

# Election Period Policy 2024



## 1. Purpose

This policy has been prepared in accordance with section 69 of the Local Government Act 2020 (Vic) (Act) which requires Council to include an Election Period Policy in its Governance Rules. It sets out the procedures to be applied by Council during the election period and has been developed to ensure that general elections and by-elections are conducted in a manner that is ethical, fair, and equitable, and are publicly perceived as such.

It specifies the procedures intended to prevent Council from making inappropriate decisions, taking inappropriate actions, or using resources inappropriately during the election period. It places limits on public consultation and the scheduling of Council events and puts in place procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

The policy facilitates the continuation of the ordinary business of Council throughout the election period and ensures the authority of an incoming Council is not restricted by decisions to which it may find itself unreasonably bound.

## 2. Scope

This policy applies to all Council staff, Councillors, and election candidates during the election period (also known as the caretaker period). The election period starts at the time that nominations for the election of Council close (known as nomination day). The election period for the 2024 elections will apply from 17 September 2024 until 6pm on election day, Saturday 26 October 2024, inclusive.

## 3. Policy Statement

Council is committed to ensuring that general elections and by-elections are conducted in a manner that is ethical, fair, and equitable, and are publicly perceived as such.

## 4. Principles

### 4.1 Accountability

This policy facilitates the continuation of Council's ordinary business throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'caretaker' conventions.

### 4.2 Council decision making

In accordance with section 69(2) of the Act, Council is prohibited from making any decision during the election period that:

- (a) Relates to the appointment or remuneration of the CEO, but not to the appointment or remuneration of an Acting CEO.
- (b) Commits the Council to expenditure exceeding one percent (1%) of Council's income from general rates, municipal charges, and service rates and charges in the preceding financial year.
- (c) Council considers could be reasonably deferred until the next Council is in place.
- (d) Council considers should not be made during an election period.

In accordance with section 69(3) of the Act, Council is prohibited from making any 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.

During the election period a Councillor, a Committee of Council, the CEO, or a Council employee acting under delegation will not:

- (a) Approve, amend, or repeal any policy, plan, or strategy, including those contained in or related to The Council Plan which has been adopted by Council; or
- (b) Use their position to influence Council employees, or access Council resources of information, in support of any election campaign or candidacy.

A Council decision made in contravention of the above is invalid under the Act.

Under the Act, 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 clause is entitled to compensation for that loss or damage.

#### **4.3 Decisions made under officer delegation**

Significant decision-making power is formally delegated to Council staff and the decision of a delegate is 'deemed to be a decision by Council'. Because a delegate's decision is the same as a Council decision, the same constraints apply. Before making any decisions under delegated authority during the election period, Council officers should carefully consider:

- The urgency of the decision – can it be deferred until after the election period?
- The possibility of financial repercussions if the decision is deferred.
- Whether the decision is likely to be controversial.
- Whether the decision is in the best interests of Council and the community.

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from their respective Director in the first instance.

#### **4.4 Election period statement**

During the election period, the CEO will ensure that an 'election period statement' is included in every report submitted to Council for a decision. The election period statement will appear at the start of each item listed on the agenda and will take the following form:

*This report is being considered during an election period. The recommended decision is not a prohibited decision in accordance with section 69(2) and (3) of the Local Government Act 2020, nor a significant decision within the meaning of Council's Election Period Policy.*

OR

*This report is being considered during an election period. The recommended decision is not a prohibited decision in accordance with section 69(2) and (3) of the Local Government Act 2020 but has been determined by the CEO to be a significant decision within the meaning of Council's Election Period Policy. An exemption is required for the following reasons (insert reasons for exemption).*

In accordance with section 177 of the Act Council may resolve to apply to the Minister for Local Government for a compliance exemption if it is required to make a prohibited decision within the meaning of section 69(2) or 69(3) of the Act.

#### **4.5 Public consultation, meetings, and Council events**

##### **4.5.1 Limited public consultation**

Council will limit public consultation primarily to any consultation required under the Planning and Environment Act 1987 and matters subject to section 223 of the Local Government Act 2020. Public consultation may also be required in other circumstances to ensure that Council's normal activities are proactively managed. All public consultation will avoid any express or implied links to the election and will only be undertaken with the CEO's prior approval.

