

Chapter 10 – Election Period Policy

1. Introduction

1.1 This Policy is made in accordance with the section 69 of the Act, which requires Council to adopt an election period policy in relation to procedures to be applied by Council during the Election Period for a General Election and by-election.

Purpose of the Policy

1.2 The purpose of this Policy is to ensure that:

- (a) elections are conducted in an environment that is open and fair to all candidates;
- (b) the ordinary business of Council can continue throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements;
- (c) Council avoids making decisions prohibited by section 69 of the Act;
- (d) the community understand that Council's resources will not be used in any election campaign.

1.3 The Policy applies to all Councillors, candidates in an election and all staff employed or engaged by Council.

2. Definitions

2.1 In this Chapter:

Candidate	means a person who is nominated to stand for election to Council and includes an incumbent Councillor
Consultation	means a process organised by the Council that involves an invitation to individuals, groups or organisations to comment on an issue that relates to any proposed action or policy
Election Day	has the same meaning as in the Act
Election Period	means the period that: (a) starts at the time that nominations close on nomination day (as defined in the Act); and (b) ends at 6 p.m. on Election Day. This can also be referred to as the 'Caretaker Period'
Electoral Material	has the same meaning as in the Act
Electoral Matter	has the same meaning as in the Act

Election Manager	has the same meaning as in the Act
General Election	means the election of all councillors, held every four years on the fourth Saturday in October
Incumbent councillor	means a current Councillor who has nominated, or is considering nominating, for election in a General Election
Publication	means: (a) any document that is published by the Council, including information on the Internet; (b) the act of publishing
Publish	means publish by any means, including by publication on the Internet
Social media	means websites and applications that enable users to create and share content or to participate in social networking and includes Facebook, Twitter, Instagram, YouTube, LinkedIn, Flickr and Pinterest
VEC	means Victorian Electoral Commission

3. Requirements placed on Council and the Chief Executive Officer

Council

3.1 Council will function in accordance with this Policy during the Election Period.

Chief Executive Officer

3.2 Before the Election Period commences, the Chief Executive Officer should ensure that:

- (a) all Councillors and members of staff are made aware of this Policy and the restrictions on decision making during the Election Period;
- (b) arrangements are in place to avoid significant interruptions to the normal business of the Council due to the prohibition on making major policy and significant decisions. This may include, for example, programming major tender processes outside the election period;
- (c) guidance is issued to members of Council staff outlining changes to normal business practices, the restrictions and other issues to be considered by staff during this period;
- (d) all items listed for consideration on an Agenda for a Council meeting are checked for compliance with the Act and this Policy.

4. Council staff standing as a Candidate in a Council election

- 4.1 A member of Council staff is incapable of becoming a Councillor in Yarra Ranges unless they take leave to contest the election, and if elected, resign as a member of Council staff immediately after being declared elected.
- 4.2 The period of leave required to contest the election would commence, at the latest, at the time the staff member is nominated as a Candidate.

5. Involvement of staff in the campaign of any Candidate

- 5.1 Where a member of staff wishes to be involved in a private capacity in the campaign of any Candidate, they must ensure that all election related activity is undertaken outside of working hours.
- 5.2 Any member of staff involved privately in the campaign of any Candidate must:
- (a) inform their manager of their involvement;
 - (b) take necessary action to clearly separate their working and private activities;
 - (c) avoid any Conflict of Interest that may arise between their support of a particular candidate and their employment by the Council; and
 - (d) declare a Conflict of Interest if one arises.

6. Assistance to Candidates

- 6.1 All Candidates will be treated equally. Neither incumbent Councillors nor other Candidates will receive information or advice from Council staff that might be perceived to support election campaigns.
- 6.2 All queries from Candidates relating to the election process are to be directed to the Election Manager . Matters outside the responsibilities of the Election Manager are to be directed to the Director Corporate Services or their Delegate.

