remaining standing until their names are recorded by the Chief Executive Officer. After their names are so recorded, they will resume their seats and those voting against the motion or amendment will then stand and remain standing until their names are recorded by the Chief Executive Officer.
- 3.31.3 The Chairperson must declare the result of the division as soon as it is taken.

Division 4 - Miscellaneous

3.32 Grounds for Points of Order

A point of order may be taken on the grounds that the matter objected to is:

- 3.32.1 in contravention of these rules;
- 3.32.2 defamatory, disloyal, irrelevant, irreverent, obscene, ambiguous or obscure; or
- 3.32.3 not within the powers or functions of the Council.

Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

3.33 Chairperson to take Point of Order

The Chairperson may take a point of order although it has not been taken by any Councillor.

3.34 Meeting adjournment to consider Point of Order

- 3.34.1 The Chairperson may adjourn the meeting to consider a point of order, but must otherwise rule upon it as soon as it is taken.
- 3.34.2 The Chairperson must give reasons for his or her ruling.

3.35 Disagreement with Chairperson's ruling

- 3.35.1 Other than a ruling made by the Chairperson under clause 3.27, any Councillor may move a motion that the Chairperson's ruling be disagreed with.
- 3.35.2 A motion to disagree with the Chairperson's ruling:
 - 3.35.2.1 must specify the ruling to be substituted for the Chairperson's ruling;
 - 3.35.2.2 must be considered in priority to any other business; and
 - 3.35.2.3 if carried, shall be acted upon instead of the ruling given by the Chairperson.

3.36 Lodgement of question upon notice from Councillors

- 3.36.1 A question upon notice must be in writing delivered to the Chief Executive Officer not less than four (4) hours prior to the scheduled time of any Ordinary Meeting.
- 3.36.2 The Chief Executive Officer must, as far as it reasonably practicable, distribute the text of any question lodged in accordance with clause 3.36.1 to every Councillor present at the Ordinary Meeting prior to the commencement of that meeting.
- 3.36.3 The Chairperson, Councillor or senior officer who is asked a question upon notice must answer that question at the meeting if he or she is able to do so.
- 3.36.4 If the Chairperson or Councillor is unable to provide an answer to the question upon notice at the meeting at which it is asked, he or she must answer the question at the next available meeting.
- 3.36.5 If a senior officer is unable to provide an answer to a question upon notice at the meeting at which it is asked, the senior officer shall provide and circulate to all Councillors a written answer as soon as is practicable, but in any event not later than five business days after the meeting. The written answer must then be reproduced in the minutes of the Ordinary Meeting immediately following the meeting at which the relevant question was asked.

3.37 *Period available for questions*

All questions and answers must be as brief as possible, provided that the Chairperson may, at his discretion, limit to not more than five (5) minutes the time allotted to any one Councillor for question time.

3.38 *Disallowance of questions*

A question may be disallowed by the Chairperson upon the ground that it:

- 3.38.1 relates to a matter exceeding the powers of the Council;
- 3.38.2 is defamatory, disloyal, indecent, irreverent, abusive or objectionable in language or substance;
- 3.38.3 is intended to embarrass or denigrate a senior officer; or
- 3.38.4 is repetitive of a question already answered (whether at the same or an earlier meeting).

3.39 *Answer when the meeting is closed to members of the public*

The Chairperson may direct that the answer to any question be given when the meeting is closed to members of the public in accordance with Section 89(2) of the Act.

3.40 *Confirmation of minutes*

The minutes of a Council meeting must be tabled and confirmed at the next appropriate meeting of the Council.

3.41 *Copies of minutes to Councillors*

Where minutes are to be confirmed at the next meeting, a copy of them must be made available to each Councillor at least two (2) clear days prior to the meeting at which the minutes are to be confirmed.

3.42 *Discussion only as to accuracy*

No discussion must be permitted on the minutes except as to their accuracy as a true record of the meeting and the minutes must be signed by the Chairperson of the meeting at which they are confirmed.

Division 5 – Visitors and behaviour

3.43 *Visitors admitted with exception*

Visitors will be admitted to Special, Ordinary and Committee meetings unless they are excluded for disorderly conduct or the Council resolves that the meeting be closed to members of the public.

