



## ELECTION PERIOD POLICY

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| <b>Directorate</b><br>Corporate &<br>Community<br>Services | <b>Responsible Manager</b><br>Manager Legislative<br>Services & Support | <b>Document No</b><br>16/21252 | <b>Approval Date</b><br>22 March 2016 | <b>Review Date</b><br>March 2020 |
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| <b>POLICY TITLE</b> | <b>Election Period Policy</b> |
| <b>POLICY TYPE</b>  | <b>Council</b>                |
| <b>GROUP</b>        | <b>Corporate Services</b>     |

## 1. Background

Prior to the holding of a municipal election, Council goes into what is termed 'caretaker period' to avoid taking actions and/or making decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council.

The Local Government Act 1989 (the Act) specifically prohibits Council from publishing or distributing electoral matter or making major policy decisions during the election period. These specific restrictions should be considered the minimum legislative requirements with which Council must comply.

## 2. Purpose

The purpose of this policy is to build on the Act's minimum legislative requirements to enhance the transparency and accountability of the actions of Council, Councillors and officers during the election period.

The policy intends to maintain freedom of action for the incoming Council and provide operational guidance on the implementation of the policy.

## 3. Scope

This policy regulates the period between the last day on which nominations for that election can be received and ceases at 6.00pm on Election Day and extends to:

- 3.1 Decisions made by Council or a person acting under delegation given by Council during the election period.
- 3.2 The use of Council resources by Councillors during the election period.
- 3.3 All of Council's publications, promotion, consultations, events and media during the election period.
- 3.4 Access to Council information by Councillors and candidates during the election period.

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#### 4. Definitions

**Election Period** means the period that commences at midnight at the end of Tuesday, 20 September 2016 and applies until 6pm on Saturday, 22 October 2016.

**Electoral Matter** a 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 Returning Officer for the purpose of conducting the election. Matter 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; or
- a candidate in the election; or
- an issue submitted to, or otherwise before, the voters
- in an election.

**Returning Officer** means the person appointed in writing by the Victorian Electoral Commission or the Council.

**Inappropriate Decision** means a decision made by Council or a person acting under delegation by Council that would affect voting at an election or decisions that may unreasonably bind an incoming Council, which could be deferred until after the election.

**Major Policy Decision** means a decision made by Council or a person acting under delegation by Council relating to:

- Remuneration, appointment or termination of a Chief Executive Officer
- Entering into a contract with a total value exceeding 1% of Council's rates revenue (based on the preceding financial year);
- Exercising entrepreneurial powers for proposals over 1% of Council's rates revenue (from the preceding financial year).

#### 5. Responsibility

The Legislative Services & Support department is responsible for the administration of the policy guidelines.

Any issues will be referred to the Chief Executive Officer, who will make a determination with respect to matters of policy interpretation or implementation.

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## 6. Legislation

This policy is in accordance with the:

- Local Government Act 1989
- Victorian Electoral Act 2002

## 7. Policy

### 7.1 Major Policy Decisions

Whilst the day to day operations of Council are expected to continue as normal during the election period there are certain major policy decisions that must not be made by Council, or a person acting under delegation given by the Council.

The Chief Executive Officer will generally avoid the scheduling of major policy decisions by the Council within the election period. However, in the event of exceptional circumstances, the Act does allow Council to apply to the Minister for Local Government for an exemption.

### 7.2 Inappropriate Decisions

Council commits to the application of the following requirements to decision making during the election period, to ensure that inappropriate decisions are prevented:

- Council will refrain from making any irrevocable decision during the election period that could potentially influence voter intentions at the forthcoming election, or could encourage candidates to use the item as part of their electioneering.
- Council will refrain from making any irrevocable decision that significantly affects the municipality during the election period;
- Council will seek approval from the Chief Executive Officer prior to making any other significant decision during the election period that may bind the incoming Council.

Given this, the Chief Executive Officer will consider the following factors in deciding whether to give approval for such decisions:

- Whether the decision is “significant”
- The urgency of the issue (can it wait until after the election?)
- The possibility of financial repercussions if it’s deferred
- Whether the decision is likely to be controversial
- The best interests of the Council

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### 7.3 Council Meetings

Ordinary Meetings of Council, Councillor Workshops, Councillor Briefings and Public Forums will not be scheduled to take place during the election period.

However if exceptional circumstances warrant, a Special Council Meeting may be called. These meetings are not to be used by Councillors as means of promotion or gaining media attention in support of an election.

### 7.4 Use of Council Resources

It is essential that due propriety is observed in the use of all Council resources at all times, not just during the election period. However, during the election period greater caution needs to be exercised to ensure that Council resources are not used for election purposes and also that resources are not used in a manner that could be perceived as supporting or being connected with a candidate's election campaign.

