



13.1 ADOPTION OF ELECTION PERIOD POLICY

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1. PURPOSE

1.1 To present to Council for adoption the Election Period Policy, required under section 69 of the *Local Government Act 2020*.

2. EXECUTIVE SUMMARY

2.1 The *Local Government Act 2020* (the Act) requires Council to maintain an Election Period Policy.

2.2 Council's current Election Period Policy was extensively reviewed and adopted by Council in August 2020.

2.3 A further review has been undertaken to ensure the Election Period Policy meets best Governance practices.

2.4 As part of the review, benchmarking against the policies of 76 Victorian Councils, particularly the M9 Councils, was undertaken.

2.5 The Election Period Policy will limit Council decisions during the election to those allowed under the Act and will also require all Councillors, candidates, and officers to adhere to it.

2.6 In addition to meeting legislative requirements, the policy aims to ensure that an incoming Council is not unreasonably bound by the decisions of the current Council, and that all candidates receive the same level of information and assistance.

3. RECOMMENDATION

That Council:

3.1 Adopts the Election Period Policy, required under section 69 of the *Local Government Act 2020* (Attachment 1).

3.2 Notes the Election Period Policy will be imbedded in the Governance Rules as required under section 69 of the *Local Government Act 2020*.

3.3 Delegates authority to the Chief Executive Officer, or their delegate, to make minor amendments to the documents to correct drafting errors that do not materially alter the intent of the policy.

4. KEY POINTS/ISSUES

4.1 Under section 60 of the Act, Council must develop, adopt and keep in force Governance Rules for or with respect to an election period policy in accordance with section 69.

4.2 The election period is the period that starts from the last day that nominations for that election can be received and ends on 6pm on Election Day. A reference to caretaker period has the same meaning as election period.



4.3 The 2024 Election Period is from 12 noon on Tuesday 24 September 2024 to 6pm Saturday 26 October 2024.

4.4 Election Period Policy

4.4.1 Under the Act an Election Period Policy must prohibit any Council decision during the election period for a general election that -

- (a) relates to the appointment or remuneration of the 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.

4.4.2 An election period policy must prohibit any 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 the election.

4.4.3 A decision made in contravention of the policy is invalid. A person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid is entitled to compensation from the Council for that loss or damage.

4.4.4 The Election Period Policy also lists the following inappropriate decisions that will be avoided during the election period:

- Acquisition of land
- Adoption or amendment of the Port Phillip Planning Scheme
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption or amendment of the Council Plan
- Adoption of a revised budget
- Adoption or amendment of a Local Law
- Allocation of grants or awards to individuals or organisations
- Appointing representatives to Council committees
- Disposal of land or assets
- Endorsing submissions to government or public bodies
- Employment matters pertaining to the CEO
- Entering into a contract or entrepreneurial agreement exceeding the prescribed amount
- Entering into agreements (excluding an Enterprise Agreement), deeds or leases
- Naming or re-naming of roads, reserves, or features
- Reviewing of programs or service provision
- Any other decision that the CEO considers should be made outside of the election period.



- 4.4.5 The Act presents a number of Electoral offences relating to Council responsibilities
- a) **Printing and Publication of Electoral Material**
A person must not print, publish, or distribute electoral material unless the name and address of the person who authorised the electoral material is clearly displayed on its face
A person must not print, publish, or distribute electoral material that contains a representation of a ballot-paper for use in an election that is likely to induce a voter to mark their vote otherwise than in accordance with the directions on the ballot-paper.
- b) **False or misleading information or particulars**
A person must not make a statement knowing that it is false or misleading in a material particular in any information provided orally or in writing in relation to voter enrolment or in any declaration or application in relation to an election under this Act or the regulations. An offence against this section is an indictable offence and can carry up to 5 years imprisonment.
- c) **Author to be identified**
A person must not during the election period print, publish or distribute a newspaper, circular or pamphlet containing electoral matter unless the author's name and address are set out at the end of the article, or if only part of the article, appears in any issue of a newspaper, circular or pamphlet at the end of that part
- 4.4.6 To ensure that Council complies with its obligations, the Policy establishes procedures and limitations to govern the following activities during an election period:
- Decision Making
 - Publishing and Communications
 - Consultation and Engagement
 - Events and Functions
 - Council Resources
 - Council Information
 - Electoral Signage and Electioneering
 - Equity in assistance to Candidates
 - Breaches
- 4.4.7 The 2023 review of the Election Period Policy included benchmarking against the Election Period Policies of 76 Victorian Councils, with particular focus on the M9 Councils.
- 4.4.8 The reviewed Policy includes the following key changes:
- a) Clear direction for officers with delegated authority that the same limitations applied to Council will also apply to their decisions during the election period.
- b) Clear direction on the ability for Councillors to use the title “Councillor” during the election period
- c) An election period statement must now be included in each Council Meeting report declaring that the item has been assessed in accordance with the policy and the Act and that it could not reasonably result in a prohibited or inappropriate decision.



- d) The Annual Report will no longer be limited to information that is legislatively required. This will enable the report to be more substantial, while still requiring oversight to ensure it does not include material that could be considered electioneering.

4.4.9 All Councillors, regardless of whether or not they are running for re-election, will be required to adhere to the Election period Policy.

5. CONSULTATION AND STAKEHOLDERS

5.1 The Election Period Policy is a statutory document which incorporates prescribed requirements of the *Local Government Act 2020*.

6. LEGAL AND RISK IMPLICATIONS

6.1 The Election Period Policy covers all requirements stated under *the Local Government Act 2020*.

6.2 To ensure that Council complies with its legal obligations during caretaker, the Election Period Policy establishes procedures and limitations to govern the activities of Council during an election period.

7. FINANCIAL IMPACT

7.1 The policy provides limitation on Council's expenditure during the election period.

8. ENVIRONMENTAL IMPACT

8.1 There is no direct environmental impact resulting from Council adopting this policy.

9. COMMUNITY IMPACT

9.1 The adoption of an election period policy ensures community expectations that Councillors and Council staff act in an accountable, transparent, and lawful way during the election period.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Adoption of the Election Period Policy aligns with Direction 6 of the Council Plan (Our Commitment to You), by providing a transparent and good governance approach to decision making during the election period.

10.2 The policy assists Councillors, candidates, and Council staff to understand the importance of having open and ethical processes which adhere to the law and stand up to scrutiny.

11. IMPLEMENTATION STRATEGY

11.1 The Election Period Policy takes effect once adopted.

11.2 The 2020 Election Period commences at 12 noon on Tuesday 24 September 2024.

11.3 Officers will commence working on making publicly available on Council's website the documents and information outlined in the Policy.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

ATTACHMENTS

1. Election Period Policy 2023 Final draft
2. Election Period Policy 2020 version marked up changes