3.44 *Visitor behaviour*

Visitors must not move about, interject, applaud, converse or take part in the debate or otherwise create a nuisance at meetings and silence must be preserved in the gallery during any debate and while any vote is being taken.

3.45 *Not to use recording equipment or take photographs*

Visitors (including media representatives) may not use audio or video recording equipment or take photographs without the consent of the Council.

3.46 *Eviction*

If any visitor is called to order by the Chairperson because of behaviour which breaches clause 3.43 and thereafter again behaves in a manner which breaches clause 3.44:

- 3.46.1 the Chairperson may request a member of Council staff or member of the Victoria Police to remove that person from the gallery; and

- 3.46.2 the Council may resolve to ban that person from attending meetings of the council for a period up to 3 months for a first offence and for a period up to 12 months for any subsequent breach of these rules.

3.47 Adjournment because of disorder

- 3.47.1 The Chairperson may call a break in a meeting for either a short term, or to resume another day if the behaviour at the Council table or in the gallery is significantly disrupting the meeting
- 3.47.2 Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
- 3.47.2.1 Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
- 3.47.2.2 The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting
- 3.47.3 Where Council suspends a Councillor under clause 3.47.2 or the Mayor directs a Councillor to leave the meeting under clause 3.47.2.2 the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended
- 3.47.4 If a Councillor has been suspended from a meeting or directed to leave in accordance with clause 3.47.2.2 the Chairperson may ask a member of Council staff or member of the Victoria Police to remove the Councillor

Division 6 – Community Question Time

3.48 Period for gallery questions

Questions from the gallery may be permitted at Ordinary Council meetings and will be limited to a period of 15 minutes at each meeting.

3.49 Time for consideration of questions

Notwithstanding clause 3.48, the Chairperson may, upon the request of any person, defer questions from the gallery to a later time in the meeting if it is desirable or convenient to do so.

3.50 Chairperson may reject question

The Chairperson may withhold or refuse to deal with any question from the gallery.

3.51 Procedure

- 3.51.1 Questions must be received by the Chief Executive Officer no later than midday on the day of the meeting.
- 3.51.2 The Chief Executive Officer or another member of Council staff nominated by him/her must read each question received.
- 3.51.3 The questioner must be present in the gallery for the question to be read and answered.

3.52 Councillor may be assisted

A Councillor who has been asked a question from the gallery may call on any member of Council staff or another Councillor to assist in the answering of such question.

3.53 Reply to subsequent meeting

Any Councillor or member of Council staff to whom a question is directed will have a right to reply to a subsequent meeting of the Council.

3.54 Multiple questions

Where there are multiple questions from a member of the gallery, answers to second or subsequent questions may, at the discretion of the Chairperson, be deferred until questions from other members of the gallery have been responded to.

3.55 *Supplementary questions*

At the discretion of the Chairperson, a member of the gallery whose question has been answered may be permitted to ask a supplementary question if that question is designed to clarify the answer given. Any such supplementary question will not be a multiple question for the purposes of clause 3.54.

3.56 *No debate*

Questions from the gallery and responses to them must not be debated.

Division 7 – Consequential

3.57 *Meeting closing time*

The Council may, by resolution, fix a closing time for each Council and committee meeting, and may by resolution extend the closing time.

3.58 *Reports and correspondence not to be read in full*

No reports or correspondence will be read in full at any meeting unless the Chairperson or a Councillor requests that any particular item or items be so read.

3.59 *Personal explanations*

A Councillor or member of Council staff may at any meeting of the Council make a brief personal explanation in respect of any statement made affecting the Councillor or member of staff (as the case may be).

3.60 *Timing of personal explanation*

A personal explanation arising out of a statement made at a meeting of the Council must be made as soon as is practicable after the speaker making the statement concludes. A personal explanation arising out of a statement made or published elsewhere must be made at a meeting of the Council at such time as is determined by the Chairperson.

3.61 *No debate on personal explanation*

A personal explanation must not be debated except upon a motion to censure the Councillor or member of Council staff who has made it.

3.62 *Suspension of standing orders*

Any one or more of the clauses of this part may be suspended for a particular purpose by a majority vote of the Councillors present at any Ordinary or Special meeting; such clauses will remain suspended until a further motion to "resume standing orders" is moved and carried.

