
Election Period Policy

August 2020



The Election Period Policy is included in the Council's Governance Rules



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CONTACT US

-  ngshire@ngshire.vic.gov.au
-  www.ngshire.vic.gov.au
-  (03) 5358 8700
-  PO Box 580 Stawell VIC 3380

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Election Period Policy

Council Policy

Responsible director

Responsible officer

Functional area

Date adopted by Council

Review date

Director Corporate Services

Manager Governance & Civic Support

Governance

3 August 2020

August 2024

Purpose

The purpose of this policy is to govern decision making in the lead up to Council elections, the use of council resources and publications, media and communications issues and Councillor behaviour. The policy will ensure the transparency and accountability of the Councillors, members of Council staff and candidates during an election period and compliance with the *Act*.

Background

A *Council* must include an election period policy in its Governance Rules under section 69 of the *Act*.

Policy

1. Council's Election Period Policy:
 - 1.1 governs decision making during a local government election period, including what may be considered at a Council meeting;
 - 1.2 prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
 - 1.3 sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, civic events and activities of delegated committees established by Council;
 - 1.4 sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
 - 1.5 defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
 - 1.6 sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.

At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.

The operation of any delegated committee and community asset committee shall be suspended upon the commencement of the election period ahead of a general Council election.

Any outstanding committee reports/minutes may still be reported to a Council meeting during the election period.

Council committees shall resume meeting following the election and the appointment by the incoming Councillors to each committee.

2. Candidates

- 2.1 A person is not qualified to be a councillor if the person is a member of the Victorian or Commonwealth Parliament.
- 2.2 A member of Council staff who has not taken leave to stand is not qualified to nominate as a candidat(e)
- 2.3 A member of Council staff who wishes to nominate as a candidate at a Federal, State or Local election can seek approval in writing from the Chief Executive Officer for the duration of the election period for that election to:
 - 2.3.1 take leave from their office or position; and
 - 2.3.2 not perform any of the duties of their position.
- 2.4 A person who is a Councillor of a Council cannot nominate as a candidate for an election as a Councillor of any council unless at the time of the nomination the person will cease to hold office as a Councillor on or before the election day for that election.
- 2.5 A person who has nominated as a candidate for an election as a Councillor of a council cannot nominate as a candidate for any other election as a Councillor unless at the time of the nomination the person has withdrawn the previous nomination.
- 2.6 A person must not nominate as a candidate for more than one election of Councillors to be held on the same day.
- 2.7 A person cannot nominate as a candidate for an election as a Councillor unless the person has completed the prescribed training.
- 2.8 If a Councillor becomes aware they have ceased to be qualified to be a Councillor of the Council under section 34 of the Act, the Councillor must immediately give notice in writing to the Chief Executive Officer.

3. Decision Making

- 3.1 Council may at its discretion decide to implement 'caretaker arrangements' earlier than nomination day.
- 3.2 Given the relatively short election period, the Council will reschedule most decisions until after the new Council commences its term, or if that is not appropriate, bring decisions forward so they are determined before the election period starts.
- 3.3 Council will continue to hold Council meetings during the election period.
- 3.4 Council **is prohibited** from making any Council decision during the election period for a general election that—
 - (a) relates to the appointment or remuneration of a Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer;
 - (b) commits the Council to expenditure exceeding one percent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
 - (c) the Council considers could be reasonably deferred until the next Council is in place; or
 - (d) the Council considers should not be made during an election period.

- 3.5 Council is prohibited from making any Council decision during the election period for a general election or a by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence, voting at the election. (s.69(3) LGA)
- 3.6 Other types of decisions that the Council will not make during an election period are—
 - 3.6.1 Allocating community grants or other forms of direct funding to community organisations.
 - 3.6.2 Major planning scheme amendments.
 - 3.6.3 Changes to strategic objectives or strategies in the Council Plan.
 - 3.6.4 Any decisions of a significant nature and which would unnecessarily bind an incoming council.
- 3.7 Council commits that any other decision will be considered only if absolutely necessary for council operational purposes or pursuant to a statutory requirement.
- 3.8 It is noted that to avoid making certain decisions during an election (other than decisions prohibited under section 69(2) of the Act is not legally binding; however, if it becomes important to make a decision contrary to this policy during the election period, the necessity will need to be demonstrated to the community.
- 3.9 Should the Council make any decision in contravention of sub-Rules 5.4 (a) and (b), the decision is invalid. [s.69(2)(a) and (b) LGA]
- 3.10 Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of section 69(4) of the Act is entitled to compensation from the Council for that loss or damage.
- 3.11 Papers prepared for Council meetings during the election period will be carefully vetted by the Chief Executive Officer to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering.
- 3.12 Council commits that all Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