##### **4.5.2 Public meetings and Council events**

Public meetings and events coordinated by Council will not be held during the election period, unless the meeting or event cannot be rescheduled, and it would negatively impact Council or the community. Where it is deemed necessary to hold meetings or events during this period, prior approval is required by the CEO (as well as approval for running sheets and speeches). Where Council meetings or events are held during the election period, Councillors and candidates are not permitted to use events and meetings as forums for electioneering purposes and must not distribute election material.

In instances where a Councillor is invited to attend an external event or function in their capacity as a Councillor, roles are restricted to official duties only (where a Councillor would ordinarily perform such duties). These duties must be performed in line with organisational protocols and Councillors must not use these events for the purposes of electioneering. Invitations are 'in the capacity as Councillor' where it is coordinated/received via the Mayor and Councillor Support and when the invitee would not usually be invited in a private capacity.

#### **4.5.3 Council meetings**

Council meetings will continue to be open to the public and livestreamed during the election period, however the following adjustments will be made:

- Public question time will be suspended.
- Any questions that may be received will not be read out at the Council meeting and written responses will be provided.

Councillors will limit their discussion during debate to the topic under consideration and will avoid raising electoral matter.

#### **4.6 Use of Council resources for election campaign purposes is prohibited**

The use of Council resources including, but not limited to, vehicles, staff, services, property, equipment, stationery, websites, social media, and hospitality for any Federal, State or Council election campaign purposes is prohibited.

A Councillor or Council employee must not use Council resources to print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

Photographs or images paid for by Council or taken by Council staff must not be used in election material by any candidate or incumbent Councillor. This extends to images of Councillors, events, and any Council infrastructure. Equally, candidates are not authorised to use any Council images in connection with their campaign.

Council's logo, letterhead or any other Council branding may not be used for or associated in any way with a candidate's election campaign.

In circumstances where it is unclear if the use of Council resources is related, or may be perceived as being related, to a candidate's election campaign, the use should be referred to the CEO for a determination.

In accordance with section 304 of the Act, a Councillor or Council employee must not use Council resources in a way that is intended to or is likely to affect the result of an election under this Act.

#### **4.7 Use of Council equipment to facilitate normal Councillor duties**

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Councillor duties, subject to existing protocols and terms of use.

Councillors must not use Council equipment as a resource to assist with election campaigns. Specifically, Council resources (including but not limited to fleet vehicles, computers, tablets, mobile telephones, offices, IT, meeting rooms, support staff, hospitality services, equipment and stationery) will be used exclusively for normal Council business during the election period and will not be used in connection with any election campaign.

#### **4.8 Councillor Allowance and Reimbursement**

Payment of Councillor allowances continues during the election period.

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 Councillor business and not for expenses that support or relate to a candidate's election campaign.

#### 4.9 Access to Council Information and assistance to candidates

Council acknowledges that candidates expect Council to respond to their requests for information that relates to the election. Any such requests will be responded to equitably and as though all candidates have made the same request.

Consequently, all candidates will receive the same information. Incumbent Councillors will continue to receive information that is necessary to fulfil their Council roles. Where information relates to what could be considered an 'election issue' or is not required to fulfil duties as a Councillor, requests will be denied. The CEO's determination in the event of a dispute is final.

All candidates will be treated equally which means that any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. Neither Councillors nor Candidates will receive information or advice from Council employees that may improperly advantage candidates in the elections.

Council will provide candidates with a copy of a Councillor Candidate Information Kit produced by the Victorian Electoral Commission to assist them in running and nominating for Council. Candidates will also be provided with a copy of this policy. It will also be publicly available online.

#### 4.10 Information Request Register

An Information Request Register will be maintained during the election period. Requests for information which require the use of significant Council resources in order to provide a response, or which might be perceived to support an election campaign, will be referred to the CEO for a determination.

