

FEDERAL AND STATE ELECTIONS POLICY

1.0 Purpose

The purpose of this Federal and State Elections Policy is to outline Council's expectations of a Councillor who is a prospective candidate or a nominated candidate in a State or Federal Election.

This policy complements the commitments contained in the City of Ballarat Councillor Code of Conduct.

This policy assists Council to:

- Ensure good governance at Council prior to and in an election campaign period.
- Ensure Councillors and officers act in the best interests of the community, whilst undertaking normal business, including the pursuit of legitimate advocacy in an unbiased manner.
- Prevent Council and Committees from making inappropriate decisions during the Election Period before a general election.
- Ensure that no actions or decisions could be perceived as intended to affect the results of an election are made.
- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.
- Limit public consultation and the scheduling of Council events.
- Ensure that information held by City of Ballarat is made equally available and accessible to candidates during the election.

2.0 Scope

In the lead up to a Federal or State election, Council through this policy adopts expectations of Councillors to avoid actions and decisions that may be interpreted as inappropriate. In addition there is an expectation that Councillors will not make inappropriate use of Council resources during the election period that may appear to influence voters.

This policy applies to all Councillors where a Councillor becomes a prospective candidate or a 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.

This policy has been written to provide a guide only for Councillors and Council officers 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 Federal and State Elections Period.

3.0 Policy Statement

3.1 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.

3.2 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.

3.3 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 Committee meetings in relation to his / her candidacy.

3.4 Improper Use of Position by Councillors

Section 123 of the *Local Government Act 2020* (the Act) prohibit Councillors from misusing or inappropriately making use of their position. A breach 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.

3.5 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.

3.6 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 (E.g. advertorial) will be arranged at the conclusion of the election.

3.7 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.

3.8 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 3.6 for advice on advocacy spokespeople.

3.9 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.

3.10 Successful Candidate

Section 34(2)(a) of the Act specifies a person is not qualified to be a councillor and ceases to hold the office, if they are member of with the Victorian Parliament, the Commonwealth Parliament, or of another State or Territory of the Commonwealth Parliament. Therefore, a councillor must resign immediately if they are successful in a State or Federal Election.

4.0 Supporting documents and references

4.1 Legislation

- *Local Government Act 2020*

4.2 Associated Documents

- *Councillor Code of Conduct*
- *MAV Policy on Candidature of Councillors in State or Federal Elections*
- *Local Government Victoria Bulletin 21/2018 - Victorian State Election*

4.3 Definitions

Act	<i>Local Government Act 2020</i>
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.
CEO	Chief Executive Officer

<i>Council Officer</i>	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.
<i>Election</i>	The Federal or Victorian State election, or a by-election for either parliament.
<i>Formal nomination date</i>	Date set by the relevant electoral commission at which nominations to be candidates in an election close.
<i>Prospective Candidate</i>	A councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a state or federal election and generally prior to the formal nomination period.
<i>Nominated Candidate</i>	A councillor who nominates as a candidate for a state or federal election. This is generally in the immediate weeks prior to the relevant election.

5.0 Policy owner

Executive Manager Governance and Risk.

6.0 Authorisation

Adopted by Ballarat City Council, on 15 December 2021 (R277/21)