Provision of information to Councillors and candidates

- 6.3 Council recognises that all election candidates have rights to information from the Council administration. Staff will only provide information to a candidate or prospective candidate that is available to the community.
- 6.4 This Policy aims to ensure that incumbent Councillors do not gain any inappropriate advantage. Throughout the election period staff will, at all times, ensure that incumbent Councillors have the support, information and resources they require to fulfil their role as Councillors. This 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.

Register of requests for information from candidates

- 6.5 During the election period a register will be kept to record requests by persons who identify themselves as candidates when seeking information relating to Electoral Matters or when making other general enquiries. The register will also record the responses provided.
- 6.6 Any request for information from an incumbent Councillor or other Candidate that falls outside of what is permitted under this Policy should be referred to the Director Corporate Services.
- 6.7 The register will be maintained by the Governance Coordinator, made available for inspection by the public and published on Council's website.
- 6.8 The Governance Coordinator may, at their discretion, circulate to all Candidates the response to any request recorded in the register.

7. Use of Council resources

- 7.1 A Councillor or member of Council staff must not use Council resources in a way that:
 - (a) is intended to; or
 - (b) is likely to,affect the result of an election.

Staff

- 7.2 Council staff must not be asked to undertake any tasks indirectly or directly connected with the election campaign of an incumbent Councillor.

Equipment provided to Councillors

- 7.3 Councillors may continue to use any equipment provided to them by the Council to facilitate the performance of their normal duties as a councillor.
- 7.4 Council resources, including the use of photocopiers, stationery, computer equipment, mobile phones, email accounts or any vehicles provided must not be used for any election campaign activities, or in a manner that could be perceived as supporting or being connected with a Candidate's election campaign.
- 7.5 Councillors must not use email signatures or their Council email account to promote theirs or another person's candidature in the election.
- 7.6 Councillors must not use portraits, or other photos taken by or held by Council not otherwise in the public domain, to promote theirs or another person's candidature in an election.

Council premises

- 7.7 Electoral Matter will not be visible or available at any Council premises during the Election Period.
- 7.8 Material issued by the Election Manager for the purpose of conducting the election may be displayed at Council premises.

8. Electoral advertising and signage

- 8.1 Council acknowledges the rights to freedom of expression, as set out in the Charter of Human Rights and Responsibilities Act 2006. All candidates are entitled to a fair opportunity to conduct their election campaign within the Municipal district. However, these rights must be balanced against the need for Council to ensure that election signs do not unduly compromise public amenity or safety.

Signs on private land

- 8.2 Election signs are allowed to be displayed on private land, with the permission of the owner of the land. Any such signage is subject to the provisions set out in clauses 22.04 and 52.05 of the Yarra Ranges Planning Scheme.

Signs on Council land

- 8.3 Electoral advertising on any Council land (including road reserve) or public place is not permitted without permission first being obtained from Council.
- 8.4 Candidates are strongly advised to check with Council's Safer Communities Team in respect of any requirements contained in Council's Neighbourhood Amenity Local Law 2020 before placing any sign, banner or advertising material on any Council land (including road reserve) or public place.
- 8.5 Authorised officers of Council will respond to breaches of Council's Neighbourhood Amenity Local Law 2020 and may:
- (a) remove any election sign placed contrary to the Local Law;
 - (b) issue an infringement, as appropriate, in accordance with applicable laws.

Signs on vehicles and trailers

- 8.6 Portable or moveable election signs that are attached to a vehicle, trailer or similar may be displayed on a road provided that:
- (a) the sign does not unreasonably restrict the use of the road, or endanger the safety of members of the public; and
 - (b) the relevant parking restrictions and requirements are observed.