4. Use of Council resources

- 4.1 Public resources must not be used in any way that is intended to; or is likely to affect the result of any Federal, State or Local Council election.
- 4.2 A Councillor or member of Council staff must not use Council resources in any way that would influence the way people vote in elections or give a Councillor any inappropriate real or perceived electoral advantage.
- 4.3 A Councillor will be treated in the same way as any other candidate with respect to access to Council resources.
- 4.4 The following guidelines will ensure that due propriety is observed in the use of and access to staff, property, equipment and other resources during the election period—
 - 4.4.1 A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorised to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required.
 - 4.4.2 A Councillor will continue to be provided with resources during the election period to continue to perform his or her elected role.
 - 4.4.3 Council resources, including officers, support staff, email services, equipment (ipads, photocopiers, motor vehicles), branding and stationery, are only to be used for normal Council business and are not to be used for any election campaign activities.

4.4.4 Members of Council staff must—

- (a) avoid assisting any Councillor in ways that are or could create a perception that they are being used for electoral purposes;
- (b) report any interest in being involved privately in the election campaign of any candidate to the Chief Executive Officer;
- (c) not provide any information to any candidate or prospective candidate other than information that is available to the general public and will direct all election enquiries to the Returning Officer;
- (d) report to the Chief Executive Officer when the use of resources might be construed as being related to a candidate's election campaign;
- (e) not make any public statement that relates to an election issue unless such statements have been approved by the Chief Executive Officer.

4.4.5 A Councillor must—

- (a) not use Council resources for any election campaign activities except as provided for under this policy;
- (b) not use Council funded mobile phones or email addresses or Council provided photographs for electioneering;
- (c) not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign;
- (d) not ask Councillor support staff to undertake any tasks indirectly or directly connected with a Councillor candidate's election campaign;
- (e) not exert undue influence over the timing of works or the delivery of Council services that may result in political gain for electoral purposes.

5. Public Consultation

- 5.1 Consultation is an integral part of the Council's policy development process and operations, however there are concerns that consultation undertaken close to a general election may become an election issue in itself and influence voting, issues raised through the consultation and decisions that follow may also unreasonably bind the incoming Council.
- 5.2 Normal Council events are not prohibited in the election period; however, Council will keep these events to a minimum. Council will continue with normal community consultation and scheduling of Council events during the election period, but consultations and events will avoid express or implicit links to the election.
- 5.3 Where events occur and whether or not a Councillor is to make a speech, each Councillor will be reminded that they are representing the Council and are not to use the opportunity for electioneering.
- 5.4 Functions or events for the purpose of electioneering must not be resourced or publicised by the Council.

6. Equitable Access to Council Information

Each Councillor will be treated in the same way as other candidates with respect to access to Council held information. The following guidelines will ensure that due propriety is observed in the use of and access to information during the election period—

- 6.1 A Councillor may continue to automatically access Council held documents during the election period, but only as is necessary for them to perform their elected role and functions.
- 6.2 Information and briefing material prepared and provided to a Councillor must be necessary to the carrying out of his or her role and must not be used for election purposes.
- 6.3 Any document made available to a Councillor will also be made available to candidates.

- 6.4 Applications for access to Council information by all parties will be processed by the Manager Governance & Civic Support who will ensure that information made available to one candidate is accessible to all candidates.

7. Prohibitions on Publications

- 7.1 Council will not publish any material with public funds that might influence or be seen to influence people's voting decisions.
- 7.2 All publications including Council newsletters, advertisements and notices, media releases, leaflets, letters, reports, publicity for a Council function or event and brochures and mail outs during the election period **will not** contain electoral matter. This also applies to the publication of such material on the Council website.
- 7.3 A Councillor or member of Council staff will not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, electoral material unless the name and address of the person who authorised the electoral material is clearly displayed on its face.
- 7.4 A Councillor or member of Council staff will not print, publish or distribute, or cause, permit or authorise to be printed, published or distributed any matter or thing that they know, or should reasonably be expected to know, is likely to mislead or deceive a voter in relation to the casting of the vote of the voter.
- 7.5 Council staff will avoid all publication activity, including updated or new information added to the Council's website during the election period except where printing, publishing or distributing a document is essential for the conduct of Council operations.
- 7.6 Council will not publish material which links Councillor candidates with particular Council achievements, commitments or programs.
- 7.7 All requests for publications during the election period will be decided on a case by case basis by the Manager Governance & Civic Support to ensure compliance with the Act and this policy. Relevant matters to be considered when undertaking an assessment to determine whether or not the publication complies are:
- 7.7.1 Who wants the material published?
 - 7.7.2 What is the content of the material?
 - 7.7.3 In what form is it to be published?
 - 7.7.4 In what context is it to be published?
 - 7.7.5 At what time is it to be published?
 - 7.7.6 What does the publication seek to achieve?
- 7.8 Council can publish materials on electoral processes or availability of Council services.

