



## COUNCILLOR CODE OF CONDUCT

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## CHAPTER 1 – PRELIMINARY PROVISIONS

### 1 CONTEXT

- 1.1 The Councillor Code of Conduct (this Code) represents the commitment by the *Councillors* of Golden Plains Shire to the core values and standards of conduct which will guide them in the performance of their role. This Code forms part of Golden Plains Shire Council's Governance framework established by the *Local Government Act 2020 (Vic)* (the Act).
- 1.2 The role of Golden Plains Shire Council (*Council*) is to provide good governance in the Golden Plains Shire municipal district for the benefit and wellbeing of the Golden Plains Shire community. *Councillors* are elected by the municipal community to represent their views and interests.
- 1.3 The Act requires *Council* to adopt a Councillor Code of Conduct that includes the standards of conduct expected to be observed by *Councillors* prescribed in the Local Government (Governance and Integrity) Regulations 2020.<sup>1</sup> A Councillor Code of Conduct may also include any other matters which the *Council* considers appropriate.<sup>2</sup>
- 1.4 The Code is required to be reviewed within four months following a general election,<sup>3</sup> however may additionally be reviewed or amended at any time.<sup>4</sup>

### 2 PURPOSE

- 2.1 The purpose of this Code is to fulfill the requirements of the Act and to set out the core values, standards of conduct and specific conduct obligations expected to be observed by *Councillors* in the course of performing their duties and functions as *Councillors*.
- 2.2 This Code is intended to ensure *Councillors* are accountable, transparent, collaborative, efficient, and engaged with the Golden Plains Shire community in the performance of their role.

### 3 SCOPE

- 3.1 This Code applies to the *Councillors* of Golden Plains Shire Council in the course of performing their duties and functions as a *Councillor*.
- 3.2 Legislative obligations of *Council* and *Councillors* are addressed in the Code where required by legislation. There may be other *Council* and *Councillor* obligations in the Act and/or other legislation which apply to *Council* and *Councillors* even if not expressly set out in the Code.
- 3.3 This Code does not apply to members of Golden Plains Shire Council staff.

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<sup>1</sup> Local Government Act 2020 (Vic), s 139(2).

<sup>2</sup> Local Government Act 2020 (Vic), s 139(3)(d).

<sup>3</sup> Local Government Act 2020 (Vic), s 139(4).

<sup>4</sup> Local Government Act 2020 (Vic), s 140(1).

## CHAPTER 2 – VALUES AND STANDARDS OF CONDUCT

**Overview:** This chapter outlines the commitment to good governance, the standards of conduct and the values that will guide the Councillors in the performance of their role.

### 4 COMMITMENT TO GOOD GOVERNANCE

- 4.1 The *Councillors* of Golden Plains Shire Council declare that we will undertake, on every occasion, to carry out their duties in the best interests of the community and that our conduct shall maintain the standards of the code of good governance so that we may faithfully represent and uphold the trust placed in this *Council* by the people of Golden Plains Shire.

### 5 COUNCILLOR STANDARDS OF CONDUCT

- 5.1 *Councillors* will comply with the prescribed Standards of Conduct.<sup>5</sup> A breach of the standards of conduct constitutes *misconduct*.
- 5.2 The Standards of Conduct are provided at Appendix 1 of this Code.

### 6 VALUES

- 6.1 The Golden Plains Shire Council vision and values guide the *Council* in performing their role and upholding the standards of conduct.



- 6.2 *Councillors* of Golden Plains Shire will endeavour to promote the vision and values and perform their role with:

- Pride: We know that our role is important, and we take pride in doing the best job we can.
- (a) We take accountability for actions and results.
  - (b) We recognize and celebrate our achievements.
  - (c) We lead with trust and empowerment.
  - (d) We approach our role with energy and enthusiasm.
- Respect: We treat each other with courtesy and respect, and are committed to keeping our environment safe, and free from judgement.
- (a) We are inclusive and appreciate diversity.
  - (b) We show compassion and kindness to one another.
  - (c) We bring a positive mindset to *Council* and contribute to a positive culture.

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<sup>5</sup> Schedule 1, *Local Government (Governance and Integrity) Regulations 2020*.

Integrity: We are committed to being authentic, honest and ethical in our role.

- (a) We do what we say and honour our commitments.
- (b) We use open and transparent communication.
- (c) We speak up when we see behaviours that compromise our values.

Collaboration: We partner together to achieve shared goals and deliver community focused outcomes.

- (a) We build and maintain positive relationships.
- (b) We work resourcefully and united by shared goals.
- (c) We work as a team to bring out the best in each other.

Excellence: We are committed to delivering the best community experience and outcome that we are capable of providing.

- (a) We conduct our role with professionalism.
- (b) We seek opportunities to innovate and continuously improve.
- (c) We effectively respond to the changing needs of the community.

## CHAPTER 3 – ROLES AND RESPONSIBILITIES

**Overview:** This chapter describes the role of the Council, each Councillor, the Mayor, the Deputy Mayor, the Chief Executive Officer, the Councillor Conduct Officer and the Principal Councillor Conduct Officer. Each of these positions holds important responsibilities, functions and duties and must fulfil their role in accordance with the relevant requirements, while respecting the role and function of each other position.