3.63 *Official Titles to be used*

Councillors in a meeting must designate each other and members of Council staff by their official titles.

3.64 *Resort to Parliamentary Procedure*

In all cases not provided in this part, regard shall be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament, which must be followed so far as the same are applicable to the proceedings of the Council. In the event of a dispute or difference as to what the Standing Orders or Rules of Practice provide, the Chairperson's ruling will be final and conclusive.

3.65 *Chairperson to determine if no procedures*

In all matters not provided for in clause 3.64 the Chairperson must determine the procedure to be adopted.

Part 2 – ELECTION OF THE MAYOR

3.66 Purpose

The purpose of this Part is to regulate proceedings for the election of Mayor.

3.67 Procedure for election of Mayor

3.67.1 Councillors must elect a Councillor to be the Mayor.

3.67.2 The Mayor is to be elected at the Annual Statutory Meeting, and held:

3.67.2.1 after the fourth Saturday in October but not later than 30 November in each year; or

3.67.2.2 as soon as possible after there occurs a vacancy in the office of the Mayor.

3.67.3 Any Councillor is eligible for election or re-election to the office of Mayor.

3.67.4 Until the Mayor is elected, the Chief Executive Officer will be the temporary Chairperson and Returning Officer of the meeting at which the election of Mayor is to be conducted but will have no voting rights.

3.67.5 The election of Mayor is to be in accordance with the following procedure:

3.67.5.1 The Returning Officer must invite nominations for the office of Mayor.

3.67.5.2 If there is only one nomination (which must be seconded), the candidate nominated is deemed to be elected.

3.67.5.3 If there is more than one nomination (each of which must be seconded), the Councillors present at the meeting must vote by show of hands for one of the candidates.

3.67.5.4 If a candidate receives an absolute majority of the votes, that candidate is declared to have been elected.

3.67.5.5 If no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates by a further show of hands. This procedure shall continue until one of the candidates has an absolute majority.

3.67.5.6 In the event of two or more candidates having an equality of votes and one of them having to be declared:

3.67.5.6.1 a defeated candidate; or

3.67.5.6.2 duly elected

the result must be determined by lot.

3.67.5.7 If a lot is conducted, the Returning Officer has the conduct of the lot.

3.68 Mayor to take Chair

3.68.1 After the election of the Mayor is determined, the Mayor must take the Chair.

3.68.2 The Mayor must take the Chair at all Ordinary and Special meetings at which he or she is present.

3.68.3 If the Mayor is absent from an Ordinary or Special Meeting of Council, the Chief Executive Officer must take the Chair and invite nominations from the Councillors present for a temporary Chairperson. If there is more than one nomination the Chief Executive Officer will act as Returning Officer for the election of a temporary Chairperson.

3.69 Election of Deputy Mayor and Temporary Chairperson

The procedure for the election of a Deputy Mayor is to be the same as the procedure under clause 3.67 for the election of Mayor.

PART 3 – COMMON SEAL

3.70 Purpose

The purpose of this Part is to regulate the use of the common seal and prohibit unauthorised use of the common seal or any device resembling the common seal.

3.71 Who keeps the common seal

A General Manager nominated by the Chief Executive Officer must keep the common seal in safe custody.

3.72 Signatures to accompany common seal

Every document to which the common seal is affixed must be signed by the Chief Executive Officer and a Councillor.

3.73 Affixing the common seal

3.73.1 The common seal may be affixed to a document for the purpose of giving effect to a decision:

- 3.73.1.1 made by Council resolution;
- 3.73.1.2 made by resolution of a Special Committee composed solely of Councillors;
- 3.73.1.3 made by resolution of a Special Committee under delegation; or
- 3.73.1.4 made by the Chief Executive Officer under delegation.

3.73.2 The Chief Executive Officer must ensure that there is kept a common seal register which records, for each time the common seal is affixed to a document:

- 3.73.2.1 a description of the document to which the seal was affixed; and
- 3.73.2.2 the date on which the common seal was affixed;

Chapter 4 – Conflicts of interest

4.1 *Obligations with regard to conflict of interest:*

- 4.1.1 Councillors, members of Delegated Committees and Council staff and contractors are required to:
- Avoid - all situations which may give rise to conflicts of interest;
 - Identify - any conflicts of interest; and
 - Disclose – or declare all conflicts of interest;

4.2 *Councillors and Members of Delegated Committees*

- 4.2.1 May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- 4.2.2 When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- 4.2.3 All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.
- 4.2.4 Council will maintain a Conflict of Interest Register which will be made available on Council's website.

