



Southern Grampians
SHIRE COUNCIL

Election Period Policy 2020

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ELECTION PERIOD POLICY

1. INTRODUCTION

The *Local Government Act 1989* provides that during the election period, certain prohibitions apply to the general functions and powers of Council.

The election period is defined by the Act as starting on the last day of nominations and ending at 6pm on the Election Day. The last day of nominations is the day that is 32 days before the Election Day.

The election period for the 2020 Local Government Elections will commence at midnight on 22 September 2020 and concludes at 6pm on Saturday 24 October 2020.

2. PURPOSE

The purpose of this Policy is to ensure that the election for the Southern Grampians Shire Council is conducted in a manner that is ethical, fair and equitable, and publicly perceived as such.

The policy will also facilitate the continuation of the ordinary business of Local Government in Southern Grampians Shire Council throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established election period conventions.

This policy also commits Council during the election period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council; and
- Ensure public resources, including staff resources are not used in election campaigning in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

3. DEFINITIONS

Election Period	The Act defines the Election Period as commencing on the last day of nominations and ending at 6 pm on election day, a period of 32 days.
Handbill	A small printed advertisement or other notice distributed by hand.
Electoral Matter	Matter which is intended to, or likely to, affect voting in an election other than that which is prepared by the Returning Officer for the purposes of conducting the election.
Publication	Includes any means of publication including letters and information on the internet and social media.
Significant Decision	Means a decision that significantly affects the municipality.
Act	Means <i>Local Government Act 1989</i>

4. APPLICATION

This policy applies to all Councillors, Special Committees and Council staff.

5. RESPONSIBILITIES

All Councillors, Special Committees and Council staff are responsible for complying with this policy. The Governance Coordinator has the responsibility of ensuring that this Policy is updated as required.

6. SCOPE

This Policy is made in accordance with:

- *Local Government Act 1989*
- *Victorian Electoral Act 2002*
- Councillor Code of Conduct

There are specific caretaker provisions in the *Local Government Act 1989* 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 (refer sections 55D, 93A and 93B of the Act).

This policy has been written to provide guidance for Councillors, candidates, special committee members and Council staff, it does not substitute legal advice.

7. POLICY

7.1 CHIEF EXECUTIVE OFFICER

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

- All Councillors and Council staff are informed of the application of this policy no later than 30 days prior to the commencement of the Election period; and
- Matters of Council business requiring major policy or significant decisions are scheduled for Council to enable resolution prior to the commencement of the election period, or deferred where appropriate for determination by the incoming Council.

7.2 DECISIONS BY COUNCIL

Major Policy Decisions

Major Policy Decision is defined in section 93A (6) of the Act and means a decision:

- Relating to the employment or remuneration of a Chief Executive Officer (CEO), other than a decision to appoint an acting CEO;
- To terminate the appointment of the CEO;
- To enter into a contract, the total value of which exceeds whichever is the greater of:
 - \$100,000 or such higher amount as may be fixed by the Order in Council under section 186 (1); or
 - 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year;
 - To exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100 000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.

During the election period, section 93 of the Act prohibits Council making major policy decisions and any major policy decision made during the election period is deemed to be invalid under the Act.

If Council consider that there are extraordinary circumstances where Southern Grampians Shire's community would be significantly disadvantaged by the Council not making a particular Major Policy Decision, the Council will, by resolution, request an exemption from the Minister for Local Government in accordance with section 93A (2) of the Act. The request for exemption

is not automatically granted.

Inappropriate Decisions

During the election period, Council will follow the policy procedures to prevent inappropriate decisions as defined under section 93B of the Act. Inappropriate decisions are those that would affect the voting at an election or decisions that may unreasonably bind an incoming Council and could reasonably be deferred until after the election.

Significant Decisions

During the election period, Council will avoid making decisions that significantly affect the municipality and unreasonably bind the incoming Council.

Council acknowledges that it has an ongoing responsibility to act in the best interests of the community. Where a delay in making a significant decision would result in a significant detriment to the municipality, Council may make an exception where the issue is:

- Urgent
- Cannot be reasonably deferred without major negative repercussions.

It is the responsibility of the CEO to determine if a matter is significant and urgent.

7.3 COUNCIL MEETINGS

Council meeting papers will be carefully vetted to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage councillors and candidates to use the item as part of their electioneering.

7.4 BRIEFING SESSIONS

Briefing session meeting papers will be carefully vetted to ensure that no agenda item is included that could be perceived as a disadvantage to candidates.

7.5 PUBLIC CONSULTATION AND EVENTS

Public consultation will not take place during the election period except where there is a legal obligation or the CEO determines that special circumstances exist.

Scheduling of Council events will be permitted but limited during the election period. Council events will only be organised and run by Council administration if they are part of the normal services or operation of the Council and the scheduling of the event during the election period is deemed appropriate.

Where events occur and whether or not a Councillor is to make a speech, Councillors will be conscious of the fact that they are representing Council and are not to use the opportunity for electioneering.

Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication.

7.6 COUNCIL PUBLICATIONS

Prohibition on publishing material that contains electoral matter

Section 55D of the Act prohibits Council from printing, publishing or distributing any advertisement, handbill, pamphlet or notice during an election period unless it has been certified, in writing, by the CEO. This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

CEO Certification

The CEO must not certify a publication that contains electoral matter, it is an offence under section 55D of the Act, for the CEO for contravene this requirement.

The certification by the CEO will read:

'Certified by the Chief Executive Officer in accordance with section 55D of the Local Government Act 1989'

Prohibited material

Electoral matter is defined in the Act and means any 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 purposes of conducting the election; or
- An advertisement in a newspaper announcing the holding of a meeting.

Website

Material published on Council's website in advance of the election period is not subject to certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the election period.

