

# Election Period Policy



Mildura Rural City Council

<b>Authorised By:</b>	<b>Council</b>
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# Election Period Policy

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## 1. The purpose of this policy is

- To outline the procedures to be applied by Council during the election period for a General Council Election;
- To achieve greater consistency and rigour in Council procedures and reduce ambiguity and confusion surrounding arrangements during the election period;
- To govern the actions of Council and Councillors during the election period prior to the 2020 General Council Election;
- To ensure that the ordinary business of Council continues throughout the election period in a responsible and transparent manner;
- To ensure that the ongoing ordinary business of Council is kept separate from Councillor's activities which relate to the election
- To ensure that any material that is published during the election period complies with legislative requirements; and
- To outline the procedures to be following for the scheduling and participation in Council functions and events during the election period.

## 2. Policy Statement

### 2.1 Election Period

Prior to a General Council Election local government goes into the election period, otherwise know as 'caretaker' mode. The purpose of the election period is to avoid actions and decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council.

The *Local Government Act 2020* (the Act) provides that the election period starts at the time that nominations close on nomination day and ends at 6pm on Election Day.

For the purpose of the 2020 General Council Election, the election period commences at 12noon on 22 September 2020 and concludes at 6pm on 24 October 2020.

### 2.2 Councillors

All Councillors must comply with this policy, regardless of whether they intend to nominate, or have already nominated as a candidate for election.

### **2.3 Members of Delegated Committees**

All members of Delegated Committees must comply with this policy, regardless of whether they intend to nominate, or have already nominated as a candidate for election.

### **2.4 Council Staff**

All Council staff, and in particular those staff who are candidates for an election, must comply with this policy.

Council staff who are candidates must also:

- Take leave from their duties for the duration of the election period in accordance with Section 256(8) of the Act (if not enough paid leave is accrued, unpaid leave must be taken);
- Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information which is not available to the public for the duration of the election period; and
- If elected, immediately resign from their employed position at Council.

### **2.5 Committee members**

Council committee members who are candidates for election are expected to comply with this policy, and in addition must:

- Return any council equipment, documents or information which is not available to the public for the duration of the election period; and
- If elected, immediately resign from the committee.

## **3. Principles**

### **3.1 Preventing inappropriate decisions**

It is an established democratic principle that during an election period, elected bodies must not make decisions that may inappropriately bind an incoming government. Council therefore commits to avoid making decisions that inappropriately bind the incoming Council. This includes a commitment to refrain from the making of decisions classified as Prohibited Decisions or Significant Decisions as defined in the following section.

Council, a Delegated Committee, a special committee of Council or a person acting under delegation given by the Council must not make a Prohibited Decision or Significant Decisions during the election period for a general election.

#### **3.1.1 Prohibited Decisions**

In accordance with Section 69(2) of the Act, and for the purpose of this policy, a Prohibited Decision is defined as:

- (a) decisions relating to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or

- (b) decisions that commit Council to expenditure exceeding one percent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- (c) decisions that the Council considers could be reasonably deferred until the next Council is in place; or
- (d) decisions the Council considers should not be made during an election period; or
- (e) decisions that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

For the purpose of the 2020 General Council election, one percent of Council's income from general rates, municipal charges and service rates and charges for the 2019/2020 financial year was \$725,140

### **3.1.2 Significant Decisions**

In addition to Prohibited Decisions, Council will not made Significant Decisions during the election period. For the purpose of this policy, a significant decision is defined as:

- (a) terminating the appointment of the Chief Executive Officer, unless they have been found guilty of unlawful conduct, or an official investigation such as by the Independent Broad-Based Anti-Corruption Commission recommends the termination of the Chief Executive Officer
- (b) entering into a contract the total value of which exceeds one percent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year;
- (c) allocation of community grants or other direct funding to community organisations;
- (d) major planning scheme amendments;
- (e) changes to strategic objectives and strategies in the Council Plan;
- (f) committing Council to significant actions;
- (g) decisions that will have a significant impact on the municipality or the community.

All decisions to be presented during the election period will be carefully considered, must be approved by the Chief Executive Officer and only presented if absolutely necessary for Council operational purposes or pursuant to a statutory requirement.