### 7 ROLE OF COUNCIL

- 7.1 The role of *Council* is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.<sup>6</sup> A *Council* provides good governance if the *Council* complies with the overarching governance principles as set out in the Act,<sup>7</sup> and the *Councillors* of the *Council* perform their role as defined in the Act.<sup>8</sup>
- 7.2 Good governance is fundamental to *Council* being able to perform its role. Good governance relies on, among other things, constructive relationships between *Councillors* and between *Councillors* and staff, and positive representation of the municipality and the *Council* by *Councillors*.

### 8 ROLE OF COUNCILLOR

- 8.1 The role of every *Councillor* is to:<sup>9</sup>
- (a) Participate in the decision making of *Council*;
  - (b) Represent the interests of the municipal community in decision making;
  - (c) Contribute to the strategic direction of *Council* through the development and review of key strategic documents of *Council*, including the Council Plan.
- 8.2 In performing the role of a *Councillor*, each *Councillor* will:<sup>10</sup>
- (a) Consider the diversity of interests and needs of the municipal community;
  - (b) Support the role of the *Council*;
  - (c) Acknowledge and support the role of the Mayor;
  - (d) Act lawfully and in accordance with the oath or affirmation of office;
  - (e) Act in accordance with the standards of conduct; and
  - (f) Comply with *Council* procedures required for good governance.
- 8.3 It is not the role of a *Councillor* to perform any responsibilities or functions which are the responsibility or function of the *Chief Executive Officer*.

### 9 ROLE OF MAYOR

- 9.1 The role of the Mayor is to:<sup>11</sup>
- (a) Chair *Council* meetings;
  - (b) Be the principal spokesperson for the *Council*;
  - (c) Lead engagement with the municipal community on the development of the Council Plan;

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<sup>6</sup> Local Government Act 2020 (Vic), s 8.

<sup>7</sup> Local Government Act 2020 (Vic), s 9.

<sup>8</sup> Local Government Act 2020 (Vic), s 28.

<sup>9</sup> Local Government Act 2020 (Vic), s 28(1).

<sup>10</sup> Local Government Act 2020 (Vic), s 28(2).

<sup>11</sup> Local Government Act 2020 (Vic), s 18.

- (d) Report to the municipal community, at least once a year, on the implementation of the Council Plan;
- (e) Promote behaviour among *Councillors* that meets the standards of conduct set out in the Councillor Code of Conduct;
- (f) Assist *Councillors* to understand their role;
- (g) Take a leadership role in ensuring the regular review of the performance of the *Chief Executive Officer*;
- (h) Provide advice to the *Chief Executive Officer* when the *Chief Executive Officer* is setting the agenda for *Council* meetings; and
- (i) Perform civic and ceremonial duties on behalf of the *Council*.

## 10 ROLE OF THE DEPUTY MAYOR

- 10.1 Where the Mayor is not present but their attendance is required to carry out the Mayoral functions or duties, the Deputy Mayor, where one has been duly elected, will perform the role of the Mayor and may exercise any of the powers of Mayor.<sup>12</sup>

## 11 ROLE OF THE CHIEF EXECUTIVE OFFICER

- 11.1 The *Chief Executive Officer* is responsible for supporting the Mayor and *Councillors* in the performance of their roles and ensuring the effective and efficient management of the day to day operations of the *Council*.<sup>13</sup>
- 11.2 The *Chief Executive Officer* will determine the extent to which *Councillors* will be informed of decisions made in pursuit of the *Chief Executive Officer's* role, responsibilities and functions. *Councillors* acknowledge that any information provided by the *Chief Executive Officer* is provided as a courtesy and provided in order to develop and maintain good working relationships.
- 11.3 *Councillors* accept that they must not seek to direct the *Chief Executive Officer* with respect to the fulfilment of these functions.<sup>14</sup>
- 11.4 It is neither the role nor the responsibility of the *Chief Executive Officer* to mediate disagreements arising between *Councillors* or to draft, or otherwise assist in the drafting of, an application under this Code or the Act.

## 12 ROLE OF COUNCILLOR CONDUCT OFFICER

- 12.1 The *Chief Executive Officer* must appoint a person to be the Councillor Conduct Officer.<sup>15</sup> The *Chief Executive Officer* cannot be the Councillor Conduct Officer.<sup>16</sup>
- 12.2 The Councillor Conduct Officer provides support to the *Councillors* to understand the *misconduct* framework and supports the Principal Councillor Conduct Registrar in performing their role.<sup>17</sup> This may include helping with *misconduct* proceedings and requests for information.
- 12.3 It is neither the role nor the responsibility of the Councillor Conduct Officer to mediate disagreements arising between *Councillors* or to draft, or otherwise assist in the drafting of, an application under this Code or the Act.

<sup>12</sup> Local Government Act 2020 (Vic), s 21.

<sup>13</sup> Local Government Act 2020 (Vic), s 46.

<sup>14</sup> Local Government Act 2020 (Vic), s 124.

<sup>15</sup> Local Government Act 2020 (Vic), s 150(1).

<sup>16</sup> Local Government Act 2020 (Vic), s 150(3).

<sup>17</sup> Local Government Act 2020 (Vic), s 151.