Councillor contact information will remain available on the website during the election period, but Councillor profiles will be removed.

Any material published on Council's website during the election period must be certified by the CEO.

Annual Report

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

Social Media

Any publication (comments or new content) on Council-managed social media sites during the election period must be certified by the CEO.

At the commencement of the election period, Council may advise social media subscribers that comments containing electoral matter will be deleted.

Councillor's individual (personal) social media pages are not managed by Council and are not subject to the same provisions.

Newsletters

The CEO Weekly Update and Exchange Newsletter will continue to be provided during the election period.

7.7 COUNCIL RESOURCES

Public resources must not be used in a manner that would influence the way people vote in elections. Council will ensure Council resources are not used inappropriately during the Council election and comply with the requirements of section 55D of the Act.

Council resources, including offices, Council staff, 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.

Use of Council Resources by Councillors

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns.

Photocopying for election campaigning by Councillors or staff on office photo copiers is not permitted.

Databases and mailing lists held by the organisation remain the property of the Council and are therefore not available to members of the public, candidates or Councillors.

The organisation will not prepare or produce any materials associated with Councillors' individual election campaigns.

No Council logos, letterheads or other Council branding should be used for, or linked in any way to, a candidate's election campaign.

Councillors will not use Council issued mobile phone and email addresses for election campaigning purposes.

The use of Council's internet and intranet sites for any activity to do with election campaigning is prohibited. This includes linking Council websites to private candidate websites.

Access to the voters' roll is subject to the requirements of the Act and the Privacy and Data Protection legislation. A copy of the voters' roll will be provided to candidates by the Returning Officer. The voters' roll will be available for inspection during the election period at advertised times.

Council facilities booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the election period will be let at the same rates to all hirers.

Staff Discretion

Staff must avoid assisting Councillors in ways that are, or could, create perception that staff are assisting Councillors in their election campaign.

If any staff member considers that a particular use of Council resources may influence voting in the election, or be perceived as influencing voting, or be perceived as being part of an election campaign they must advise the CEO immediately.

Councillor Expenses Reimbursement

Reimbursement of Councillor's out-of-pocket expenses during an election period will only apply to costs that have been incurred in the performance of official Council duties as defined and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

7.8 MEDIA

Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and subject to certification by the CEO.

All official media statements during the election period will only be made by the CEO.

Media Releases or other media statements will not refer to specific Councillors or feature any photograph, quote from or name of incumbent Councillors during the Election Period. Where it is necessary to make or clarify any public statement, comment on sensitive or political issues or identify a spokesperson in relation to an issue, the matter must be referred to and approved by the CEO.

Media services, including media releases, will not be provided for individual Councillors by any Council officers, including the CEO, during the election period.

Media statements dealing with their election campaign must be issued by Councillors privately. Statements must be clearly communicated as personal opinion and not undermine the standing of the Council in the community.

Councillors must not use their position as an elected representative or their access to Council staff and resources to gain media attention in support of an election campaign.

Council staff

Staff must not provide advice or assistance in the preparation of media releases or other media statements that contain electoral material.

Staff must not make any public statement that can be interpreted as a political comment or have influence on the electoral process, public statement includes social media platforms. Council staff must make it clear when making comments related to the election that they are expressing their own views and not making an official comment.

It is critical that Council staff be, and appear to be, apolitical throughout the election period to maintain the confidence of the Council, Councillors and the community at all times throughout the electoral process.

7.9 ACCESS TO INFORMATION

Candidates

All election related enquiries from candidates or prospective candidates must be directed to the Returning Officer.

Staff must not provide any information to any candidate or prospective candidate that is not publically available. If staff receive requests from candidates, or prospective candidates, for any information that is not publically available these requests must be forwarded to the Governance Coordinator.

If the information requested is appropriate to be released to the candidate, the Governance Coordinator will ensure that it is made available to all candidates, not just the candidate who requested the information. This is to ensure that all candidates have fair and equitable access to information.

Current Councillors

As Councillors must continue to perform their elected role during the election period, they may receive all necessary information for them to fulfil that role. Information that can be provided to Councillors includes:

- Information that is publicly and freely available – Council Plans, Annual Reports, strategies, policies etc.;
- Information and advice provided by Council's management as part of Council meeting agendas; and
- Briefing papers in relation to matters to be decided upon at forthcoming Council meetings.

Any information provided to Councillors must be necessary to the carrying out of the Councillor's role and must not be used for election purposes.

Requests for information which require significant resources to be devoted to making a response or which might be perceived to support an election campaign must be referred to the CEO or the Governance Coordinator for consideration.

Information Request Register

Governance will maintain an Information Request Register during the election period that will be made publically available. It will record all requests relating to electoral matters and non-

routine requests for information by Councillors and candidates, and the responses given to those requests.

7.10 DISPLAYING ELECTORAL MATERIAL

Electoral material, including pamphlets, posters and notices must not be visible or available at any council premises, including libraries, during the election period. The only exception to this is material issued by the Returning Officer for the purpose of conducting the election.

7.11 USE OF TITLE

Councillors may use the title 'Councillor' in their election material as they continue to hold the positions in the period; however to avoid confusion, Councillors must ensure that any election publication using the title Councillor clearly indicates that it is their own material and has not been produced or endorsed by Council.

8. IMPLEMENTATION

Prior to an Election Period, the CEO will ensure that Councillors and Council staff are advised in regard to the application of the Policy.

The Policy will be published on Council's website, a copy provided to all Councillors and copies available at Council's offices.

Copies of the Policy will be made available to the Returning Officer for distribution to candidates for their information.

9. REVIEW

Section 93B (2)(b) of the Act requires Council to review, and if required, amend the policy not later than 12 months before the commencement of the next general election period.

10.COMMENCEMENT

This Policy came into operation on