Council acknowledges that it has an ongoing responsibility to act in the best interests of the Community. Therefore, where a delay in making a significant decision would result in significant detriment to the local community or the broader community, Council may, by way of a Council resolution, make an exception to this policy. In making an exception to this policy, Council will deal with the matter impartially having regard to the long-term interests of the community and as transparently as possible.

### **3.1.3 Consideration for officers with delegated authority**

Before making any decisions under delegated authority during the election period, council officers should consider:

- whether the decision is significant;
- the urgency of the issue or can it wait until after the election;

- the possibility of financial repercussions if it is deferred;
- whether the decision is likely to be controversial; and
- the best interests of Council.

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from their General Manager or the Manager Corporate Administration.

#### **3.1.4 Election Period Statement**

During the election period, the Chief Executive Officer will assess and ensure that an election period statement is included in every report submitted to Council or to a Delegated Committee of Council for a decision.

The election period statement will specify one of the following:

- The recommended decision is not a prohibited decision, as defined in Section 69(2) of the *Local Government Act 2020* or a significant decision within the meaning of the Election Period Policy.
- The recommended decision is not a prohibited decision as defined in Section 69(2) of the *Local Government Act 2020*. The recommended decision is a significant decision within the meaning of the Election Period Policy, but an exception should be made for the following reasons [insert reasons for making an exemption], the reason for this exemption has been included in the resolution of this report.

#### **3.1.5 Notices of Motion**

Councillors will be discouraged from raising Notices of Motion or Urgent and Other Business during the election period. The Chief Executive Officer may reject any matter they believe to contain election material or constitutes a prohibited decision, in accordance with the Act.

#### **3.1.6 Councillor Conduct at Meetings**

During the election period, Councillors will limit their discussion during debate to the matter under consideration and will avoid raising electoral matter.

Councillors will not raise other items that contain or relate to electoral matter during the election period at a Council Meeting.

#### **3.1.7 Public Question Time**

The Chief Executive Officer will assess all questions received to determine whether they contain electoral matter. Any question deemed to contain electoral matter will not be heard at the meeting.

## **3.2 Council publications during the election period**

### **3.2.1 Assessment of publications and materials during the election period**

The Chief Executive Officer has a duty to ensure Council does not produce any publications containing electoral matter that may influence, or be seen to influence, people's voting decisions.

The Act defines electoral material as:

*Electoral material means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.*

The Act defines electoral matter as:

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

Publications should be read broadly to include electronic information and web based productions.

A publication is taken to contain electoral matter if it contains an express or implicit 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.

Some examples might include publications which:

- Set out the strengths or weaknesses of a candidate;
- Advocates the policies of the Council or a candidate;
- Responds to claims made by a candidate;
- Set out the achievements of the elected Council or Councillors.

### **3.2.2 Assessment process**

All Council publications must be assessed by the CEO or their delegate before they may be printed, published or distributed during the election period, whether by Council or anyone acting for Council.

The assessment process applies to any documents produced for the purpose of communicating with people in the community. This may mean some material requires assessment before the commencement of the election period in order for it to be issued during the election period.

All material should be submitted to the Manager Corporate Administration for initial assessment. If deemed relevant, the Manager Corporate Administration will forward the material to the Chief Executive Officer for further assessment.

Material that must be assessed includes, but is not limited to:

- New material on Councils website or social media platforms;
- Newsletters, brochures, flyers and magazines;
- Material available in libraries and Council offices;
- Media releases and public speeches;
- Advertisements (including job advertisements);
- Mail outs to multiple addresses; and
- Material publicising a function or event.

### **3.2.3 Publication of Council and Delegated Committee agendas and minutes**

Council and Delegated Committee agendas and minutes are considered to be part of normal Council business and do not require assessment by the Chief Executive Officer or their delegate, unless a wider than normal distribution is anticipated.

### **3.2.4 Council Annual Report**

If an Annual Report is required to be published during the election period, information about Councillors will be restricted to what is required by the *Local Government (Planning and Reporting) Regulations 2014*, a photograph of the Councillors and membership details of special committees and other bodies to which they have been appointed by the Council.

An Annual Report published during the election period will not contain a Mayor's Message.

### **3.2.5 Councillor profiles**

Councillor profiles contained on the website and located within Council Service Centres will be removed during the election period.

## **3.3 Council resources**

It is an established democratic principle that public resources may be used to support the election process, this will only be on request of the Returning Officer appointed by the Victorian Electoral Commission and must not be used in a matter that would influence the way people vote in elections.