### 13 ROLE OF THE PRINCIPAL COUNCILLOR CONDUCT REGISTRAR

- 13.1 The Principal Councillor Conduct Registrar is appointed by the *Secretary* and is employed by the State Government under Part 3 of the Public Administration Act 2004.<sup>18</sup> The role of the Principal Councillor Conduct Registrar relevantly includes:<sup>19</sup>
- (a) Receiving and examining applications for the appointment of an arbiter;
  - (b) Appointing an arbiter from the panel list kept by the *Secretary*; and
  - (c) Publishing guidelines in relation to processes and procedures relating to internal arbitration process applications as considered necessary.

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<sup>18</sup> Local Government Act 2020 (Vic), s 148.

<sup>19</sup> Local Government Act 2020 (Vic), s 149.

## CHAPTER 4 – SPECIFIC COUNCILLOR CONDUCT OBLIGATIONS

**Overview:** *In addition to the Standards of Conduct as provided by the Local Government Regulations, the Local Government Act contains specific Councillor conduct obligations, which are outlined in this chapter.*

### 14 USE OF POSITION AND RESOURCES

- 14.1 *Councillors* are provided with information and resources to enable them to effectively perform their role as *Councillors* and represent the Golden Plains Shire community. *Councillors* need to make decisions, use resources and information, and exercise their powers, duties and functions in a manner that represents the views of the municipal community, rather than to further any personal interest.
- 14.2 *Councillors*, including past *Councillors*, must not intentionally misuse their position:<sup>20</sup>
- (a) To gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
  - (b) To cause, or attempt to cause, detriment to the *Council* or another person.
- 14.3 The following circumstances will be considered misuse of a position by a person who is or has been a *Councillor*:<sup>21</sup>
- (a) Making improper use of information acquired in the position;
  - (b) Disclosing information that is confidential;
  - (c) Directing or improperly influencing, or seeking to direct or improperly influence, a *member of Council staff*;
  - (d) Exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform;
  - (e) Using public funds or resources in a manner that is improper or unauthorised; or
  - (f) Participating in a decision on a matter in which the person has a conflict of interest.
- 14.4 *Councillors* acknowledge and must comply with the Gifts, Benefits and Hospitality Policy and must not accept gifts, either directly or indirectly, except in accordance with that policy and section 137 of the Act.

### 15 COUNCILLORS AND MEMBERS OF COUNCIL STAFF

- 15.1 Members of *Council* staff provide information and support to *Councillors* to enable them to make decisions and perform their roles. Members of *Council* staff must be able to provide honest, impartial and accurate information and advice to *Councillors*, free from undue influence or pressure. Where *Council* staff are empowered by legislation, authorisation or delegation to make decisions and perform duties or functions, they must be free to do so without influence from outside sources, including *Councillors*.
- 15.2 *Councillors* must not intentionally direct, or seek to direct, a *member of Council staff*:<sup>22</sup>
- (a) In the exercise of a delegated power, or the performance of a delegated duty or function of *Council*;
  - (b) In the exercise of a power or the performance of a duty or function exercised or performed by the staff member as an authorised officer under the Act or any

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<sup>20</sup> Local Government Act 2020 (Vic), s 123.

<sup>21</sup> Local Government Act 2020 (Vic), s 123(3).

<sup>22</sup> Local Government Act 2020 (Vic), s 124.

other Act;

- (c) In the exercise of a power or the performance of a duty or function the staff member exercises or performs in an office or position the staff member holds under the Act or another Act;
- (d) In relation to advice provided to *Council* or a delegated committee, including advice in a report to *Council* or delegated committee.

15.3 *Councillors* recognise that the *Chief Executive Officer* is responsible for all staffing matters.<sup>23</sup> *Councillors* acknowledge and must comply with all policies, practices and protocols implemented by the *Chief Executive Officer* for the purposes of managing interactions between members of *Council* staff and *Councillors*.<sup>24</sup> A failure to comply may constitute a breach of the standards of conduct in accordance with Standard of Conduct 3(a).

## 16 COUNCIL DECISION MAKING

16.1 *Councillors* must actively participate in the decision-making process and, in doing so, will represent the interests of the municipal community.<sup>25</sup>

16.2 Participation in the decision-making process includes:

- (a) Attendance at *Council* meetings;
- (b) Engaging with the reports and information provided to *Councillors* for decision making;
- (c) Actively seeking further information from members of *Council* staff, in the manner provided by the Interaction Between Councillors and Council Staff protocol, if necessary for informed decision making;
- (d) Respectfully engaging in debate and discussion of decisions at *Council* meetings.

16.3 *Councillors* must abide by the *Governance Rules*,<sup>26</sup> which govern the conduct of *Council* meetings, and will respect the position of the Chairperson in managing *Council* meetings.<sup>27</sup>

16.4 In making decisions or considering any matter, *Councillors* must:

- (a) Provide an opportunity for *affected persons* to convey their views regarding the effect on their rights and consider those views;<sup>28</sup>
- (b) Commit to ensuring they are free from bias and will approach each issue or matter with an open mind;<sup>29</sup>
- (c) Comply with relevant legislation and policies in the consideration of matters, including conflict of interest provisions.