4.3 *Procedure at a Council or Delegated Committee Meeting*

- 4.3.1 At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
- (a) The item for which they have a conflict of interest; and
 - (b) Whether their conflict of interest is general or material; and
 - (c) The circumstances that give rise to the conflict of interest.
- 4.3.2 Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- 4.3.3 A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at sub-rule (1) prior to leaving the meeting.
- 4.3.4 A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

4.4 *Procedure at other meetings organised, hosted or supported by Cardinia Shire Council*

- 4.4.1 A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- 4.4.2 At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- 4.4.3 If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- 4.4.4 At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- 4.4.5 The existence of a conflict of interest will be recorded in the minutes of the meeting.
- 4.4.6 If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.

- 4.4.7 The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- 4.4.8 Meeting records and reports will be presented to Council for noting and inclusion on the public record.

4.5 Council staff

- 4.5.1 Must act in accordance with the Employee Code of Conduct –
- 4.5.2 Must not exercise a delegation where a conflict of interest exists.
- 4.5.3 May be permitted provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 4.6 and the Employee Code of Conduct.

4.6 Procedure for disclosures of conflicts of interest by Council Staff

- 4.6.1 Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- 4.6.2 All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- 4.6.3 A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
 - 4.6.4 The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
 - 4.6.5 The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
 - 4.6.6 The staff member's Director determines that the conflict of interest has not influenced the advice provided; and
 - 4.6.7 The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

4.7 Contractors and Consultants

- 4.7.1 All Contractors and consultants engaged by Council will be required to disclose conflicts of interest
- 4.7.2 A Contractor or consultant who discloses a conflict of interest will not be engaged to provide advice on that matter unless;
 - 4.7.3 There are no other contractors or consultants reasonably available and qualified to provide the technical advice required; and
 - 4.7.4 The conflict of interest is documented in all advice provided by that contractor or consultant.

Chapter 5 – Joint Council meetings

- (1) Council may resolve to participate in a Joint Council meeting to consider:
 - (a) Matters subject to discussion relating to regional matters
 - (b) Collaborative projects
 - (c) Collaborative procurement
 - (d) Emergency Response
- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- (3) Where Cardinia is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting
- (4) A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- (5) Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

Chapter 6 – Council records

6.1 *Records of meetings held under the auspices of Council*

- 6.1.1 A record of the matters discussed at Councillor Briefing Sessions, Council Meetings, Delegated Committees and Special meetings will be kept.
- 6.1.2 Records kept in accordance with sub-rule one will include
 - (a) The attendees at the meeting
 - (b) The title of matters discussed
 - (c) Any conflicts of interest disclosed and whether the person with the conflict of interest left the meeting.
- 6.1.3 Where minutes are kept of a meeting and made available to the community an additional record is not required to be kept.

6.2 *Councillor attendance records*

- 6.2.1 Council will maintain a register of Councillor attendance at Council Meetings, Delegated Committee Meetings and Councillor Briefing Sessions.
- 6.1.2 The register of Attendance kept in accordance with sub-rule (1) will be published on Council's website quarterly and included in the Annual Report

Chapter 7 – Community Asset Committees

7.1 Community Asset Committee

- 7.1.1 The Governance Rules will apply to any Community Asset Committee established by Council.
- 7.1.2 Council may resolve, in establishing a Community Asset Committee, that the meeting procedure chapter of these Governance Rules does not apply.
- 7.1.3 A Community Asset Committee must report the minutes of all Committee Meetings as soon as possible following each meeting.
- 7.1.4 A Community Asset Committee must act in accordance with its Instrument of Delegation and guidelines issued from time to time.

Chapter 8 – Election period policy

8.1 Election period policy

8.1.1 Introduction

8.1.1.1 There are specific provisions in the Local Government Act 2020 (the Act) that Councils must implement during an election period. These include limits on Council publications and prohibitions on certain types of decisions. (Refer section 69 of the Act.)