During the election period the Councillors are to have access to the resources necessary to fulfil their elected roles, provided that those resources are utilised in a manner consistent with the directions set out below:

- Council resources, including offices, support staff, hospitality services, mobile phones, computers, iPads 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.
- Reimbursements 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 that could be perceived as supporting or being connected with a candidate's election campaign. In the case of claims that cover a combination of Council and electoral business, the Chief Executive Officer may approve a partial reimbursement to cover Council activities.
- No Council logos, letterheads, or other Moonee Valley branding will be used for, or linked in any way to, a candidate's election campaign.
- 'Meet Your Councillor Sessions' will not be held by the Council after 1 July in the year of a general municipal election.
- General correspondence addressed to Councillors will be answered as usual. However, Councillors will only sign the necessary minimum correspondence during the election period and correspondence relating to significant, sensitive or controversial matters will be referred to the Chief Executive Officer.
- No staff, including support staff to the Mayor and Councillors, will be asked to undertake any tasks connected directly or indirectly with a candidate's election campaign.

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Officers are required to exercise appropriate discretion when allocating resources to Councillor requests during the election period. In any circumstance where the use of Council resources might be construed as being related to a candidate's election campaign, advice can be sought from the Chief Executive Officer.

## **7.5 Publications, Promotions and Media**

Communication with the public is an important function of the Council and a legitimate way of promoting the Council's activities and services. During the election period it is important for officers to ensure that the Councillors have access to Council's communication resources to enable them to fulfil their elected roles, however Council's communication resources will not be used in support of a Councillor's election campaign.

Section 55D of the Act specifies that Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

Council further commits to the following standards during the election period:

- No Council staff member will make any public statement that could be construed as influencing the election. This does not include statements of clarification that are certified by the Chief Executive Officer.
- Where a publicity campaign is deemed necessary for a Council service or function it will be certified by the Chief Executive Officer. In any event, Council publicity during the election period will be restricted to promoting normal Council activities.
- Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive Officer. In any event, no media advice or assistance will be provided by officers to Councillors in relation to election campaign matters, or in regard to publicity that involves specific Councillors.
- Councillors will not use their position as an elected representative or their access to officers and other Council resources to gain media attention in support of an election campaign.

The following sets out how this policy will work in practice for Moonee Valley:

### **a) Council Spokesperson**

The role of spokesperson for the Council during the election period will be filled by the Chief Executive Officer or another officer as delegated by the Chief Executive Officer, depending on the issue. All media releases, responses or statements will be issued from the Chief Executive Officer.

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*No media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors. The Mayor and Councillors are not permitted to comment officially on issues raised by the media during the election period.*

**b) Media Releases & Enquiries**

Media releases during the election period are to promote normal services provided by the Council.

Respective Executives are responsible for reviewing the content as contained in the Media Release pertaining to their area, however the Chief Executive Officer will have final approval.

*Quoting or promoting a particular Councillor/s where the content of the release relates to electoral matters is not allowed. The classification of electoral matters will be determined by the Chief Executive Officer/Returning Officer.*

**c) Valley View**

The normal schedule production and distribution of Valley View will continue during election period however content will be closely monitored and certified by the Chief Executive Officer to ensure no electoral matter is contained within the publication.

*There will be no commentary from Councillors in Valley View during the election period. This includes 'ward duty' which usually reports on activity in each ward from each Councillor. Councillor photographs are also not permitted during this time.*

**d) Council's Website & Social Media Platforms**

Internet content regarding Councillors should be limited to names, titles, contact details, membership of special committees and other bodies to which they have been appointed by Council. The Council website will be reviewed closely prior to the start of the election period to ensure no material (including Councillor profiles and photos) that may be construed as electoral matter are included on the site.

Council will seek certification from the Chief Executive Officer prior to launching any announcements concerning new projects, policy initiative or programs on Council's social media platforms Facebook, Twitter and YouTube.

A close review prior to the start of the election period shall be undertaken to ensure material that may be construed as electoral matter are not included on these sites (ie. promotion of current Councillors and initiatives).

No political content is permitted. Councillors and staff will refrain from posting and/or responding to any political comments.

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Council's Communications & Customer Services department will be responsible for the monitoring and removal of any electoral matter.

Council agenda and minutes will continue to be published during the election period as restrictions to these items do not apply.

**e) Photos**

Photos taken by Councillors or their family or friends or professional photos that Councillors have directly commissioned and paid for may be used in electoral material.

*Photos of Councillors taken by Council staff or photographers contracted by Council during their term are not to be used in electoral material for any candidate.*

**f) Annual Report**

The Council's Annual Report is required to be prepared and submitted to the Minister by the end of September.

Council is permitted to publish the Annual Report during the election period, however information referring to specific Councillors should be limited to names, titles, contact details, membership of special committees and other bodies to which they have been appointed. A Mayor's Message is also allowed as long as it is restricted to general Council business and not specific achievements of Councillors.