16.5 *Councillors* understand that *Council* is bound by the decisions made at *Council* meetings, and that although they may not agree with all decisions made, it is the collective responsibility of all *Councillors* to make decisions, support the functions of *Council* and provide good governance of Golden Plains Shire.

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<sup>23</sup> Local Government Act 2020 (Vic), s 46(1).

<sup>24</sup> Standards of Conduct, 3(a).

<sup>25</sup> Local Government Act 2020 (Vic), s 28(1)(a).

<sup>26</sup> Local Government Act 2020 (Vic), s 28(2)(f).

<sup>27</sup> Local Government Act 2020 (Vic), s 28(2)(b).

<sup>28</sup> Local Government Act 2020 (Vic), s 60(2)(b).

<sup>29</sup> Local Government Act 2020 (Vic), s 60(2)(a).

## 17 CONFLICT OF INTEREST

- 17.1 A Councillor exercising a power, duty or function, or making a decision in relation to any matter must:<sup>30</sup>
- (a) Disclose a conflict of interest in accordance with Chapter 4 of *Council's Governance Rules*; and
  - (b) Exclude themselves from the decision-making process, including any discussion or vote, or any action in relation to any matter:
    - i. To be considered at any *Council* meeting;
    - ii. To be considered at any meeting of a delegated committee;
    - iii. To be considered at a meeting of a Community Asset Committee;
    - iv. To be considered at a meeting conducted under the auspices of *Council*;
    - v. That arises in the exercise of a power of delegation or a statutory function under the Act or any other Act.
- 17.2 *Councillors* who declare a conflict of interest in accordance with clause 17.1 must not influence or attempt to influence decision making or any action on the matter in relation to which they have declared a conflict with any other Councillor or *member of Council staff*.
- 17.3 The Act provides for two types of conflicts of interest:
- (a) A general conflict of interest arises if an impartial, fair-minded person would consider that the person's *private interests* could result in that person acting in a manner that is contrary to their *public duty*.<sup>31</sup>
  - (b) A material conflict of interest arises in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.<sup>32</sup>
- 17.4 Specific exemptions apply where a conflict of interest will not arise.<sup>33</sup> It is the responsibility of each Councillor to determine whether a conflict of interest does or does not exist, however *Councillors* may seek support and assistance with interpretation of the legislative provisions from the *Chief Executive Officer* or their delegate.

## 18 CONFIDENTIAL INFORMATION

- 18.1 A *Councillor* or a person who has been a *Councillor* must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information.<sup>34</sup>
- 18.2 Confidential information means information that is confidential as defined by section 3 of the Act or by virtue of any other Act.
- 18.3 A *Councillor* may disclose information that would be considered confidential information:
- (a) If the information that is disclosed is information that *Council* has determined should be publicly available;<sup>35</sup> or

<sup>30</sup> Local Government Act 2020 (Vic), s 130(2).

<sup>31</sup> Local Government Act 2020 (Vic), s 127.

<sup>32</sup> Local Government Act 2020 (Vic), s 128.

<sup>33</sup> Local Government Act 2020 (Vic), s 129.

<sup>34</sup> Local Government Act 2020 (Vic), s 125.

<sup>35</sup> Local Government Act 2020 (Vic), s 125(2).

- (b) In the circumstances provided by section 125(3) of the Act, which includes for the purposes of any legal proceedings, in the course of an internal arbitration or Councillor Conduct Panel process, or to a Municipal Monitor, the Chief Municipal Inspector or Commission of Inquiry.
- 18.4 *Councillors* acknowledge that they will have access to confidential information in many forms and that it will not always be labelled as being 'confidential'. *Councillors* will take reasonable steps to inform themselves about the confidential nature of any *Council* information before discussing it outside the organisation.

## 19 SAFETY AND RESPECT

- 19.1 *Councillors* acknowledge that *Council* has obligations under the *Equal Opportunity Act 2010*, *Victorian Charter of Human Rights and Responsibilities Act 2006*, *Occupational Health and Safety Act 2004*, *Gender Equality Act 2020*, and the Victorian Child Safe Standards.
- 19.2 *Councillors* commit to:
- (a) Take all reasonable steps to eliminate all forms of discrimination and vilification at *Council*,<sup>36</sup>
  - (b) Take and support positive action to eliminate *sexual harassment*,<sup>37</sup> including by acting in accordance with the Councillor Sexual Harassment Policy;
  - (c) Support *Council* and the *Chief Executive Officer* to provide a safe workplace for *Councillors*, members of *Council* staff, contractors, volunteers and other individuals who interact with *Council*;
  - (d) Take reasonable care to protect the health, safety and wellbeing of themselves, other *Councillors* and members of *Council* staff;
  - (e) Behave in a safe, respectful and inclusive manner in their interactions with any other *Councillors*, members of *Council* staff, contractors, volunteers and other individuals who interact with *Council*, including children and young people;
  - (f) Take all reasonable steps to protect children and young people from harm and support *Council's* commitment to the Child Safe Standards.

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<sup>36</sup> Local Government Act 2020 (Vic), s 139(2).

<sup>37</sup> Standards of Conduct, 1(a).