#### 4.11 Electoral Material

Electoral material is defined in the Act as an advertisement, handbill, pamphlet or notice that contains electoral matter.

Electoral matter means matter which is intended or likely to affect voting in an election but does not include any electoral material produced for the purposes of conducting an election. The definition is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:

- The election.
- A candidate in the election.
- An issue submitted to, or otherwise before, the voters in connection with the election.

Council employees are prohibited from printing, publishing, or distributing any advertisement, handbill, pamphlet or notice during an election period unless it has been approved by the CEO, their respective Director or the Manager Communications.

The publication of any material containing electoral matter is prohibited unless that material is only about the election process.

Publications which require approval include:

- Brochures, pamphlets, handbills, flyers, magazines, and books.
- Reports (other than agenda papers and minutes).
- Advertisements, newsletters, and notices except newspaper notices of meetings.
- New website material. Councillor contact information will remain available on the website during the election period, but Councillors' profiles will be removed.
- Social media publications including Facebook, Instagram, and Twitter posts.
- Emails with multiple addresses, used for broad communication with the community.
- Mass mail outs or identical letters sent to many people by or on behalf of Council.
- Media releases.
- Material to publicise a function or event.
- Any publication or distribution of speeches.

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.
- An issue submitted to, or otherwise before, the voters in connection with the election.

Any Council publications printed, published, or distributed during an election period must not include text that promotes Councillors re-standing for election. The Annual Report is not considered to be an advertisement, handbill or pamphlet, however it must not include matter that may be considered electioneering, or publicising attributes or achievement of individual councillors.

#### **4.12 Council branding**

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

#### **4.13 Photographs and images**

Photographs and images paid for by Council or taken by Council employees are not to be used in electoral material for any candidate. This includes images of Councillors, Council events and Council owned or maintained infrastructure.

#### **4.14 Council spokesperson**

It is recognised that during the election period it may be necessary to release information regarding Council's day-to-day business and events. During the election period the primary spokesperson for Council will be the CEO. Only the CEO or their delegate will speak on behalf of Council on matters relating to the election process. Media releases and speeches issued/delivered by the CEO will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate.

During the election period no Council employee may make any public statement that relates to an electoral matter unless prior approval has been obtained by the CEO or their delegate.

#### **4.15 Councillor issued communication**

No media advice or assistance may be provided by staff in relation to election campaign matters, or regarding publicity that involves specific Councillors.

Councillors are not permitted to use their position as elected representatives or their access to Council staff and other Council resources to gain media attention in support of their election campaign.

Councillors and other candidates are permitted to issue their own media releases provided they do not use Council resources - including email, logo or any branding, letterhead, or any Council-owned device. Councillors and candidates must make it clear that the views expressed are personal views only, and not the views of Council.

Councillors are not permitted to comment in an official capacity on any issues raised by the media during the election period. Any comments made to the media must be expressed as personal views only and not the views of Council.

Only Councillors in office may use the title of 'Councillor' in electoral material.

Councillors are not permitted to comment in an official capacity in respect of an electoral matter raised on social media during the election period. Nor are they permitted to use social media to respond, as Councillors, to election issues.

Councillors standing for re-election must carefully manage the use of their existing online profiles when utilising social media during the election period. Councillors are encouraged to set up separate accounts, pages, profiles, or presences in their capacity as election candidates.

Council resources (internet access, mobile telephones, Council logos) must not be used in connection with setting up or maintaining any social media or online presence as candidates.

#### **4.16 Council staff member standing for election**

If a Council staff member stands for election as a Councillor for Campaspe Shire Council, they must:



- Take leave to stand for election to the office of Councillor (with leave commencing, at the latest, from the time of nominating as a candidate).
- If elected, resign as a Council staff member immediately upon being declared elected.

If a member of Council staff stands for election as a candidate in a state or federal election, they must:

- Advise the CEO of their candidacy in writing.
- Consider taking a leave of absence from the formal nomination date until election day.
- Seek advice from the Manager Governance and Risk to manage any possible real or perceived conflicts of interest.