**g) Brochures**

Brochures distributed or made available by Council are to promote normal Council services, activities and events.

*Brochures directly promoting Councillors or containing electoral matter are not permitted.*

**h) Advertising**

Normal scheduled advertising may be run by Council during the election period i.e. general Council stories and photographs unrelated to electoral matter.

Advertising may also be run about the election process as certified by the Chief Executive Officer/Returning Officer.

*Any stories, photographs and comments relating to, or that may be construed as, electoral matter are not permitted without certification. Advertising of Councillors' Meet and Greet sessions must be organised and funded independently of Council resources.*

**i) Council Branding And Stationery**

Under no circumstances are Council letterheads, logos or branding to be included on materials, or in relation to, a candidate's election campaign.

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**j) Council Events**

Any type of Council event that could be considered as a means of promotion or gaining media attention for Councillors in support of an election, shall not be scheduled during the election period.

**k) Internal Newsletters**

The publication of internal newsletters, including the noting of pre-election mood and policy, is permitted and will continue as normal during election period.

The Promotion of Councillors in internal publications is not permitted.

**l) Speeches**

Brief speeches referring to the specific event at which the speech is being delivered and thanking participants, is permitted.

*Any reference to the Councillor's achievements or anything that could be interpreted as campaign material is not permitted.*

**m) Public Consultation**

Public consultation (required under the Planning and Environment Act 1987 or matters subject to Section 223 of the Local Government Act 1989, and other acts of public consultation that may be required by other legislation) is prohibited.

In this regard, public consultation means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

**n) Council Notices On Council Notice Boards And Reception Displays**

Information regarding normal Council services, activities and events will continue to be provided during the election period.

*Information directly promoting Councillors or containing electoral matter is not permitted.*

**o) Bulk Mail Outs**

*Quoting or promoting a particular Councillor/s and information relating to electoral matters is not permitted.*

**7.6 Certification by Chief Executive Officer**

In accordance with Section 55D, it is an offence for the Chief Executive Officer to grant approval for publications relating to:

- the election;
- election candidates, including current councillors; or to
- issues which may be before the voters in an election.

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All other publications (including those as outlined in 7.2 above), must be certified in writing by the Chief Executive Officer and must not be delegated to a member of Council staff.

Certification should be sought by completing the form as provided in **Appendix A** and forwarded to the Legislative Services department for retention.

## **7.7 Information Provision and Access**

Council recognises that all election candidates have equal right to information from the Council administration that may be relevant to their election campaigns.

However, neither Councillors nor candidates will receive information or advice from officers that might be perceived to support election campaigns and there will be complete transparency in the provision of all information and advice during the election period.

It is recognised that sitting Councillors need to continue to receive information from the administration that is necessary to fulfil their elected roles. Therefore, information and briefing material prepared by officers for Councillors during the election period will relate only to:

- factual matters and/or
- existing Council services.

Information and briefing material prepared by officers during the election period will not relate to:

- 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.

All Candidates will be treated equally in terms of assistance provided as part of the conduct of the Council Election.

Election enquiries from candidates will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Manager Legislative Services & Support who may refer the request to the Chief Executive Officer or appropriate member of the Executive Team.

The Manager Legislative Services & Support will maintain an Information Request Register during the election period. The register will be a public document that records all requests for information (not otherwise generally available) by Councillors and candidates and the response given to those requests. If any information is made available to one candidate, it shall be made available all other candidates in an appropriate format.

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Officers will be required to provide details of requests to the Manager Legislative Services & Support for inclusion on the register.

### **7.8 Misuse of Position**

All Councillors will continue to adhere to Council's Code of Conduct for Councillors to ensure continued ethical and professional conduct.

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources or information in support of an election campaign.

Section 76D of the Act prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in the role of Councillor, to gain an advantage.

## **8. Consultation**

This policy has been prepared in consultation with Councillors and Council's Chief Executive Officer.

## **9. Related Documents**

### **Essential**

- [Local Government Act 1989](#)
- [Electoral Act 2002](#) (Vic)
- [Code of Conduct for Councillors](#)

### **General**

- [Council Plan 2013-2017](#)

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## APPENDIX A

### Certification of Publication During the Election Period

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Section 55D of the Act specifies that Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

In accordance with its Pre-Election Caretaker Policy, Council further commits to the following standards during the election period:

- No Council staff member will make any public statement that could be construed as influencing the election. This does not include statements of clarification that are certified by the Chief Executive Officer.
  - Where a publicity campaign is deemed necessary for a Council service or function it will be certified by the Chief Executive Officer. In any event, Council publicity during the election period will be restricted to promoting normal Council activities.
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The following publication is *certified by the Chief Executive Officer under Section 55D of the Local Government Act 1989*:

**Name / description of document:**

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Signature: .....

Date: .....

Print Name:.....

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*Once signed, please return this form to the Legislative Services & Support department for retention.*

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