Council staff must avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Council resources might be considered as being related to a candidate's election campaign, advice must be sought from the relevant General Manager, the Chief Executive Officer or the Manager Corporate Administration.



### **3.3.1 Correspondence**

General correspondence (including email) addressed to Councillors will be answered as usual by the executive services staff. Councillors will only respond to the necessary minimum correspondence during the election period and correspondence in respect to significant, sensitive or controversial matters should be responded to by the Chief Executive Officer.

### **3.3.2 Use of Council equipment and services by Councillors**

Equipment and facilities provided to Councillors for the purpose of conducting normal Council business may continue to be used in line with the Council Expenses Policy.

Council equipment and facilities must not be used for campaigning purposes.

When using Council supplied equipment and facilities during the election period, Councillors should avoid incurring costs to Council which are, or may be perceived to be, for election related purposes.

### **3.3.3 Expenses incurred by Councillors**

Reimbursement of expenses and costs incurred by Councillors during the election period must only relate to the conduct of normal Council duties and not electoral purposes.

Where Councillors have Council funded services, such as mobile phones, land lines and internet connections and where it is impractical for Councillors to discontinue their use of these during the election period, Councillors will reimburse Council for usage of those services during the election period that exceeds average usage levels over the past two years.

When making a claim for out-of-pocket expenses, Councillors will be required to make a declaration that the expenses incurred are in accordance with this policy.

### **3.3.4 Council branding and stationery**

No Council logos, letterheads or other branding will be used for, or linked in any way, to a candidate's election campaign.

### **3.3.5 Support to Mayor, Deputy Mayor and Councillors**

No staff (including executive support staff), must be asked to undertake any tasks connected directly or indirectly with an election campaign.

### **3.3.6 Council photographs**

Councillors are not permitted to use photos or images taken by, or provided by Council, for the purposes of their election campaign (including photos and images appearing on Council websites).

### **3.3.7 Media and media services**

During the election period, media services will only be used to promote current Council activities and initiatives. These services will not be used in any way that might favour a candidate.

Any requests for media advice or assistance from Councillors must be referred through the Chief Executive Officer or Manager Corporate Administration. No media advice or assistance will be provided in relation to election issues or in regards to publicity that involves specific Councillors.

Media releases issued during the election period will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue, the Chief Executive Officer will determine the appropriate member of staff.

Publicity campaigns, other than for the purpose of conducting the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the Chief Executive Officer. Where possible, publicity during the election period will be restricted to communicating normal Council activities and initiatives and will not involve specific Councillors.

During the election period no Council employee may make any public statements that relate to an election issue unless the statements have been approved by the Chief Executive Officer.

## **3.4 Public consultations**

### **3.4.1 Prohibition**

It is prohibited under this policy for public consultation to be undertaken during the election period (either new or existing consultation) on an issue which is contentious, unless prior approval is given by the Chief Executive Officer.

For the purposes of this section, public consultation means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

The requirements of this section do not apply to public consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 requirements in accordance with the *Local Government Act 1989*.

### **3.4.2 Approval for public consultations**

Due to the prohibition in section 3.4.1, it is prudent for the Council not to commission or approve any public consultation if such consultation is likely to run into the election period, unless prior approval is given by the Chief Executive Officer.

Where public consultation is approved to occur during the election period the results of that consultation will not be reported to Council until after the election period, except where approved by the Chief Executive Officer.

### **3.5 Attendance at functions and events during the election period**

In this part, reference to events and functions means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community, and may take the form of conferences, workshops, forums, launches, promotional activities and social occasions such as dinners, receptions and balls.

#### **3.5.1 External events and functions**

Councillors may continue to attend events or functions conducted by external bodies during the election period, however when attending as a representative of the Council, Councillors must not use that opportunity to promote their election campaign.

#### **3.5.2 Council events and functions**

Council organised events and functions held during the election period will be reduced to only those essential to the operation of the Council.

#### **3.5.3 Speeches and addresses**

During the election period, Councillors are prohibited from giving speeches or addresses at either Council or externally organised or sponsored events and functions.

#### **3.5.4 Publication of promotional material**

In preparing any material concerning a Council organised or sponsored event or function which will be published or distributed during the election period, such preparation must be consistent with the controls under section 3.2 of this policy.