9. Council business and decision-making

- 9.1 Ordinary, day-to-day business of Council must continue throughout the Election Period and this will be conducted in a responsible and transparent manner, in accordance with statutory requirements.
- 9.2 A 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 an election is prohibited.
- 9.3 Section 69 of the Act prohibits any Council decision during the Election Period for a General Election that:
- (a) relates 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) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
 - (c) Council considers could be reasonably deferred until the next Council is in place; or
 - (d) Council considers should not be made during an Election Period.
- 9.4 If Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by Council not making a particular decision, the Chief Executive Officer may make an application to the Minister for a compliance exemption in accordance with section 177 of the Act.
- 9.5 During an election period, it shall be the ultimate responsibility of the Chief Executive Officer, having consulted with the Mayor, to determine if a matter is to be presented to Council for decision.

Guidance on Decisions

- 9.6 Council will avoid making decisions that is intended to influence, or is likely to influence, voting at an election or decisions that may unreasonably bind an incoming Council and could be deferred until after the election. Examples of inappropriate decisions include:
- (a) Allocating community grants or other direct funding to community organisations;
 - (b) Major planning scheme amendments;
 - (c) Changes to strategic objectives and strategies identified in the Council Plan;

- (d) Adopting policy;
- (e) Setting advocacy positions.

9.7 While there are no legal restrictions on Council making statutory planning decisions under the Planning and Environment Act 1987 during an election period, certain planning matters can generate a great deal of community interest and can become campaign issues for candidates. At a Council Meeting designated to consider planning and related matters, only permit applications that:

- (a) fall within the category of major development (i.e. over \$3million in value) and have received no objections from members of the community; or
- (b) which may otherwise be subject of an application to VCAT on the grounds Council has failed to determine within the prescribed time

may be considered.

Delegated decisions

9.8 As decision making power is delegated to staff through formal Instruments of Delegation, a decision of a Delegate is deemed to be a decision by Council.

9.9 Restrictions that apply to decisions made in Council and Delegated Committee meetings also apply to staff when using delegated powers. Staff should carefully consider the use of delegated powers to make decisions during the Election Period and must satisfy themselves beforehand that any decision is not an inappropriate decision.

10. Publications and the media

Prohibition on publishing material during the Election Period

10.1 Council must take care when publishing documents during the Election Period to ensure they do not contain Electoral Matter or could be construed as influencing the outcome of an election. Section 304 of the Act states:

“A Councillor or member of Council staff must not use Council resources to intentionally or recklessly 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, the 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.”

Certification of publications

10.2 The Chief Executive Officer must:

- (a) certify, in writing, all new documents published during the Election Period;
- (b) not certify any publication that contains Electoral Matter.

10.3 Publications which require certification may include:

- (a) brochures, pamphlets, handbills, flyers, magazines and books;
- (b) reports (other than those included in an Agenda for a Council or Delegated Committee meeting);
- (c) advertisements and notices, except notices of meetings in newspapers;
- (d) new website material;
- (e) social media publications;
- (f) emails with multiple addresses, used for broad communication with the community;
- (g) mass mail outs or identical letters sent to a large number of people by or on behalf of Council;
- (h) media releases;
- (i) material to publicise a function or event;
- (j) any publication or distribution of Councillors' speeches.

10.4 Correspondence to individuals, invoices, permits and rates reminder notices generated in the course of normal business does not need to be certified.

10.5 Agenda and Minutes of Council and Delegated Committee meetings do not require certification by the Chief Executive Officer unless they are printed or published for a wider distribution than normal.

Press releases and statements

10.6 Press releases or other such media statements must not feature any photograph, quote or name of incumbent Councillors. These will require certification by the Chief Executive Officer.

10.7 Official media statements will only be made by or in the name of the Chief Executive Officer. Requests directed to staff for comment on sensitive or political issues are to be referred to the Director Corporate Services.

10.8 Any member of staff authorised by the Chief Executive Officer to make a public statement must ensure that it cannot be interpreted as a political

comment and will refrain from comment on Candidates or any issues relating to the election. Any statements of clarification made during the Election Period must first be approved by the Director Corporate Services

Publicity

10.9 Publicity campaigns will only be undertaken if they relate to the process of conducting the election, as agreed with the VEC, or are deemed necessary for the conduct of a normal Council service or function.