#### **4.17 Councillor standing as a candidate in a state or federal election**

As soon as practicable after becoming a candidate in a state or federal election, a Councillor must advise the CEO in writing. The CEO will then notify all Councillors in writing as soon as practicable.

A Councillor standing as a candidate in a state or federal election is encouraged to take a leave of absence from the nomination date until Election Day.

If elected in a state or federal election, the Councillor must resign from their position as a Councillor of the Campaspe Shire Council immediately upon being declared elected.

#### **4.18 Election signage**

This part of the policy provides guidance in relation to the rules which apply to signage that promotes candidates in an election or relates to election issues.

The content of election signage must meet the requirements for election material under the Act.

##### **4.18.1 Election signage on private land**

Election signs are permitted on private land with permission from the owner of the land, without need for a planning permit, provided that:

- It is not located on road reserves - such as road pavement, median strips, traffic signals, electricity poles.
- It is stable and securely fixed to fences or poles on private land, and not attached to trees.
- The advertisement area does not exceed 5 square metres.
- Only one sign is displayed on the land.
- It is not animated or internally illuminated.
- It is not displayed longer than 14 days after the event is held, or three months, whichever is sooner.

##### **4.18.2 Where signs cannot be placed (Council land)**

Electoral signs are not permitted on roads, municipal buildings, reserves, or Council land, including any structures such as bus shelters and light poles within road reserves. An electoral sign is a sign which contains information relating to a political candidate or political party, which is being displayed as part of a state, federal or local election campaign.

Definitions are listed below, however in general terms, no electoral advertising is permitted on roads, parkland, or Council property.

No signage can be placed or erected on any Council road or reserve (including parks). This also includes any VicRoads road or reserve.

Mobile billboards (trailer types and signs that are placed in or on a vehicle) are not to be left standing/stationery. This type of signage must be mobile at all times. Vehicles (other than trailers) that are permanently sign written may display signage, provided that they meet parking legislation requirements including time limits.

The *Environment Protection Act 1970* (litter section) prohibits the placing of any form of advertising on the windscreens of vehicles anywhere (including public and private land). Banners and flags are also prohibited and are not to be attached to any fixtures located on any of the roads or reserves.

Council may remove non-compliant signs, where located on Council land, and retain them for collection by the candidate.

#### 4.19 Misuse of position

Councillors are reminded that pursuant to section 123 of the Act, they must not misuse their position to:

- Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person.
- Cause, or attempt to cause, detriment to the Council or another person.

Circumstances that constitute a misuse of position include:

- Making improper use of information acquired as a result of a position held.
- Disclosing information that is confidential.
- Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff.
- Exercising, or purporting to exercise, a power, duty, or function with no authority to do so.
- Using public funds or resources in an improper or unauthorised manner.
- Participating in a decision on a matter in which the person has a conflict of interest.

## 5. Definitions

Terms and definitions used in this policy include:

Term	Details
Act	Local Government Act 2020
Candidate	A person who has nominated as a candidate for an election under section 256 of the Act.
CEO	Chief Executive Officer
Community consultation	The process in which Council and the municipal community connect with each other to exchange views, ideas and information to inform decisions, build capacity, and strengthen relationships.
Election day	The day of the election determined under section 257 or 260 of the Act.
Election period	The period that starts at the time that nominations close on nomination day and ends at 6pm on election day.
Electoral material	Is defined in the Act as 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.
Electoral matter	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
Nomination day	The last day on which nominations to be a candidate at a Council election may be received.
Significant decisions	Any Council decision, including decisions by members of Council staff acting under delegation, given by Council during an election period for a general election that: May irrevocably commit the incoming Council to substantial expenditure or to other significant actions. May have irrevocable or significant impact on the municipality or a significant section of the community.

## 6. Acknowledgements

### 6.1. Traditional Owners

The Shire of Campaspe is the traditional lands of the Dja Dja Wurrung, Taungurung and Yorta Yorta Peoples. We respect and acknowledge their unique Aboriginal cultural heritage and pay our respect to their ancestors, descendants and emerging leaders as the Traditional Owners of this country. We acknowledge their living culture and their unique role in the life of this region.

## Policy Information

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