

Election Period Policy

Council Policy Number 152

Date adopted 23 June 2020

Scheduled for review June 2024



1. Purpose

- To provide procedures intended to prevent Campaspe Shire Council from making inappropriate decisions or using resources inappropriately during the election period before a municipal general election.
- To limit public consultation and the scheduling of Council events during the election period.
- 1.1 To provide procedures to ensure access to information held by Council is made equally available that Council complies with its statutory obligations under section 69 of the Local Government Act 2020 (the Act) and accessible to candidates during the election acts in a manner which is lawful, reasonable and able to withstand public scrutiny.

2. Policy Statement

- 2.1 Council is committed to fair and democratic elections and therefore adopts and endorses the following to implementing good governance practices in its decision making. Whilst certain types of decisions are prohibited during the Election Period, in the interests of transparency, this Policy facilitates the continuation of ordinary Council business during that period to ensure that the best interests of the community continue to be considered and that appropriate decisions are made.
- 2.2 Council agrees to function in accordance with this Policy during the election period.

3. Scope

- 3.1 This Policy applies to Councillors and legislative requirements. Council staff during the Election Period irrespective of whether they are nominating as a candidate in the election or not. This policy is in two parts, addressing addresses two fundamental policy principles:
 - a) Council Decision Making; and
 - (a) Council decision making – to ensure that inappropriate decisions are not made during the Election Period; and
 - (b) Use of Council Resources; resources – to ensure that resources are used appropriately during the Election Period.

4. Responsibility of Councillors

- 4.1 Councillors are required to be mindful of their statutory obligations under section 123 of the Act which prohibits a Councillor from intentionally misusing their position either to gain an advantage or to cause detriment.

Part A – Council Decision Making

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5. Election Period

- 5.1 In accordance with the Act, the 'Election Period' is defined to mean the period that starts at the time nominations close on nomination day and ends at 6:00pm on election day.
- 5.2 The term 'nomination day' is defined to mean the last day on which nominations to be a candidate at a Council election may be received.
- 5.3 Accordingly, the election period commences 32 days before the election, when nominations close, until 6:00pm on election day.

6. Decisions During the Election Period

- 6.1 It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an ~~election period~~ 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.

~~The election period commences 32 days before the election, when nominations close, until 6:00pm on Election Day.~~

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7. Decisions Prohibited During the Election Period

~~Section 7.1 During the Election Period Council must carefully consider whether a decision should be made or whether it should be deferred until after the election period so as not to unreasonably bind the incoming Council to that decision.~~

7.2 Council is prohibited under section 69(2) of the ~~Local Government Act 2020~~ (the 'Act') ~~specifies from making decisions that are prohibited by a Council during the election period for a general election: Election Period that -~~

- a) ~~(a) Relating~~ Relate to the appointment or remuneration of a Chief Executive Officer, but not to the appointment or remuneration of an acting Chief Executive Officer; ~~or~~
- b) ~~(b) Commits~~ Commit the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and services rates and charges in the preceding financial year; ~~or~~
- c) ~~(c) The Council considers could be reasonably deferred until the next Council is in place; or~~
- d) ~~(d) The Council considers should not be made during an election period.~~

(Major Policy Decisions).

7.3 This policy also prohibits any Council decision during the election period for a general election or a by-election 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.

3.7.4 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 this provision is entitled to compensation from Council for that loss or damage.

7.5 Council will avoid making decisions during the election period which are considered to be of a significant nature either based on financial considerations or community impacts (Significant Decisions), except where the issue: -

- (a) is urgent;
- (b) is necessary to fulfil statutory obligations;
- (c) is necessary for operational purposes; or
- (d) cannot be deferred without serious implications.

7.6 The Chief Executive Officer is responsible for determining whether an exception should be applied to enable the matter to be considered by Council.

8. Legislated Decisions

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8.1 Council's limitations on making Major Policy Decisions and Significant Decisions during the Election Period do not extend to decisions required to be made under legislation to which specific timeframes may apply.

9. Election Period Statement

9.1 In order to assist ~~the~~ Council with its commitment to appropriate decision making during the ~~election period~~Election Period, the Chief Executive Officer will ensure that an "Election Period Statement" is included in every officer's report submitted to the Council for a decision.

9.2 The "Election Period Statement" will describe the status of each item, specifically relating to section 69 of the Act, confirming that the matter does not relate to a Major Policy Decision or Significant Decision.

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

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Part B – Use of Council Resources

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10. Use of Council Resources during an Election

10.1 Councillors and members of Council staff will comply with section 304 of the Act regarding the prohibition with respect to the use of Council resources during the ~~election period~~Election Period.