8. Media and communications

- 8.1 All official media statements will only be made by the Chief Executive Officer.
- 8.2 Media Releases, social media posts or other media statements will not refer to a specific Councillor or feature any photograph, quote or name of any incumbent Councillor during the election period.
- 8.3 Where it is necessary to make or clarify any public statement, comment on sensitive or political issues or identify a spokesperson in relation to an issue, the matter must be referred to and approved by the Chief Executive Officer.
- 8.4 Media statements dealing with their election campaign must be issued by a Councillor privately. Statements must be clearly communicated as personal opinion and not undermine the standing of the Council in the community.
- 8.5 Members of Council staff will not provide advice or assistance in the preparation of media releases, social media posts or other media statements that contain electoral material.

- 8.6 Members of Council staff must not make any public statement that can be interpreted as a political comment or have influence on the electoral process.
- 8.7 The Media and Communications Officer will undertake constant monitoring of social media sites during the election period to ensure no electoral matter is posted.
- 8.8 The Council website will not be used to convey information that could be regarded as electoral matter but will contain information about the election process.
- 8.9 The Council website will be checked at the start of the election period to ensure that any information prominently displayed that might be regarded as likely to influence how people vote will be removed. Profiles of each Councillor will also be removed but contact details and photos will remain.

9. Other

- 9.1 A 'Caretaker Statement' will be included in every report submitted to the Council for a decision.
- 9.2 Electoral material, including pamphlets, posters and notices will not be visible or available at any Council premises, including libraries, during the election period. The only exception to this is material issued by the Victorian Electoral Commission for the purpose of conducting the election.
- 9.3 A Councillor may use the title 'Councillor' in their election material as they continue to hold the position in the election period; however, to avoid confusion a Councillor must ensure that any election publication using the title 'Councillor' clearly indicates that it is their own material and does not represent Council.
- 9.4 Requests for information which require significant resources to be devoted to making a response or which might be perceived to support an election campaign will be referred to the Chief Executive Officer for consideration.
- 9.5 Claims for the reimbursement of expenses incurred during the election period shall only relate to expenditure incurred whilst conducting Council business in accordance with the Council Expenses Policy and not election activities.

Council Plan Objective/Strategy

Goal: Improve Organisational Effectiveness; Ensure our Governance and compliance requirements are continually met

Legislation and Standards

Local Government Act 2020

Responsibilities

The Chief Executive Officer, Director Corporate Services and Manager Governance & Civic Support are responsible for overseeing adherence to the policy.

Councillors and staff are responsible for reporting any breach or suspected breach of this policy to the Director Corporate Services for investigation and action.

Stakeholders

The following people are directly affected by the policy :

Councillors

Chief Executive Officer

Council Executive Leadership Team

Councillor support and Governance staff

Review

At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.

Communication and implementation

The policy must be transparent and accessible. It will be communicated to Councillors and staff in accordance with the Council's policy administrative processes. It will also be made public on the council's website and available for public inspection at Council offices in Stawell and St Arnaud. Copies will be made available to each Councillor on Docs on Tap.

References

- [NGSC Governance Rules 2020](#)
- [Councillor Code of Conduct 2017](#)
- [Council Expenses Policy](#)

Privacy and Data Protection compliance

All Council policies must consider the *Privacy and Data Protection Act 2014* and the *Victorian Protective Data Security (VPDSS) Framework* which adopts a risk-based approach to protective data security. This policy provides strict controls for stakeholders to limit the information and resources provided to councillors in the lead up to the election.

Charter of Human Rights compliance

It is considered that this policy does not impact on any human rights identified in the *Charter of Human Rights & Responsibilities Act 2006*.

Definitions

In this Chapter—

<i>election candidates</i>	<i>means all sitting Councillors who will be considered as being election candidates until the close of nominations</i>
<i>electoral matter</i>	<i>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 purposes of conducting an election, It includes matter that contains an express or implied reference to, or comment on the election, a candidate in the election or an issue submitted to, or otherwise before, the voters in connection with the election</i>
<i>electoral material</i>	<i>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</i>
<i>election period</i>	<i>means the legislative 'caretaker' period that—</i> <i>(a) starts at the time that nominations close on nomination day (from 12 noon on 22 September 2020); and</i> <i>(b) ends at 6 p.m. on election day (Saturday 24 October 2020)</i>

Review history

Date	Review details	Action
3/8/2020	Reported to Council Meeting as part of Governance Rules	