

ELECTION PERIOD POLICY

1.0 Purpose

The Act requires Council to include an Election Period Policy (Policy) in its Governance Rules. This policy is an extract from the Governance Rules approved by Council.

2.0 Scope

There are specific caretaker provisions in the Act that Councils must implement during the election period. These include limits on Council publications, public consultation, the scheduling of Council events, and prohibitions on certain types of decisions.

The election period (or caretaker period) commences from the time nominations close on nomination day and ends at 6pm on election day (32 days). During the election period, Council will be deemed to be in 'election caretaker mode'.

The provisions in this policy apply throughout the election period unless otherwise stated.

This policy has been written to provide a guide only for Councillors, candidates, Delegated Committee Members and Council staff and is not a substitute for legal advice. Individuals should seek their own independent advice if they are unsure about any aspect of the Local Government Act 2020 in relation to the election period.

3.0 Policy Statement

3.1 Policy Statement

In the lead up to a general election, the Local Government sector adopts a caretaker period to avoid actions and decisions that may be interpreted as inappropriate and to ensure there is no inappropriate use of resources during the election period that appear to influence voters or bind an incoming Council.

3.2 Council Business

The Chief Executive Officer must ensure as far as possible that:

- a) No later than 30 days prior to the commencement:
 - i) all Councillors, Managers and Council officers are informed of the requirements and application of this policy; and
 - ii) a copy of this policy is given to all Councillors.
- b) Matters of Council business requiring significant decisions are scheduled for Council to consider prior to the commencement of the election period; or deferred where appropriate for determination by the incoming Council.
- c) All Candidates are familiar with the policy.

3.3 Prohibited Decisions

During the election period, section 69 of the Act prohibits any Council and Delegated Committees from making a 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) the Council considers could be reasonably deferred until the next Council is in place; or

- d) the Council considers should not be made during an election period.

If Council considers that there are extraordinary circumstances where the Ballarat and wider community would be significantly disadvantaged by Council not making a particular major policy decision, Council will, by resolution, request an exemption from the Minister for Local Government in accordance with section 177 of the Act. The request for exemption is not automatically granted.

3.4 Guidance on Decisions

During the election period, Council will follow procedures to prevent making decisions that would affect voting at an election or decisions that may unreasonably bind an incoming Council and could reasonably be deferred until after the election.

Examples of inappropriate decisions include:

- Allocating community grants or other direct funding to community organisations;
- Major planning scheme amendments;
- Changes to strategic objectives and strategies identified in the Council Plan;
- Adopting policy; and
- Setting advocacy positions.

All documentation prepared for Council or Delegated Committee meetings will be carefully vetted by the Chief Executive Officer or Delegate to ensure that no agenda item is included that could potentially influence voters' intentions at the general election or could encourage Councillor candidates to use the item as part of their electioneering.

3.5 Consideration for Officers with Delegated Authority

Before making decisions under delegated authority during the election period, Council staff should consider the following:

- a) Whether the decision is 'significant';
- b) The urgency of the issues (can it wait until after the election? or it cannot be reasonably deferred without major negative repercussions);
- c) Whether the decision is likely to be controversial; and
- d) Whether the decision is in the best interests of Council.

It is the responsibility of the Chief Executive Officer to determine if a matter is significant and if it is urgent.

3.6 Business at Council and Delegated Committee meetings

Council and Delegated Committee meeting papers will be reviewed to ensure that no agenda item is included that could potentially influence voters' decision at the election or give rise to a prohibited major decision or inappropriate decision.

3.7 Community Engagement

Community engagement is an integral part of Council's policy development process and operations. During the election period, however, Council will undertake procedures to limit this consultation to reduce the perception that this may influence voting. Councillors acknowledge that issues raised through the consultation, and decisions that follow, may also unreasonably bind the incoming Council.

No public consultation will be undertaken during the election period unless authorised by a Council decision that acknowledges the application of this policy and justifies to the Ballarat community the special

circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

There will be no Public Question and Submission Time during the election period.

3.8 Council Resources

Public resources must not be used in a manner that would influence the way people vote in elections. Council will ensure that Council resources are not used inappropriately during a Council election and comply with the requirements of the Act.

Council resources, including offices, Council staff, hospitality services, equipment, electronic equipment and stationery will be **used exclusively for normal Council business** during the election period, and will not be used in connection with any electioneering activity.

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

3.9 Council Information

Information and briefing material prepared by Council staff for Councillors during the election period will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities.

Access to historical briefings and workshop papers will be suspended for the duration of the election period.