8.1.1.2 The Act provides that the election period commences on the last day on which nominations for the election can be received and concludes at 6pm on the Election Day. For the 2020 Council election, this means that the election period will be from Tuesday 22 September through to 6pm on 24 October.

8.2 Purpose

8.2.1 The Election Period Policy has been developed to ensure that general elections for Cardinia on Saturday 24 October 2020, and any subsequent elections are conducted in a manner that is ethical, fair and equitable, and is publicly perceived as such. The Chief Executive Officer will ensure as far as possible, that all Councillors and staff are informed of the requirements of this Policy

8.3 Policy Decisions and Inappropriate Decisions

8.3.1 During the election period the Council can only deal with matters that meet the Act provisions and should not make any major policy decisions that bind the incoming Council. These provisions however do not preclude the Council making decisions where the issue:

- a) Is urgent;
- b) the decision is significant;
- c) cannot be reasonably deferred without major negative repercussions; and
- d) where the decision relates to the completion of an activity already undertaken and endorsed by Council eg. via the Budget, Council Plan or long term strategies or policies, but does not meet the definition of 'major policy' in the Act.

8.3.2 It shall be the responsibility of the Chief Executive Officer to determine if a matter is significant and if it is urgent.

8.3.3 In the context of this Policy, a 'major policy' decision means any decision:

- relating to the employment or remuneration of a Chief Executive Officer other than a decision to appoint or remunerate an acting Chief Executive Officer;
- 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;
- the Council considers could be reasonably deferred until the next Council is in place; or
- the Council considers should not be made during an election year

8.3.4 During the election period Council will not make any decisions 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.

8.3.5 Council will also not intentionally adopt any new Policy, Strategy, Local Law or major planning scheme amendment during this period.

8.4 Public Consultation

8.4.1 Public consultation means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue

or proposed action or proposed policy, and includes discussion of that matter with the public.

- 8.4.2 Public consultation may be undertaken during the election period to facilitate the day-to-day business of Council, to ensure matters continue to be proactively managed.
- 8.4.3 However no new consultation activities will be commenced during the election period.
- 8.4.4 Any consultation activities conducted during the election period will avoid express or implicit links to the election.
- 8.4.5 The requirements of this Clause do not apply to public consultation activities required under the Planning and Environment Act 1987, or matters subject to section 223 of the Local Government Act 1989.

8.5 Council Events

- 8.5.1 No Council events will be conducted during the election period.
- 8.5.2 Council sponsored community events will be encouraged to not be held during the election period
- 8.5.3 No election material or active campaigning is to be conducted at Council sponsored events or displays.
- 8.5.4 Councillor participation at Council sponsored community events should not be used to gain attention in support of an election campaign.

8.6 Council Resources

- 8.6.1 The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in 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 Chief Executive Officer or the Manager Governance.
- 8.6.2 Councillor candidates undertake to use Council resources, including offices, support staff, hospitality services, equipment (such as mobile phones or computers including Council email addresses, printers etc) and stationery exclusively for normal Council business during the election period, and not use such resources for any electioneering activity.
- 8.6.3 Reimbursements of Councillors' out-of-pocket and travel expenses during 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.
- 8.6.4 No Council logos, letterheads, business cards or other material such as photographs sourced by Council or other Cardinia branding should be used for, or linked in any way to, a candidate's election campaign.
- 8.6.5 The Chief Executive Officer or any staff should not be asked to undertake any tasks connected directly or indirectly with electioneering.

8.7 Information

- 8.7.1 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 there shall be complete transparency in the provision of all information and advice during the election period.
- 8.7.2 Information and briefing material prepared by staff for Councillors during the pre-election caretaker period will relate only to matters before the Council or to existing Council services and programs.
- 8.7.3 An Information Request Register will be maintained by the Manager Governance commencing nomination day, 22 September 2020. This Register will be a public

document that records all requests for any information by candidates, and the responses given to those requests. Those responses will be provided by General Managers, Manager Governance or the Chief Executive Officer. Only information that can be reasonably accessed will be released. The Register will exclude queries relating to items listed on formal Council meeting agendas during the election period.

