

# PROTOCOLS FOR COUNCILLORS – LAND USE PLANNING



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| <b>Approval Body:</b>                       | COUNCIL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Endorsement Date of Current Version:</b> | 21 May 2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Current Version:</b>                     | 3.0<br><i>Policy documents change from time to time and it is recommended that you consult the electronic reference copy on the Sharepoint to ensure that you have the current version.</i>                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Compulsory Review Cycle:</b>             | 4 years                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Review Date:</b>                         | 21 May 2028<br><i>It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.</i><br><i>Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of the approval body.</i> |
| <b>Responsible Department:</b>              | Growth and Investment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Responsible Team:</b>                    | Statutory Planning Growth                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Relevant Legislation:</b>                | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Relevant Council Documents:</b>          | Casey Planning Scheme, including Incorporated Documents and Reference Documents.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>ECM ID:</b>                              | 13834922                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |



## 1. Purpose and Intent

The purpose of this policy is to:

- Reinforce Council's role as Planning Authority (development of policy and strategy and changes to the Casey Planning Scheme via Planning Scheme Amendments) and Responsible Authority (considering applications for a planning permit against the policies and controls within the Casey Planning Scheme).
- To articulate the separation of power between the role of council in 'setting the vision, policy and direction' and the 'implementation of policy and making of decisions on planning applications'.
- Provide Council with instruction and guidance on their important roles as Planning Authority and Responsible Authority.
- Ensure decisions are not compromised by premature or ill-informed advice provided to proponents, applicants, objectors or submitters through consistent, transparent and accountable processes.
- Create greater certainty and transparency to the community about Council's role and decision-making processes as well as opportunity to engage with Council as part of this.

## 2. Scope

This policy applies to the City of Casey Council in its capacity and role in decision making as Planning Authority and Responsible Authority primarily under the Planning and Environment Act 1987.

It articulates the decision-making processes, including opportunity for the community to be engaged through this.

## 3. Definitions

| Key term                     | Definition                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Council</b>               | means Casey City Council, being a body corporate constituted as a municipal Council under the Local Government Act 2020                                                                                                                                                                                                                                     |
| <b>Councillors</b>           | means the individuals holding the office of a member of Casey City Council                                                                                                                                                                                                                                                                                  |
| <b>Council officer</b>       | means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.                                                                                                                                                                                                                                                            |
| <b>Planning Authority</b>    | means Casey City Council in its role as Planning Authority under the Planning and Environment Act 1987. This is the role of Council when making decisions to change the Casey Planning Scheme at a policy or broad or specific control level such as introducing an overlay to a geographic area to deliver a certain outcome.                              |
| <b>Responsible Authority</b> | Broader community interest is defined as matters which impact the state, south east Melbourne region or the Casey municipality. It does not include matters that have a discreet, localised or neighbourhood catchment, where there is clear direction and guidance in the Casey Planning Scheme and/or Victorian Civil and Administrative Tribunal (VCAT). |
| <b>Land Use Planning</b>     | For the purposes of this policy, Land Use Planning includes:                                                                                                                                                                                                                                                                                                |

|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | <ul style="list-style-type: none"> <li>• Strategic planning matters, including preparation of policy and strategy that will change or influence what landowners can and cannot do on their land.</li> <li>• Planning scheme amendments processes, including adoption, exhibition, consideration of submissions, panel recommendations and requests to the Minister for Planning to change the Casey Planning Scheme.</li> <li>• Planning Permit Application decisions as called in by the requirements of this policy</li> <li>• Secondary consents to planning permits.</li> <li>• Requirements of any Development Plan, Development Contributions Plan or other incorporated document as part of the planning application and permit process.</li> </ul> |
| <b>Planning and Building Department</b> | <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Statutory and strategic planning in established areas.</li> <li>• Planning compliance across the entire municipality.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Growth and Investment Department</b> | <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Statutory and strategic planning in growth area and where major investment opportunities exist such as town centres</li> <li>• Subdivision, engineering and landscape approvals across the entire municipality</li> <li>• Development contributions management</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Proponent</b>                        | <p>For the purposes of this policy, Proponent includes</p> <ul style="list-style-type: none"> <li>• Applicant</li> <li>• Landowner</li> <li>• Developer</li> <li>• Representative of the Applicant, Landowner or Developer</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Parties</b>                          | <p>For the purposes of this policy, Parties includes</p> <ul style="list-style-type: none"> <li>• Proponent</li> <li>• Objector</li> <li>• Submitter</li> <li>• Representative of the Proponent, Submitter or Objector</li> <li>• Person with an interest</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

## 4. Policy

In considering any land use planning matters Councillors should

### 4.1. Requests to Councillors for Advice and Information from Parties

- Refer parties seeking information or advice to the website, Customer Service or Office of Council. Council provides planning advice via various channels that can be utilised by customers.
- Not purport to provide land use planning advice.
- Not place themselves in a compromised position by appearing to be an advocate for or against any proposal that may come before the Council for a decision.
- Guard from future allegations of pre-judging a matter by retaining an open mind and not make fixed statements of support or opposition and maintaining impartiality.
- Communicate to parties that there are formal processes in place to consider their views.

### 4.2. Requests to Councillors for meetings, correspondence and phone calls

- Consider whether there is merit in meeting with a party over and above the consideration of written or presented submissions as part of the decision-making process.
- Refer meeting requests to the Office of Council for coordination which will be held in the presence of Planning and Building Department or Growth and Investment Department staff
- Not compromise themselves by having meetings, phone calls or other correspondence with parties, including a proponent or objector without council officers or other parties being present.
- Where communication does occur with parties, a record of the discussion is required. If this occurs in absence of a council officer, then a copy of any record of any interaction must be provided to the Office of Council to be placed on file. This is in the interests of transparency and places the active onus on the Councillor to maintain the integrity during the course of any planning process. This includes when a meeting or phone call has been declined.
- Do not express a view that demonstrates a bias or pre-conceived view.