10.10 All publicity campaigns must be:

- (a) approved in writing by both the relevant Director and Director Corporate Services before being implemented; and
- (b) certified by the Chief Executive Officer.

Use of the Council logo and branding

10.11 The Yarra Ranges Council logo, or any other logo or branding developed by Council, must not be used in any Candidate material.

Council and Delegated Committee meetings

10.12 Council is required by the Act to:

- (a) give public notice of Council meetings and Delegated Committee meetings; and
- (b) produce and make available Agendas and Minutes of Council meetings and Delegated Committee meetings.

10.13 All reports to be considered at a meeting of the Council, or by a Delegated Committee, are to be checked by the Director Corporate Services for compliance with section 304 of the Act.

10.14 Items of business submitted by members of the community in accordance with Rules 57, 58, 59 and 60 will be reviewed by the Director Corporate Services to ensure compliance with the Act and this Policy, and may be rejected or amended accordingly before publication.

The Annual Report

10.15 If the Annual Report is required to be published during the Election Period, it will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

10.16 The Annual Report is not required to be certified by the Chief Executive Officer, however any subsequent publication of an extract or summary of the Annual Report will require certification.

Councillors and the media

- 10.17 Incumbent Councillors may make statements as Candidates provided they are clearly communicated as personal opinions and do not undermine the standing of Council or the community. Such statements must not be prepared by Council staff.
- 10.18 Incumbent Councillors may refer to adopted Council policies or decisions but there should be a clear distinction between the adopted Council position and any political commentary the Candidate may wish to make. No media advice or assistance will be provided to incumbent Councillors on election campaign matters or in regard to publicity that involves specific Councillors.
- 10.19 Incumbent Councillors shall not participate in any radio or other broadcast program conducted by Council, or on which any member of council staff has been authorised by the Chief Executive Officer to appear.

11. Council website and social media

Website

- 11.1 Council's website, together with any other website administered by a member of Council staff in the course of their duties, may contain information about the election process but will not be used to convey information that could be regarded as electoral matter.
- 11.2 Websites 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.
- 11.3 Websites should not refer to incumbent Councillors, apart from containing identification photographs and contact details of all Councillors.
- 11.4 Existing material published on websites in advance of the Election Period, is not subject to certification requirements.
- 11.5 New material should not be published to websites during the Election Period unless it complies with the requirements of section 304 of the Act.

Social media

- 11.6 Section 304 of the Act applies to social media operated by Council. Any publication on social media sites operated by Council during the Election Period should be restricted to normal day-to-day activities only and must be certified in writing by the Chief Executive Officer.
- 11.7 Hosting or responding to political content is not permitted.
- 11.8 Where possible, the public's ability to post comments on social media pages operated by Council should be disabled for the duration of the Election Period. If this is not possible, staff responsible for administering individual social

media accounts will monitor their respective accounts during the Election Period and use moderation, where available, to ensure no Electoral Matter is posted.

12. Functions and events

- 12.1 Where possible, functions and events organised by Council should be scheduled for outside the Election Period. A function or event should only go ahead during the Election Period if it is:
- (a) routinely held at the same time of year;
 - (b) a commemorative or anniversary event held on or near the anniversary date; or
 - (c) it is necessary in order to ensure the effective and smooth running of the organisation, in which case approval must be gained from the Chief Executive Officer.
- 12.2 Where the Chief Executive Officer is required to determine if a function or event is to be held, they should consider:
- (a) whether the content of the event is likely to be controversial;
 - (b) whether the event could wait until after the election;
 - (c) the implications (i.e., financial, reputational) if the event was held during the election period or deferred until after the election; or
 - (d) the best interests of the Council.
- 12.3 Invitations to functions and events will be issued by Council and not in the name of the Mayor or individual Councillors.
- 12.4 Functions and events held during the Election Period must not be used, or be able to be construed to be used, in connection with any political purpose or election activity. Council reserves the right to direct any person who is conducting election campaign activities at a Council function or event to cease those activities or to leave the event.
- 12.5 Staff should discuss any queries regarding the conduct or management of a function or event with their manager. Clarification can be sought from the Director Corporate Services.