## CHAPTER 5 – DISPUTE RESOLUTION AND BREACHES OF THE CODE

**Overview:** *This chapter provides a structured approach to informal resolution of disputes that may arise between Councillors. This approach involves an initial informal discussion between Councillors to resolve the matter, followed by a resolution discussion facilitated by the Mayor or Deputy Mayor, with the final step being a mediation conducted by an external mediator. Councillors may consider escalating matters to an internal arbitration or Councillor Conduct Panel where they believe the matter involves misconduct or serious misconduct.*

### 20 INFORMAL DISPUTE RESOLUTION

- 20.1 During the *Council* term, it is natural that interpersonal disagreements or conflicts (collectively 'dispute') between *Councillors* may arise.
- 20.2 The following dispute resolution steps will be undertaken by *Councillors* to resolve disputes:
- (a) Informal discussion between involved parties to the dispute;
  - (b) If (a) is unsuccessful, application to the Councillor Conduct Officer for a resolution discussion between the involved parties, to be facilitated by the Mayor or other *Councillor* in accordance with clause 21.1;
  - (c) If (a) and (b) are unsuccessful, application to the Councillor Conduct Officer for a mediation between the involved *Councillors* conducted by an external qualified mediator.
- 20.3 Pursuant to clauses 20.2(b) and 20.2(c), an application to the Councillor Conduct Officer for dispute resolution assistance must be in writing and contain:
- (a) The names of all involved *Councillors*;
  - (b) A brief summary of the dispute; and
  - (c) A summary of steps taken to resolve the dispute.
- 20.4 *Councillors* may apply to commence the informal dispute resolution process in respect of disputes to which they are a party only and may not make an application on behalf of other parties.
- 20.5 The Mayor may commence an informal dispute resolution process in accordance with clause 20.2 in relation to any matter or dispute which they become aware of and are not required to be a party to that matter or dispute.
- 20.6 If a dispute arises between *Councillors* and staff, these will be managed by the *Chief Executive Officer* in conjunction with the Mayor, and will be handled in accordance with the Interaction Between Councillor and Council Staff Protocol.

### 21 RESOLUTION DISCUSSION

- 21.1 The facilitator of the discussion will be determined as follows:
- (a) The Mayor will facilitate the resolution discussion.
  - (b) If the Mayor is an involved party to the dispute, the discussion will be facilitated by the Deputy Mayor. If both the Mayor and Deputy Mayor are involved parties in the dispute, the most recent past Mayor will facilitate the discussion.
- 21.2 On receipt of an application for a resolution discussion in accordance with clause 20.2(b), the Councillor Conduct Officer will:
- (a) Provide a copy of the application to:
    - i. The facilitator of the discussion, in accordance with clause 21.1;

- ii. The *Chief Executive Officer*, for information only; and
    - iii. The other party or parties to the dispute.
  - (b) Seek confirmation from the other party or parties to the dispute that they will participate in the resolution discussion. If no response is received from the other party or parties within 5 business days, this will be taken as a refusal to participate in the resolution discussion; and
  - (c) If the other party or parties consents to participate in the resolution discussion, with the cooperation of all parties, arrange a time, date and appropriate facilities for the holding of the discussion.
- 21.3 Following a resolution discussion, the facilitator of the discussion will provide the Councillor Conduct Officer with a written summary of the outcome of the resolution discussion. The Councillor Conduct Officer will provide a copy of the written summary to:
- (a) The *Chief Executive Officer*, for information only; and
  - (b) The parties to the discussion.
- 21.4 The application and written summary of the outcome will not be provided by the Councillor Conduct Officer, Mayor or *Chief Executive Officer* to any person, including other Councillors, who is not a party to the dispute.
- 21.5 If any party considers that the resolution discussion did not resolve the dispute or if any party declined to participate in the resolution discussion, a party may apply to the Councillor Conduct Officer to commence an external mediation in accordance with clause 20.2(c).
- 21.6 While the facilitator of the discussion may suggest possible actions to resolve the dispute, it is not the role of the facilitator of the discussion to impose an outcome or sanction on any party.

## **22 EXTERNAL MEDIATION**

- 22.1 On receipt of an application for external mediation in accordance with clause 20.2(c), the Councillor Conduct Officer will:
- (a) Confirm that a resolution discussion has been conducted or attempted in relation to the dispute;
  - (b) Provide a copy of the application to:
    - i. The Mayor;
    - ii. The *Chief Executive Officer*, for information only; and
    - iii. The other party or parties to the dispute;
  - (c) Seek confirmation from the other party or parties to the dispute that they will participate in the external mediation. If no response is received from the other party or parties within 5 business days, this will be taken as a refusal to participate in the external mediation;
  - (d) If the other party or parties consents to participate in the external mediation, select and engage the services of a mediator and, with the cooperation of all parties, arrange a time, date and appropriate facilities for the holding of the mediation.
- 22.2 The mediator selected for the purposes of the external mediation must not be a *Councillor* or *member of Council staff* and will be selected at the sole discretion of the Councillor Conduct Officer.

