



State and Federal Elections Policy

**SRC – 02
Corporate Compliance**

**BALLARAT CITY COUNCIL
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1 DOCUMENT CONTROL INFORMATION

DOCUMENT CONTROL

Policy Name	<i>Federal and State Election Policy</i>
Business Unit	Safety, Risk and Compliance
File Location	<i>TRIM</i>
Document status	<i>Final</i>
Version	1.0
Version Date	2018
Next Review date	<i>30 May 2020</i>

DOCUMENT HISTORY

	Version	Date	Author
Final Draft	1	2 May 2018	Cameron Montgomery
Approved Leadership Team	1	2 May 2018	Leadership Team
Approved Council	1	23 May 2018	
Review Draft			
Review Final			
Approved			

2 POLICY STATEMENT

Intent:

This policy outlines Council's expectations of a Councillor who becomes a *Prospective candidate* and *Nominated candidate* in a State or Federal election.

By complying with this policy, it is expected that Councillors will avoid the appearance that their position as a Councillor is being used as a platform for their campaign in the relevant State or Federal election.

Objectives:

- Provide a consistent approach for Councillors who are a *Prospective candidate* or *Nominated candidate* in a State or Federal election.

Statement:

- To ensure good governance at Ballarat prior to and in an election campaign period, this policy has been created to assist Councillors and officers to act in the best interests of the community, whilst undertaking normal business, including the pursuit of legitimate advocacy in an unbiased manner.

3 OWNER

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be directed to the Executive Manager Safety, Risk & Compliance Services.

4 APPLICABILITY

This Policy applies to all Councillors where a Councillor becomes a *Prospect candidate* and *Nominated candidate* to contest a State or Federal seat covering an area located wholly or partly within the municipal boundaries of the City of Ballarat.

5 DEFINITIONS

Council: means Ballarat City Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989.

Councillors: means the individuals holding the office of a member of Ballarat City Council.

Council Officer: means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.

Candidate: a Councillor who is endorsed as a candidate for election by a political party or who if not a member of a political party has announced their intention to nominate as a candidate in an election.

Election: the Federal or Victorian State election, or a by-election for either parliament.

Formal nomination date: date set by the relevant electoral commission at which nominations to be candidates in an election close.

6 PROCEDURE AND GUIDANCE NOTES

6.1 Councillor to declare their candidacy in an election

As soon as practicable after becoming a candidate in an election, a Councillor must advise the CEO in writing. The CEO must advise in writing all Councillors as soon as practicable. A Councillor who is a candidate for a State or Federal election should declare this at a meeting of the Council as soon as practicable after the formal nomination date.

6.2 Leave of absence

A Councillor who becomes a Nominated candidate for a State or Federal election should apply for leave of absence from the Council and this leave of absence should commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election and conclude no earlier than the close of voting for the election.

During this period, a Councillor who is on a leave of absence should not attend meetings of the Council or otherwise act as a Councillor.

6.3 Council Resources – use by Councillors

Council resources, including officers and support staff, hospitality services, equipment (eg mobile telephones, smart phones and computers), photographs taken at or for official Council business and stationery, should be used exclusively for normal Council business at all times, and must not be used in connection with an election campaign.

A Councillor, who is a Prospective or Nominated candidate should not use Council related activities, including Advisory Committee meetings in relation to his / her candidacy.

6.4 Improper Use of Position by Councillors

Sections 76D and 76E of the Local Government Act 1989 (the Act) prohibit Councillors from misusing or inappropriately making use of their position. A breach of section 76D attracts serious penalties, including possible imprisonment.

A Councillor who is a Prospective or Nominated candidate for State or Federal election should not participate in any way in the decision-making processes of the Council, where they are campaigning in relation to a matter before the Council. This includes being present at Council Briefings, Ordinary and Special Council Meetings and interacting with Council officers on the matter.

A campaign means where a Councillor makes public their views as a Prospective or Nominated candidate on a matter before the Council (before or after it has been resolved) by way of letters, fliers, social media posts and other communication avenues.

A Councillor who is a Prospective or Nominated candidate should at all times avoid campaigning on (opposing or taking credit for) Council decisions in an effort to not be seen as misusing or inappropriately making use of their position.

6.5 Functions and Events

Councillors, including those standing as candidates, may continue to attend functions and events.

Speeches will continue to be prepared for the Mayor's official functions and if requested, speeches will be distributed to the media at the discretion of the CEO. During this time, the Mayor will not delegate to any Councillor who is standing as a candidate any responsibility to represent him or her.

6.6 Media Advice and Releases

No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves Councillors standing as candidates.

Media releases will not refer to specific Councillors in their capacity as candidates. Councillors standing as candidates are not eligible to be Council's official spokesperson on Council's advocacy priorities. Council will nominate an alternative Councillor to be Council's advocacy spokesperson where required.

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign for a Councillor who is standing for election. Photos of and references to Councillors standing as candidates will only feature in Council's publications where it is related to usual Council business, functions or events.

Where Council's My Ballarat magazine is due to be issued within six weeks of an election, Ward specific news will be held over, and alternative methods of communicating ward news (Eg. advertorial) will be arranged at the conclusion of the election.

6.7 Councillor candidates commenting on Council issues

Where a Councillor comments on Council issues as a candidate in an election, the Councillor should clearly identify this fact.

6.8 Advocacy by Council

It is recognised that the community expects that Council will advocate prior to a State or Federal election for actions and projects for the benefit of the Ballarat community.

In undertaking advocacy, Council will avoid "party political" positions and will instead advocate in an apolitical manner, for the benefit of the Ballarat community.

Refer to 6.6 for advice on advocacy spokespeople.

6.9 Councillor/Officer protocols

Communication protocols will apply. Where required, the CEO will review if any additional provisions are required.

6.10 Customer Requests

Customer requests escalated from Councillors in their capacity as a candidate rather than Councillor must be referred to the CEO in writing for action.

6.11 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 this document, 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.

7 COMPLIANCE RESPONSIBILITIES

Chief Executive Officer

The Chief Executive Officer ensures professional, relevant and timely information is provided to the Council and support to the role of Mayor and Councillors through the provision of compliance and administrative support services.

Councillors

To know, understand and comply with this policy.

8 CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy does not impact on any human rights identified in *the Charter of Human Rights and Responsibilities Act 2006*.

9 REFERENCES AND RELATED POLICIES

The *Local Government Act 1989* and *Local Government (General) Regulations 2015* were referenced during the preparation of this policy.

	Include - Name, Reference and location of reference
Acts	<i>Local Government Act 1989</i>
Regulations	<i>Local Law No. 18 – Meeting Procedure</i> <i>Local Government (General) Regulations 2015</i>
Codes of Practice	
Guidance notes	MAV Policy Position - Candidature of Councillors State or Federal Elections VLGA - Councillors as Candidates in State or Federal Elections
Australian Standards	
Related Policies	Councillor and Staff Interactions Policy Councillor Code of Conduct Councillor Communications Equipment Policy Councillor Expenses Entitlement Policy Councillor Professional Development Policy Election Period Policy Information Request Register