Speeches

- 12.6 While Councillors are permitted to attend public events during the Election Period, they may only make a speech if expressly authorised by the Chief Executive Officer. Any speech must not include any political reference or mention of the fact that a Councillor is a Candidate for the election.

12.7 Speeches for Councillors will only be prepared by staff under the direction of the Chief Executive Officer.

12.8 All speeches at functions or events must be reviewed by the Director Corporate Services to ensure that the content is appropriate and cannot be construed to breach the Act or this Policy.

Public meetings

12.9 Council is able to advertise meetings during the Election Period, however, the content of the meetings must first be approved by the Director Corporate Services to ensure there is no breach of the Act or this Policy.

Interstate or overseas conferences

12.10 During the Election Period, an incumbent Councillor should not attend any interstate or overseas conference, or similar function, unless it is unavoidable and has been approved unanimously by a resolution of Council.

13. Consultation with the community

13.1 No consultation processes should be undertaken during the Election Period, unless they are:

- (a) required by section 223 of the Local Government Act 1989;
- (b) required by the Planning and Environment Act 1987; or
- (c) approved in writing by the Chief Executive Officer.

13.2 The Chief Executive Officer may approve consultation being undertaken during the Election Period, but must first consider:

- (a) whether the consultation process is likely to be controversial;
- (b) whether the consultation process is significant;
- (c) whether the consultation process could wait until after the election;
- (d) the implications (i.e., financial, reputational) if the consultation was undertaken during the Election Period or deferred until after the election; and
- (e) the best interests of the Council.

13.3 Where consultation is approved to be undertaken during the Election Period the results of that consultation should not be reported to Council until after the Election Period, except where approved by the Chief Executive Officer.

14. Appointment of Councillors to bodies or authorities

14.1 Councillors are not to be appointed to positions where tenure extends beyond Election Day or any internal or external bodies or authorities unless:

- (a) it is impractical to defer the appointment until after the election; or
- (b) the appointment needs to be made for reasons of continuity and the appointment of a Councillor to the position is to be reviewed at the meeting of Council following the election at which the appointment of Council representatives is made.

15. Reimbursement of Councillor expenditure

15.1 Claims for the reimbursement of expenses must be made in accordance with the Councillor Expenditure Policy adopted by Council. Such claims must not relate to election activities or election material.

15.2 Any queries related to the reimbursement of expenses must be referred to the Director Corporate Services.

16. Breach of the Election Period Policy

16.1 Should a Councillor or staff member believe there has been a possible breach of this Policy, the matter must first be referred to the Director Corporate Services. Any such allegation must be handled with confidentiality and be based on tangible evidence so that further investigation may be made.

16.2 Once the Director Corporate Services has investigated the matter, an outline of the issue and the suggested course of action shall be referred to the Chief Executive Officer for approval. The Director Corporate Services shall then institute any approved action.

16.3 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.

16.4 A breach of section 304 of the Act can be prosecuted in Court and a person found guilty may be fined up to 60 penalty units.

17. Administrative amendments

17.1 From time to time, circumstance may require minor amendments be made to this Policy. Where this does not materially alter the Policy, such amendments may be made administratively by the Chief Executive Officer.

17.2 Any amendment which materially alters the Policy must be approved by resolution of Council.

18. Distribution

18.1 As soon as possible after it is adopted by Council, a copy of this Policy will be:

- (a) given to each Councillor;
- (b) available for inspection by the public at Council offices; and
- (c) published on Council's website.

19. Review

- 19.1 Following adoption, the Policy will be subject to further review no later than 12 months before the commencement of each subsequent general election period.