- 22.3 Following the mediation, the mediator will provide a written summary of the outcome of the mediation to the Councillor Conduct Officer. The Councillor Conduct Officer will provide a copy of the written summary to:
- (a) The Mayor;
  - (b) The *Chief Executive Officer*, for information only; and
  - (c) The parties to the dispute.
- 22.4 The application and written summary of the outcome will not be provided by the Councillor Conduct Officer, Mayor, mediator or *Chief Executive Officer* to any person, including other Councillors, who is not a party to the dispute.
- 22.5 If any party considers that the external mediation did not resolve the dispute or if any party declined to participate in the external mediation, the matter will be considered closed and the parties will strive to maintain a professional working relationship and comply with the standards of conduct and values as contained in this Code of Conduct.

## **23 BREACHES OF CONDUCT OBLIGATIONS**

- 23.1 Where a *Councillor* or *Councillors* believe that the behaviour of another *Councillor* constitutes a breach of the standards of conduct, they may make an application for a finding of *misconduct* or *serious misconduct* to the Principal Councillor Conduct Registrar.
- 23.2 It is strongly encouraged that, where possible, the *Councillor* or *Councillors* seek to informally resolve the matter by following the process described in clause 20 prior to making such an application.

## **24 MISCONDUCT**

- 24.1 An application for an internal arbitration process to consider making a finding of *misconduct* against a *Councillor* may be made by:<sup>38</sup>
- (a) *Council* following a resolution of the *Council*;
  - (b) A *Councillor*; or
  - (c) A group of *Councillors*.
- 24.2 An application for an internal arbitration process must be in the required form and must be submitted to the Principal Councillor Conduct Registrar within 3 months of the alleged *misconduct* occurring.<sup>39</sup>
- 24.3 A *Councillor* should submit any applications for internal arbitration directly to the Principal Councillor Conduct Registrar however a Councillor Conduct Officer who receives an application for internal arbitration will provide a copy of the application to the Principal Councillor Conduct Registrar on the *Councillor's* behalf.
- 24.4 The Councillor Conduct Officer will take all reasonable steps to comply with and act upon the Principal Councillor Conduct Registrar's advice upon submission of an application for internal arbitration.
- 24.5 Following the Principal Councillor Conduct Registrar's examination of the application and if an arbiter is then appointed by the Principal Councillor Conduct Registrar to hear the matter,<sup>40</sup> the internal arbitration process will be conducted at the direction of the arbiter, with support provided to the arbiter by the Councillor Conduct Officer.

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<sup>38</sup> Local Government Act 2020 (Vic), s 143(2).

<sup>39</sup> Local Government Act 2020 (Vic), s 143(3).

<sup>40</sup> Local Government Act 2020 (Vic), s 144.

- 24.6 Administrative support may be provided to the parties to an arbitration by the Councillor Conduct Officer however no assistance in relation to the content of the arbitration will be provided.
- 24.7 Any costs of legal representation or advice incurred by parties to an internal arbitration will be borne by the relevant party.
- 24.8 Following the internal arbitration process, the arbiter will provide a written report of findings which may include sanctions against one or more *Councillors*.<sup>41</sup> The findings will be tabled at the next *Council* meeting and recorded in the minutes of that *Council* meeting.<sup>42</sup> The report will not be provided with the agenda of the *Council* meeting and no discussion or debate is permitted on the tabling of documents.

## **25 SERIOUS MISCONDUCT**

- 25.1 An application for a Councillor Conduct Panel to be formed to consider a finding of *serious misconduct* against a *Councillor* may be made by:
- (a) *Council* following a resolution of the *Council*;
  - (b) A *Councillor*;
  - (c) A group of *Councillors*; or
  - (d) the Chief Municipal Inspector.
- 25.2 An application for a Councillor Conduct Panel to be formed to consider a finding of *serious misconduct* against a *Councillor* that alleges that the *Councillor* has failed to disclose a conflict of interest may only be made by the Chief Municipal Inspector.<sup>43</sup>
- 25.3 An application for a Councillor Conduct Panel must be in the required form and must be submitted to the Principal Councillor Conduct Registrar within 12 months of the alleged *misconduct* occurring.<sup>44</sup>
- 25.4 Following the Principal Councillor Conduct Registrar's examination of the application under and if Councillor Conduct Panel is formed to hear the matter,<sup>45</sup> the Councillor Conduct Panel process will be conducted at the direction of the Panel members or the Principal Councillor Conduct Registrar, with support provided to the Panel by the Councillor Conduct Officer.
- 25.5 Administrative support may be provided to the parties to a Panel hearing by the Councillor Conduct Officer however no assistance in relation to the content of the hearing will be provided.
- 25.6 Any costs of legal representation or advice incurred by parties to a Councillor Conduct Panel will be borne by the relevant party.
- 25.7 Following the Councillor Conduct Panel process, the Panel will provide a written report of findings which may include sanctions against one or more *Councillors*.<sup>46</sup> The findings will be tabled at the next *Council* meeting and recorded in the minutes of that *Council* meeting.<sup>47</sup> The report will not be provided with the agenda of the *Council* meeting and no discussion or debate is permitted on the tabling of documents.

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<sup>41</sup> Local Government Act 2020 (Vic), s 147(3).

<sup>42</sup> Local Government Act 2020 (Vic), s 147(4).

<sup>43</sup> Local Government Act 2020 (Vic), s 154(4).

<sup>44</sup> Local Government Act 2020 (Vic), s 154(3).

<sup>45</sup> Local Government Act 2020 (Vic), s 155.