### 4.3. On receiving submissions

- Refer any objection or submission as soon as possible to the Office of Council for registration.
- Advise the objector or submitter that their submission will be considered and that they will be advised of Council's decision and any review rights or rights to be heard (such as to the Victorian Civil and Administrative Tribunal or Planning Panels Victoria).

### 4.4. Hear from the community

- Take the opportunity to hear verbal submissions or presentations by parties in advance of determining significant land use planning matters at a Council Meeting. This may include at a meeting or other assembly of Council on a day prior to the matter being determined by the Council. This is to provide for a fair and reasonable timeframe for Council to contemplate the matter before making a decision. This will be coordinated by the relevant department.
- Provide an equal opportunity for both the proponent and objector and submitters to be heard.
- Note this is not part of the statutory role in determining planning applications or considering strategic planning matters, but aims to increase the opportunity for the community to engage with the planning system and increase dialogue with all parties to help inform any decision making processes.

### 4.5. Decision Making as Planning Authority

- Make all efforts to attend briefings, read background reports and ask questions about strategic policy development and planning scheme amendments to be well informed about what is proposed, the implications and opportunities, challenges and risks.

- Make decisions with a clear and open mind with a view to set the vision and policy direction with the long term community benefit and outlook over and above a short term need. Decisions must ensure compliance with the Casey Planning Scheme.
- Have regard to the Proponent Requested Planning Scheme Amendment Policy and endorsed Strategic Land Use Planning Work Plan when considering requests for amendments to the Casey Planning Scheme. Deviation from this Policy should occur only where there are exceptional circumstances that demonstrate net community benefit and justification for Council to prioritise resource allocation to that project over its endorsed Work Plan.
- If an alternative recommendation or amendment from what is presented by Council officers is proposed as part of any council decision making in relation to its role as Planning Authority, the reasons for these decisions must be recorded. In order to ensure transparency in decision making, all relevant points of the planning scheme amendment process require decision-makers to document reasons for their statutory decisions, including decisions to authorise, adopt, refuse and/or approve planning scheme amendments.
- In exercising decision making as Planning Authority, the Councillors must comply with relevant policies and procedures including in relation to declaration of conflicts of interest. To assist in this process and to improve transparency in this regard, all proponents and persons making a submission to the Council will be required to disclose reportable donations and other financial arrangements that parties have made, or have, with relevant decision makers in relation to that planning matter and decision before them. This will be identified in any reports to Council making a decision at any stage of the process.

- All applications are determined under delegation by Council officers. Applications are determined against the requirements of the Casey Planning Scheme, which sets the strategic direction of the State and City of Casey through its various requirements. This is an operational aspect of the planning system, that relies on technical, thorough and complex assessments.
- In order to ensure transparency, all relevant points of the planning application process require decision-makers to document reasons for their statutory decisions, including decisions to approve, defer or refuse a planning application.
- If a Councillor wishes to 'call in' a planning application to have the matter determined by Council at a Council meeting, this should be made in the broader community interest. The meaning of broader community interest is outlined in the definitions of this Protocol. Councillors must give consideration to the conflict of interest requirements as set out in the Governance Rules. Matters that are called in must be supported by the Mayor and is to be provided in writing to the Director City Planning and Infrastructure. Decisions in line with policy and the Casey Planning Scheme should be determined by operational part of the organisation.
- If the 'call in' of a planning application is supported by Council, Council must make decisions with a clear and open mind and in accordance with the requirements of the Casey Planning Scheme, setting aside any personal views. Reasons for their statutory decisions, including decisions to approve, defer or refuse a planning application are required to be documented.
- Councillors must contain deliberations and debate to the planning merits of the application under consideration.
- In exercising decision making as Responsible Authority for the consideration of planning permit applications, including the 'call in' process above, the Councillors must similarly comply with relevant policies and procedures including in relation to declaration of conflicts of interest. To assist in this process and to improve transparency in this regard, all proponents and persons making a submission to the Council will be required to disclose reportable donations and other financial arrangements that parties have made, or have, with relevant decision makers in relation to that planning matter and decision before them. This will be identified in any reports to Council making a decision at any stage of the process.

## 4.7. Responsibilities

| Who                                                                   | What                                                                    |
|-----------------------------------------------------------------------|-------------------------------------------------------------------------|
| Planning and Building Department and Growth and Investment Department | Communicate policy direction to parties involved in planning processes. |
| Corporate Governance Team                                             | Embed and reiterate policy to Council                                   |

## 4.8. Breaches

N/A

## 5. Relevant Forms

| Title | Link |
|-------|------|
| N/A   | N/A  |
|       |      |
|       |      |
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## 6. Document History

| Date approved | Change Type                                                | Version | Next Review Date |
|---------------|------------------------------------------------------------|---------|------------------|
| 21 May 2024   | Updated standalone document outside of the Code of Conduct | 3.0     | 21 May 2028      |
| 20 April 2021 | Document Amendment                                         | 2.0     | 20 April 2025    |
| 7 April 2020  | Document initiation                                        | 1.0     | 30 April 2024    |

### Contact the City of Casey:

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**Post:** PO Box 1000, Narre Warren VIC 3805  
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### Customer Service Centres:

**Narre Warren:** Bunjil Place, Patrick Northeast Drive  
**Cranbourne:** Cranbourne Park Shopping Centre  
**ABN:** 43 320 295 742



**TIS:** 131450 (Translating and Interpreting Service) المترجم الفوري 翻译 مترجم شفاهى ਦੁਆਰਾ ਸਹਾਇਤਾ നാമം വെള്ളം

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