510.2 That section makes it a criminal offence for a Councillor or member of Council staff to use Council resources in a way that is intended to or is likely to affect the result of an election under the Act.

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11. Media and Publicity

11.1 Section 304 of the Act also prohibits ~~Councils~~Councillors or members of Council staff from printing, publishing or distributing electoral ~~matter~~materials unless it is information which is only about the election process.

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11.2 Publications:

(a) 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.

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(b) The Annual Report will be produced to meet legislative requirements without reference to any electoral matter.

11.3 Website:

(a) 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 at the discretion of the Chief Executive Officer.

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11.4 Media

(d)(a) Media releases and advertisements during the election period will focus on Council activities and services and will not contain electoral matter.

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Councillors

- (b) ~~Election Period Procedures do~~Any required speeches to be made on behalf of Council during the election period by the Mayor, Councillors, or Council staff will be approved by the Chief Executive Officer.

11.5 Councillors

- (e)(a) This Policy does not restrict the ability of Councillors to issue media releases or make media comment in their own name (not referenced as Councillor or Cr) and using their own resources.

- 11.6 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 cannot be developed or used in support of a candidate's election campaign.

11.7 During the ~~election period as defined:~~Election Period: -

- * (a) 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.
- * (b) Council publicity and communications will be restricted to promoting normal Council activities and services and for informing residents about the conduct of the election.
- * (c) No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- * (d) Councillors must 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.
- * (e) Ward meetings and newsletters are not to be arranged by Council during the election period.
- * (f) Council logos or letterheads, Council branding including corporate colours or Council provided photographs must not be used by Councillors in any way that relates to an election.

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12. Council Equipment and Facilities

- 12.1 Equipment and facilities provided to Councillors for the purpose of conducting normal Council business must not be used for campaigning purposes.

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13. Councillor Expenses

- 13.1 Reimbursement of Councillors' out-of-pocket expenses during the 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.

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14. Other Election Period Matters

- 14.1 Council recognises that all election candidates have rights to access information. ~~However, and that~~ 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-election period. Information and briefing material prepared by staff for Councillors during the Election Period-election period will relate only to factual matters or to existing Council policies and services.

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~~14.2~~ 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.

~~14.3~~ All requests for information are to be directed to the ~~Manager Governance~~ Director Corporate who will maintain a public register that records all requests made and Strategy the responses given.

~~9.~~

15. Role of Council Staff

~~15.1~~ Council staff will not undertake any tasks connected directly or indirectly with a councillor or candidate's election campaign.

~~10.~~

16. Politicisation of Meetings

~~16.1~~ During the election ~~periods~~ period there will 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.

17. Other Resources

~~17.1-~~ 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.

~~17.2-~~ 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 if 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 if it only relates to the election process and is authorised by the Chief Executive Officer.

~~17.3-~~ 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.

~~17.4-~~ In applying these principles, the Council understands that the following will be normal practice during ~~election periods~~ 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) Media services, including media releases, will not be provided for Councillors by the administration during the election period. The Mayor or Councillors will not be quoted in any media releases;
- (c) Councillor newsletters will not be resourced by Council in any way during the election period; ~~and~~
- (d) Neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election; ~~i~~
- (e) Community engagement activities related to any electoral matter or likely to become an electoral matter or affect voting will be suspended during the election period. however other engagement activities relating to the day to day business of Council may continue.

Exclusions

Nil

Human Rights

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

Definitions

Council: the Campaspe Shire Council

Election Period: as described in clause 5 of this policy

Major Policy Decisions: as described in clause 7.2 of this policy

Significant Decisions: as described in clause 7.5 of this policy

Election Period: ~~The election period starts on the last day on which nominations for that election can be received and ends at 6:00 pm on election day.~~

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Related Legislation

Local Government Act 2020

Related Policies, Procedures and Strategies

Council Policy 058 Council Expenses

Attachments

Nil

Review Period

Four years

Responsible officer

Manager Governance and Strategy/Director Corporate

Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter the policy, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

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Approval History

Adopted	28 January 2016	Minutes Book Reference No 63 (Item 6.13)
Revised	13 September 2016	Minute Book Reference No 823 (Item 6.5)
Revised	21 November 2017	Minute Book Reference No 3382 (item 6.3)
Revised	17 September 2019	Minute Book Reference No 3516 (item 7.1)
Revised	23 June 2020	Minute Book Reference No 2209 (item 9.2)
Revised	22 February 2021	Administrative update to apply consistent references to Campaspe Shire Council ('Council') and the Local Government Act 2020

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