- 8.7.4 The Council will suspend the holding of Council or Town Planning Committee meetings during the election period.

8.8 Communication

- 8.8.1 Council communication will not be used in any way which might influence the outcome of a Council election.
- 8.8.2 Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive or their delegate.
- 8.8.3 During the election period, no employee will initiate any public statement that relates to an election issue. Contact with the local media will be restricted to the communication of normal Council activities as identified in the Council Plan and will only respond to questions not involving the election or election outcome.
- 8.8.4 In response to media inquiries the Chief Executive Officer, General Managers, Managers or the Manager Communications will only provide information that relates to current services and operations
- 8.8.5 During the election period, Council initiated communications, other than for the purpose of conducting the election, shall be restricted to the communication of normal Council activities as identified in the Council Plan.
- 8.8.6 No media advice or assistance will be provided to Councillors in relation to election campaign matters or publicity which involves specific Councillors.
- 8.8.7 Council staff and other Council resources or information to gain media attention in support of an election campaign. This includes photos or images provided by Council.
- 8.8.8 Councillors should refrain from using social media to promote their position as a councillor to gain advantage as part of their election campaign.

8.9 Council Publications

- 8.9.1 Section 55D of the Act prohibits Council from printing, publishing or distributing publications during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.
- 8.9.2. Any advertisement, notice, media release, leaflet, brochure, mail out to multiple addresses and editions of Connect Cardinia or any other Council sponsored newsletter must be submitted to the Chief Executive Officer for certification prior to publication. This certification does not need to be printed or published but the certification will be retained on Council record.
- 8.9.3 No publication during the period will contain any express or implicit reference to or comment on
- a) the election; or
 - b) a candidate in the election; or
 - c) an issue submitted to, or otherwise before, the voters in connection with the election.
- 8.9.4 Any references to Councillor candidates in Council publications printed, published or distributed during an election period will not include any promotional text.
- 8.9.5 During the election period Council's website will not contain material which is precluded by this Policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process. Information about Councillors will be restricted to the names of the elected representatives and contact details.
- 8.9.6 The Annual Report will be compiled during the election period and will not contain any material that could be regarded as electioneering or that inappropriately promotes individual Councillors. Information about Councillors will be restricted to names, contact

details, titles, membership of Special Committees and other bodies to which they have been appointed by the Council.

- 8.9.7 Council Newsletter Connect Cardinia will not be published during the election period.
- 8.9.8 Any publication on social media sites such as Twitter and Facebook will not contain any electoral matter during the election period.

8.10 Assistance to Candidates

- 8.10.1 The Council affirms that all candidates for the Council election will be treated equally, fairly and without discrimination.
- 8.10.2 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.
- 8.10.3 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 or a designated member of Council staff.

8.11 Complaints regarding breach

- 8.11.1 Any complaints regarding a breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer. Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate at www.lgi.vic.gov.au

Disclaimer

This Policy has been written to provide a guide only for Council staff, Councillors and candidates and is not a substitute for legal advice. Individuals should seek their own independent advice if they are unsure about any aspect of the **Local Government Act** in relation to the election period.

Appendix 1

Approval Memorandum

To: Manager Governance

From: [insert name and title]

Subject: CERTIFICATION OF PUBLICATION DURING ELECTION PERIOD

Date:

Council will not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill pamphlet or notice (including group emails) during the election period unless the advertisement, handbill, pamphlet or notice has been approved, in writing, by the Chief Executive Officer.

In accordance with the Election Period Policy, Council further commits that where a publication is deemed necessary for a Council service or function, it will be approved by the Chief Executive Officer

Insert details of publication here including:

Information on who is intended to receive it and why it needs to be issued during the election period:

Council Officer name and signature: _____

Date: _____

General Manager Use only:

The attached material has been reviewed and, to the best of my knowledge, does not contain any electoral related matter. Please authorise this material to be printed, published or distributed.

General Manager name and

signature: _____ Date: _____

Governance review:

The attached material has been reviewed and, to the best of my knowledge, does not contain any electoral related matter

Governance name and signature: _____ Date: _____

Certification by Chief Executive Officer

I approve the attached material for printing, publishing or distributing on behalf of Cardinia Shire Council.

Name and Signature: _____

