

7 NOTICE OF MOTION 1052 - REMOTE PARTICIPATION OF COUNCILLORS AT A COUNCIL MEETING

FILE REFERENCE INT2026586

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RECOMMENDATION

That Council note the report and advocate to the Minister for Local Government for legislative changes for the ability to conduct Council Meetings electronically.

Attachments

Nil.

EXECUTIVE SUMMARY

Cardinia Shire Councillors cannot under the Local Government Act 1989, Local Government Act 2020 or Cardinia Shire Council's Local Law 19 legally participate as a Councillor (Specifically voting) while not physically present at a meeting of Council.

BACKGROUND

Cr Brett Owen at the March 2020 Council Meeting raised a notice of motion asking that a report be prepared for the April Council Meeting to inform Council of the following:

- Whether the current Cardinia Shire Council's Meeting Procedures and Local Law allow for a Councillor to partake and vote on an item at a council meeting if they are not able to be physically in the council chambers during the meeting.
- Is it possible to change the Cardinia Shire Council's Meeting Procedure to allow for a Councillor to partake and vote at a council meeting if a Councillor could not be physically present but could use technology to be take part in a meeting? If so, what changes would be required to be made?
- What technology could be used to allow a Councillor to partake in such a meeting?
- What would the costs to council be to implement such changes?
- Are there any risks associated with such a proposed change?

Legal advice circulated to the sector due to the recent developments of the COVID-19 pandemic has specified that a Councillor must be physically present in the room where the discussion is taking place for their vote to be legitimately valid. Therefore, Council is unable to amend its local law 19 (Meeting Procedure Local Law) as this is in conflict with s 111(2) of the Local Government Act 1989.

As the current circumstances surrounding COVID19 are changing daily, Cardinia Shire is awaiting ministerial action in terms of amending the legislation to allow Councils to conduct their meetings electronically to minimise face to face exposure.

As the option to electronically participate in Council meetings is currently prohibited, the remainder of the report has not been processed. Although, changes have been made to allow non-statutory meetings to be

held electronically across Council, if and when legislative change is made this software will be already in use by Councillors to allow for the conduct of meetings.

POLICY IMPLICATIONS

Nil.

RELEVANCE TO COUNCIL PLAN

Nil.

CONSULTATION/COMMUNICATION

Advice received from Local Government Victoria, Maddocks and other resources across the sector have advised all Council's that the ability to participate as a Councillor electronically at a Council Meeting is unlawful.

FINANCIAL AND RESOURCE IMPLICATIONS

Nil.

CONCLUSION

Councillors cannot act as a Councillor at a Council Meeting unless physically present in the room where the discussion is being held.