ELECTION PERIOD POLICY (Caretaker)

POLICY NUMBER COMMUNITY - 152
Date Adopted 28 January 2016
Scheduled for review August 2019

PHILOSOPHY UNDERLYING THE POLICY

This policy is a requirement under Section 93B of the Local Government Act 1989.

PURPOSE

- To provide procedures intended to prevent Council from making inappropriate decisions or using resources inappropriately during the election period before a general election.
- To limit public consultation and the scheduling of Council events during the election period.
- To provide procedures to ensure access to information held by Council is made equally available and accessible to candidates during the election.

POLICY IN EXPRESSED TERMS

The Council is committed to fair and democratic elections and therefore adopts and endorses the following practices and legislative requirements.

This policy is in two parts, addressing two fundamental policy principles:

(a) Council Decision Making; and
(b) use of Council Resources.

Decisions during election period

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind the incoming Council.

This includes a commitment to comply with the requirements of Section 93A of the Local Government Act 1989 (the Act), relating to “Major Policy Decisions”, as well as with the policies specified below in relation to “Significant Decisions”.

Major Policy Decisions

Section 93A of the Act specifies decisions that may not be made by a Council during an election period unless an exemption is granted by the Minister.

Section 93A of the Act prohibits the making of “Major Policy Decisions” during the election period. The caretaker mode commences 32 days before the election, when nominations close, until 6:00 pm on Election Day.

“Major Policy” decisions are defined by the Act to be decisions:

- relating to the employment or remuneration of a Chief Executive Officer under Section 94, other than a decision to appoint an acting Chief Executive Officer;
- to terminate the appointment of a Chief Executive Officer under Section 94;
- to enter into a contract the total value of which exceeds whichever is the greater of $100 000 or 1% of the Council’s revenue from rates in the preceding financial year; or
- to exercise any power under Section 193 if the sum assessed under Section 193(5A) in respect of the proposal exceeds whichever is the greater of $100 000 or 1% of the Council’s revenue from rates in the preceding financial year.

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular Major Policy Decision, the Council will, by resolution, request an exemption from the Minister for Local Government, in accordance with Section 93A(2).
Significant Decisions

In addition to the decisions specified in Section 93A of the Act, the Council will avoid making other decisions during the election period that are of a significant nature and which would unnecessarily bind an incoming Council.

“Significant Decisions” include:

- irrevocable decisions that commit the Council to substantial expenditure or significant actions; and
- irrevocable decisions that will have a significant impact on the municipality or the community.

The 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, the Council may make an exception to this procedure. In making an exception to this procedure, the Council will deal with the matter impartially, having regard to the long term interests of the community and as transparently as possible.

Election Period Statement

In order to assist the Council with its commitment to appropriate decision making during the election period, the Chief Executive Officer will ensure that an “Election Period Statement” is included in every report submitted to the Council or to a Special Committee of Council for a decision.

The “Election Period Statement” will describe the status of each item, specifically indicating whether or not the proposed decision is a Major Policy Decision or Significant Decision and whether any required Ministerial exemption has been obtained.

This type of procedure assists Councillors and serves as a reminder to the community that the Council is taking its responsibilities seriously.

Use of Council Resources during Election

Council resources will not be used for partisan electoral purposes.

Media and Publicity

Section 55D of the Act prohibits Councils from printing, publishing or distributing electoral matter unless it is only about the election process.

- Publications
  - Pamphlets, brochures, and newsletters relating to Council services / facilities / programs / projects will be reviewed, for material which may be construed as electoral matter. If these publications are found to contain electoral matter they will be withdrawn from display/distribution during the election period.
  - The Annual Report will be produced to meet legislative requirements without reference to any electoral matter.

- Website
  - Council’s website will be scrutinised by the Chief Executive Officer, during the election period. Councillor profiles will be modified – names, contact details and Council appointments will remain but information that could be construed as individual Councillor Policy statements will be removed for the election period. Other material on the website or links to material that might be considered as electoral matter will be reviewed. New material will be scrutinised by the Chief Executive Officer before publication while historical material will generally remain.