<sup>46</sup> Local Government Act 2020 (Vic), s 168(1).

<sup>47</sup> Local Government Act 2020 (Vic), s 168(2).

## **26 GROSS MISCONDUCT**

- 26.1 The Chief Municipal Inspector may make an application to the Victorian Civil Administrative Tribunal (VCAT) to allege *gross misconduct* by a *Councillor*.<sup>48</sup>

## **27 MATTERS DURING ELECTION PERIOD**

- 27.1 Any applications and proceedings made and conducted in accordance with Chapter 5 will be suspended during the Election period for a general election.<sup>49</sup>

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<sup>48</sup> Local Government Act 2020 (Vic), s 171.

<sup>49</sup> Local Government Act 2020 (Vic), s 173.

## CHAPTER 6 – OTHER MATTERS

**Overview:** This chapter contains other information that is relevant to the matters addressed in this Code of Conduct.

### 28 CIVIL AND CRIMINAL LIABILITY

- 28.1 This Code does not affect, or in any way impact on, the criminal or civil liability of a *Councillor*, and does not prevent the institution of any criminal or civil proceedings in respect of that liability.

### 29 OTHER INSTRUMENTS

- 29.1 This Code must be read in conjunction with relevant laws, regulations, Ministerial directions, industry standards, *Council* policies, procedures, protocols, or practices.
- 29.2 This Code of Conduct is inoperative to the extent that it is inconsistent with any Act (including the Charter of Human Rights and Responsibilities Act 2006) or regulation.<sup>50</sup>

### 30 COMPLAINTS BY THIRD PARTIES

- 30.1 Members of the public or members of *Council* staff may make a complaint directly to the Chief Municipal Inspector.
- 30.2 The Chief Municipal Inspector or officers of the Local Government Inspectorate may:
- (a) Investigate and prosecute any possible offences or breaches of the Act, such as misuse of position by a *Councillor*, failure to declare a conflict of interest by a *Councillor* or *member of Council staff*, or disclosure of confidential information;
  - (b) *Council* election offences under the Act, such as nomination of someone not qualified to be a candidate or failure to authorise electoral material.
- 30.3 The Inspectorate is not able to investigate matters such as *Council* services and actions, *Council* decisions (unless related to a breach of the Act), or *Councillor* conduct matters). Complaints relating to these matters should be directed to *Council* and will be handled in accordance with the Complaints Handling Policy.

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<sup>50</sup> Local Government Act 2020 (Vic), s 139(7).

Term	Definition
<i>affected person</i>	Has the meaning provided by section 128(3) of the Act.
<i>Chief Executive Officer</i>	Has the meaning provided by section 3 of the Act.
<i>Council</i>	Means Golden Plains Shire Council
<i>Councillor</i>	Means a Councillor of the <i>Council</i>
<i>Governance Rules</i>	Means the Governance Rules adopted by <i>Council</i> in accordance with section 60 of the Act.
<i>gross misconduct</i>	Means behaviour that demonstrates that a <i>Councillor</i> — <ul style="list-style-type: none"> <li>a) is not of good character; or</li> <li>b) is otherwise not a fit and proper person to hold the office of <i>Councillor</i>, including behaviour that is <i>sexual harassment</i> and that is of an egregious nature.</li> </ul>
<i>member of Council staff</i>	Has the meaning provided by section 3 of the Act.
<i>misconduct</i>	Means any breach by a <i>Councillor</i> of the standards of conduct
<i>private interests</i>	Any direct or indirect interest of a <i>Councillor</i> that does not derive from their <i>public duty</i> but does not include an interest that is only a matter of personal opinion or belief.
<i>public duty</i>	Means the responsibilities and obligations that a <i>Councillor</i> has to members of the public in their role as a <i>Councillor</i> .
<i>Secretary</i>	Has the meaning provided by section 3 of the Act.
<i>serious misconduct</i>	Means any of the following— <ul style="list-style-type: none"> <li>c) the failure by a <i>Councillor</i> to comply with the <i>Council's</i> internal arbitration process;</li> <li>d) the failure by a <i>Councillor</i> to comply with a direction given to the <i>Councillor</i> by an arbiter under section 147 of the Act;</li> <li>e) the failure of a <i>Councillor</i> to attend a Councillor Conduct Panel hearing in respect of that <i>Councillor</i>;</li> <li>f) the failure of a <i>Councillor</i> to comply with a direction of a Councillor Conduct Panel;</li> <li>g) continued or repeated <i>misconduct</i> by a <i>Councillor</i> after a finding of <i>misconduct</i> has already been made in respect of the <i>Councillor</i> by an arbiter or by a Councillor Conduct Panel under section 167(1)(b) of the Act;</li> <li>h) bullying by a <i>Councillor</i> of another <i>Councillor</i> or a <i>member of Council staff</i>;</li> <li>i) conduct by a <i>Councillor</i> that is conduct of the type that is</li> </ul>