### **3.6 Access to Council information and assistance**

By virtue of their position, Councillors have access to a wide range of information not freely available to other candidates. During the election period, Councillor candidates will be treated in the same manner as other candidates with respect to access of Council held information.

Councillors will continue to be provided with information so long as it is necessary for them to perform their current role and functions as a Councillor.

During the election period, all documents sought by and made available to any candidate will be made available to all candidates on Councils website.

A register will be maintained with all documents provided to candidates.

Council commits that all candidates for the Council election will be treated equally. Any assistance and advice provided to candidates as part of the Council election will be provided equally to all candidates.

### **3.6.1 Election process enquiries**

All election process enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer, or where the matter is outside the responsibilities of the Returning Officer, to the Manager Corporate Administration.

### **3.7 Misuse of position**

Section 123 of the Act outlines Councillor requirements in relation to ensuring that Councillors do not misuse their position, and this continues to be of high importance during the election period. All Councillors undertake to not misuse their position:

- 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.

### **3.8 Suspension of matters during election period**

In accordance with section 173 the Act, any applications made, or proceedings before a Councillor Conduct Panel or the Victorian Civil and Administrative Tribunal regarding the misconduct or serious misconduct of a person who is a Councillor, must be suspended during the election.

### **3.9 Breach of policy**

Any breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer and may be subject to disciplinary action.

Alleged breaches relating to all other matters are to be referred to the Chief Municipal Inspector.

## **4. Implementation**

The Manager Corporate Administration is responsible for the implementation of this policy.

## **5. Definitions**

Election period	The 32 day period that starts at the time that nominations close on nomination day; and ends at 6pm on election day
Caretaker	The special arrangements and processes which will be applied during an election period
Election material	Material which is intended or likely to influence voting in an election, such as: <ul style="list-style-type: none"><li>• The views, strengths or weaknesses of any candidate;</li><li>• Advocacy of the policies of the Council or of a candidate;</li></ul>

	<ul style="list-style-type: none"> <li>• Claims made by a candidate and/or response to such claims;</li> <li>• The achievements of the elected Council or individual Councillor</li> </ul>
Executive Leadership Team (ELT)	<p>Management Team consisting of:</p> <ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• General Manager Community</li> <li>• General Manager Corporate</li> <li>• General Manager Development</li> </ul>
Inappropriate decisions	Prohibited Decisions or Significant Decisions as outlined within this Policy
Prohibited Decisions	<ul style="list-style-type: none"> <li>(a) decisions relating to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or</li> <li>(b) decisions that commit Council to expenditure exceeding one percent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or</li> <li>(c) decisions that the Council considers could be reasonably deferred until the next Council is in place; or</li> <li>(d) decisions the Council considers should not be made during an election period; or</li> <li>(e) decisions that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.</li> </ul>
Significant Decisions	<ul style="list-style-type: none"> <li>(h) Entering into a contract the total value of which exceeds one percent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year ;</li> <li>(i) allocation of community grants or other direct funding to community organisations;</li> <li>(j) major planning scheme amendments;</li> <li>(k) changes to strategic objectives and strategies in the Council Plan;</li> <li>(l) committing Council to significant actions;</li> <li>(m) decisions that will have a significant impact on the municipality or the community.</li> </ul>
Returning Officer	<p>In accordance with the Act means:</p> <ul style="list-style-type: none"> <li>• The Electoral Commissioner; or</li> </ul>

- A person appointed in writing by the Electoral Commissioner

## 6. Legislation and other references

### 6.1 Legislation

For further information related to this policy see:

- The *Local Government Act 1989*
- The *Local Government Act 2020*

### 6.2 Documents

This Policy is implemented in conjunction with the following documents:

- Councillor Code of Conduct
- Council Expenses Policy
- Governance Rules

### 6.3 Risk Assessment Reference

*Please tick the corporate governance risk(s) that this policy is addressing.*

<b>Risk Category</b>	✓	<b>Risk Category</b>	✓
Asset Management		Financial Sustainability	
Committees		Human Resource Management	
Compliance – Legal & Regulatory	✓	Leadership & Organisational Culture	✓
Contract Management		Occupational Health & Safety	
Contract Tendering & Procurement		Organisational Risk Management	✓
Corporate Governance	✓	Project Management	
Environmental Sustainability		Public Image and Reputation	✓