- Media
  - Media releases and advertisements during the election period will focus on Council activities and services and will not contain electoral matter.

- Councillors
  - Election Period Procedures do not restrict the ability of Councillors to issue media releases or make media comment in their own name and using their own resources.

Council communications are a legitimate way to promote Council activities and services. It is important that all Councillors have access to the Council’s communication resources to enable them to fulfil their elected roles. However they will not be developed or used in support of a candidate’s election campaign.
During the election period as defined:

- A Council employee must not make any public statement that could be construed as influencing the election. Statements of clarification may be required from time to time and these are to be made in accordance with the Media Liaison Procedure.
- Council publicity and communications will be restricted to promoting normal Council activities and services and for informing residents about the conduct of the election.
- No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention specifically in support of an election campaign.
- Ward meetings and newsletters are not to be arranged by Council during the election period.
- Council logos or letterheads, Shire of Campaspe branding or Council provided photographs will not be used by Councillors in any way that relates to an election.

**Council Equipment and Facilities**

Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes. Where Councillors have Council funded services, such as mobile phones, land and ADSL lines, facsimile machines, printer/scanner and photocopier machines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, Councillors will reimburse the Council for usage of those services during the election period in accordance with the Councillors Expenses Entitlements Policy.

**Councillor Expenses**

Reimbursement of Councillors’ out-of-pocket expenses during the Pre-Election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses supporting or connected with a candidate’s election campaign.

**Other Election Period Matters**

Council recognises that all election candidates have rights to information. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and transparency will be observed and practised in the provision of all information and advice during the Election Period. Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council policies and services.

All such requests are to be issued through an Information Request Register which will contain the details of requests made and advice provided and is a public document. Such information will not relate to new policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate’s election campaign. Only information that can be reasonably accessed will be released.

All requests for information are to be directed to the Governance Manager.

**Role of Council Staff**

The assistant to the Mayor and Councillors and Staff will not undertake any tasks connected directly or indirectly with a councillor candidate’s election campaign.

**Politcisation of Meetings**

During the election period, further to any Major Policy Decisions there is to be no Council policy formation or adoption, no censure of government departments or Ministers and Notices of Motions and General Business are not to be of a political nature.

**Other Resources**

1. The Council will ensure other Council resources are not used inappropriately in ways that may influence voting in an election or provide an undue advantage for a candidate. This includes financial, human and material resources.
2. Prior to the election period for any election the Chief Executive Officer will ensure that all members of Council staff are advised in regard to the application of these procedures:
   (a) Council staff will not undertake an activity that may affect voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer; and
(b) Council staff will not authorise, use or allocate a council resource for any purpose that may influence voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.

3. Any staff member who considers that a particular use of Council resources may influence voting in an election or provide an undue advantage for a candidate should advise their manager before authorising, using or allocating the resource. The manager will seek appropriate advice in order to ascertain whether the use of Council resources is in accordance with this statement.

4. In applying these principles, the Council understands that the following will be normal practice during election periods:

(a) public events will only be organised and run by Council if they are part of the normal services or operation of Council;

(b) speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication;

(c) media services, including media releases, will not be provided for Councillors by the administration during the election period;

(d) Councillor Newsletters will not be resourced by Council in any way during the election period; and

(e) neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election.

EXCLUSIONS

Nil

HUMAN RIGHTS

This report has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

DEFINITIONS

Election Period: The election period is Entitlement day until 6:00 pm on the Election Day.

RELATED LEGISLATION

Local Government Act 1989

REVIEW PERIOD

4 years

RESPONSIBLE OFFICER

Governance Manager

APPROVAL HISTORY

Adopted 28 January 2016

Minutes Book Reference No 63 (Item 6.13)

Chief Executive Officer

Dated