Term	Definition
	<p><i>sexual harassment</i> of a <i>Councillor</i> or a <i>member of Council staff</i>,</p> <ul style="list-style-type: none"> <li>j) the disclosure by a <i>Councillor</i> of information the <i>Councillor</i> knows, or should reasonably know, is confidential information;</li> <li>k) conduct by a <i>Councillor</i> that contravenes the requirement that a <i>Councillor</i> must not direct, or seek to direct, a <i>member of Council staff</i>;</li> <li>l) the failure by a <i>Councillor</i> to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with the Act.</li> </ul>
<i>sexual harassment</i>	<p>Is unwelcomed sexual behaviour that causes a person to feel offended, humiliated or intimidated, where a reasonable person could have anticipated that reaction in the circumstances. <i>Sexual harassment</i> includes:</p> <ul style="list-style-type: none"> <li>a) an unwelcome sexual advance</li> <li>b) an unwelcome request for sexual favours</li> <li>c) any other unwelcome conduct of a sexual nature</li> <li>d) Conduct of a sexual nature includes:</li> <li>e) subjecting a person to any act of physical intimacy</li> <li>f) making, orally or in writing, any remark or statement with sexual connotations to a person or about a person in his or her presence</li> <li>g) making any gesture, action or comment of a sexual nature in a person's presence.</li> </ul>
<i>victimisation</i>	<p>Means subjecting or threatening to subject a person to any detriment (treating them inappropriately or unfairly) because they, or a person associated with them, has or intends to make a complaint about discrimination or <i>sexual harassment</i>.</p>

## 32 RELATED LEGISLATION AND DOCUMENTS

### Legislation

- 32.1 Local Government Act 2020 (Vic)
- 32.2 Local Government (Governance and Integrity) Regulations 2020 (Vic)
- 32.3 Equal Opportunity Act 2010 (Vic)

### Policies

- 32.4 Complaints Handling policy
- 32.5 Governance Rules
- 32.6 Interaction Between Councillor and Council Staff Protocol (*Chief Executive Officer Protocol*)
- 32.7 Councillor Support and Entitlements policy
- 32.8 Gifts, Benefits and Hospitality policy

- 32.9 Computers for Councillor policy
- 32.10 Information Privacy policy
- 32.11 Public Transparency policy
- 32.12 Social Media Manual
- 32.13 Media Statements and Public Notices policy

#### **Documents**

- 32.14 Golden Plains Shire Councillor Resource Manual
- 32.15 In the Public Interest: A conflict of interest guide for Councillor, delegated committee members and Council staff

### **33 HUMAN RIGHTS STATEMENT OF COMPATIBILITY**

- 33.1 This Code does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act 2006 (Vic).

### **34 CODE OF CONDUCT OWNERS**

- 34.1 The Golden Plains Shire Councillors are the owners of this Code.
- 34.2 The owners of this Code are responsible to review, edit and maintain this Code and any associated procedures.

### **35 IMPLEMENTATION**

- 35.1 The Mayor is the point of contact for any questions regarding this Code.
- 35.2 The Mayor is responsible for the implementation of this Code.

### **36 DOCUMENT INFORMATION**

DOCUMENT TYPE:	Councillor Code of Conduct
DOCUMENT STATUS:	[For adoption]
DOCUMENT OWNERS:	Councillors
ADOPTED BY:	Council
DATE ADOPTED:	[Date of resolution]
VERSION NUMBER:	2.0
REVIEW DATE:	16 February 2025 ( <i>Four months after a General Election</i> )
NOTES:	<p>Policy documents are amended from time to time, therefore you should not rely on a printed copy being the current version. Please consult Council's Policy page on the Golden Plains Shire Council website to ensure that the version you are using is up to date.</p> <p>Available at:</p>

	<a href="https://www.goldenplains.vic.gov.au/residents/my-council/about-council/council-policies">https://www.goldenplains.vic.gov.au/residents/my-council/about-council/council-policies</a>
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## COUNCILLOR DECLARATION

We, the Councillors of Golden Plains Shire, declare that we will undertake, on every occasion, to carry out our duties in the best interest of the community and that our conduct shall maintain the standards of the code of good governance so that we may faithfully represent and uphold the trust placed in this Council by the people of Golden Plains Shire.

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Signed by Mayor Brett Cunningham

Date:

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Signed by Deputy Mayor Gavin Gamble

Date:

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Signed by Cr Helena Kirby

Date:

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Signed by Cr Ian Getsom

Date:

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Signed by Cr Les Rowe

Date:

---

Signed by Cr Owen Sharkey

Date:

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Signed by Cr Clayton Whitfield

Date:

## **APPENDIX 1 – STANDARDS OF CONDUCT**

### **1 TREATMENT OF OTHERS**

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor:

- (a) Takes positive action to eliminate discrimination, sexual harassment and victimization in accordance with the Equal Opportunity Act 2010; and
- (b) Supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- (c) Does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) In considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

### **2 PERFORMING THE ROLE OF COUNCILLOR**

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor:

- (a) Undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) Diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) Is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) Represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

### **3 COMPLIANCE WITH GOOD GOVERNANCE MEASURES**

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following:

- (a) Any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) The Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) The Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- (d) Any directions of the Minister issued under section 175 of the Act.

### **4 COUNCILLOR MUST NOT DISCREDIT OR MISLEAD COUNCIL OR PUBLIC**

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

In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

## **5 STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE**

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

## APPENDIX 2 – COUNCILLOR CONDUCT PROCESS DIAGRAM