An **Information Request Register** will be established by the Executive Manager, Governance and Risk and maintained by the Statutory Compliance unit, commencing on the 1st day of the election period. This register will be a public document (available for inspection) that records all requests for information **by all candidates**, and the responses given to those requests.

Responses to candidates' requests will only be provided by Managers, Executive Managers, Directors or the Chief Executive Officer.

3.10 Council Communication

Council communication **will not be used in any way** that might influence the outcome of a Council election.

Publicity of Council events will be restricted to the communication of normal Council activities.

Media inquiries regarding the election or possible election outcomes will only be responded to by the Chief Executive Officer or the Manager, Communications and Marketing.

In the election period no media releases will be issued quoting or featuring the Councillor(s). When media releases are issued, these will contain facts only.

Councillor correspondence will be managed in the usual process. Correspondence addressed to councillors will not be responded to regarding any election matter during the election period. All correspondence responded to by councillors will not reference any election matter and will be restricted to normal Council business.

3.11 Council Publications

The Act places limitations on Council from printing, publishing or distributing publications during the election period. This is to ensure that Council does not utilise public funds that may influence, or be seen to influence, people's voting intentions.

During the election period Council's website will not contain material which is precluded by this policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process. Profiles of the current Mayor and Councillors will be removed from Council's website during the Election Period, but the website will retain their contact details for their day-to-day role as Councillor.

Any new material published on Council's website during the election period that **may** be considered to be an advertisement, handbill, pamphlet or notice must also be subject to the certification process. Council agendas, minutes and the annual report are considered exempt from certification.

The Annual Report will be compiled during the election period and will not contain any material that could be regarded as electioneering or that inappropriately promotes individual Councillors. Information about Councillors will be restricted to names, contact details, titles, membership of Delegated Committees and other bodies to which they have been appointed by the Council.

Council's newsletter 'myBallarat' will not be produced or distributed during the election period.

Any publication of comments or new content on social media sites that are managed by Council must be certified by the Chief Executive Officer during the election period. At the commencement of the election period, Council will advise social media subscribers that comments containing electoral matter will be deleted.

3.12 Council Events

During the election period, Council will undertake procedures to limit the scheduling of Council events during this period. Councillors acknowledge that the scheduling of Council events in the lead up to elections may raise concerns over their potential use by sitting Councillors for electioneering purposes.

No Council event will be scheduled during the election period unless authorised by a Council decision that acknowledges the application of this Policy and justifies to the Ballarat community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

Councillors should refrain from delivering speeches or keynote addresses at Council-organised or sponsored events and functions during the election period other than protocol speeches, such as short welcome and thank you speeches.

Any speech or address should have prior approval of the Chief Executive Officer or Manager Communications and Marketing. Councillors may continue to attend events and functions which are staged by external organisations during the election period.

3.13 Assistance to Candidates

The Council affirms that all candidates for the Council election will be treated equally, fairly and without discrimination. Any assistance, information and advice to be provided to candidates as part of the conduct of the Council election will be provided and made accessible equally to all candidates.

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or a designated Council Officer.

3.14 Electoral Signs

Councillors and prospective candidates must comply with City of Ballarat Community Local Law 2017 for the placement of advertising / electoral signs within the City of Ballarat municipality.

4 Supporting documents and references

4.1 Legislation

- *Local Government Act 2020*
- *Privacy and Data Protection Act 2014*
- *Freedom of Information Act 1982*

4.2 Associated Documents

- *Councillor Code of Conduct*
- *Committees Policy*
- *Governance Rules*
- *Public Transparency Policy*

4.3 Definitions

Act	<i>Local Government Act 2020</i>
Candidate	A person who has nominated themselves with the Victorian Electoral Commission and is seeking election as a councillor.
CEO	Chief Executive Officer
Council Events	Gatherings of internal and external stakeholders organised and run by the City to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue, which is of relevance to the Council and its community including those which may take the form of conferences, workshops, forums, launches, promotional activities social occasions such as dinners, receptions and balls.
Election Period	The election period (or caretaker period) commencing at midday Tuesday 22 September, 2020 and continues until 6pm Saturday October 24, 2020, a period of 32 days.
Public Consultation	A process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy and includes discussion of that matter with the public.
Regulations	<i>Local Government (General) Regulations 2015</i>

5 Policy owner

Chief Executive Officer

6 Authorisation

Governance Rules (incorporating Election Period Policy) adopted by Ballarat City Council, 27 August 2020. R211/20.