

# Election Period

## COUNCIL POLICY NO. 118

### 1. INTRODUCTION

Councils must comply with special arrangements during the election period in the lead up to a general election.

Election policy provisions contained within the *Local Government Act 1989* (the Act) are intended to ensure councils do not interfere with the integrity or probity of the election process.

The Act regulates council activity in two ways. It prohibits councils from making certain types of decisions and it requires that materials produced by councils must not contain matter that will affect voting at the election.

The 'election period' as defined by the Act for the 2020 local government elections will commence on 22 September 2020 and end at 6 pm on election day, 24 October 2020.

### 2. POLICY PURPOSE

The purpose of this policy is to specify procedures intended to prevent Council from making inappropriate decisions or using resources inappropriately during the election period before the 2020 general election; the limits on public consultation and the scheduling of Council events; and procedures to ensure that access to information held by Council is made equally available to candidates during the election, as required by section 93B(3) of the Act.

### 3. DEFINITIONS

Term	Definition	Source
Advertising sign	Means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of an adjacent property or other address, whether real, internet-based or otherwise electronic and where goods or services may be obtained.	Community Amenity Local Law
Candidate	Means a person who has: <ul style="list-style-type: none"> <li>publicly expressed an intention to run as a candidate in the election; and/or</li> <li>a person who has formally nominated as a candidate in the election with the Returning Officer.</li> </ul> A candidate is a 'known candidate' when a person has actual knowledge of the candidate's identity and that they meet the above definition.	Policy
Council land	Means any land owned or vested in, or under the control and management of the Council, including, but not limited to Roads, Municipal Reserves, watercourses and reservations.	Community Amenity Local Law



Term	Definition	Source
Publication	Means: a) A published work in any form (eg hardcopy or digital) including but not limited to brochures, articles, letters, posters, policies, strategies, papers, commentary. b) The act or process of publishing.	Policy
Publish	Means publish by any means including by publication on the Internet.	Act s.3
Public consultation	Means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.	Policy
Returning Officer	Means the Electoral Commissioner or a person appointed in writing by the Electoral Commissioner.	Act s.3
Significant decision	Means an irrevocable decision that significantly affects the municipality	Policy

## 4. ACCOUNTABILITY

### 4.1 Council

Council will function in accordance with this Election Period Policy during the election period.

### 4.2 Chief Executive Officer

In addition to the Chief Executive Officer's statutory responsibilities, the Chief Executive Officer will:

- Prior to an election period, ensure that Councillors and Council staff are advised in regard to the application of this Policy.
- Ensure as far as possible, that 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.
- Not include in the agenda for any Ordinary Council meeting scheduled during the election period, any matters requiring major policy decisions or matters that could be considered inappropriate decisions.

## 5. POLICY

### 5.1 Decisions by Council

During the election period, all reports prepared for the consideration of Council will be carefully vetted by the Chief Executive Officer to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage councillor candidates to use the matter as part of their electioneering.

During the election period, all councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the forthcoming election.

#### Major Policy Decisions

During the election period, Section 93A of the Act prohibits Council from making a major policy decision.

Any major policy decision made during the election period is deemed to be invalid under the Act.

If Council considers that there are extraordinary circumstances where the community would be significantly disadvantaged by the Council not making a particular major policy decision, the Council may, by resolution, request an exemption from the Minister for Local Government in accordance with section 93A(2) of the Act.

### Inappropriate Decisions

The ordinary, day-to-day business of local government must continue throughout the election period. That business will be conducted by Council, its delegates and staff in a responsible and transparent manner, in accordance with statutory requirements.

Most Council decisions are not made at Council meetings. Significant decision-making power is formally delegated to staff and the decision of the delegate is 'deemed' to be a decision by Council. Because a delegate's decision is the same as a Council decision, the same constraints that apply to decisions made in Council meetings apply when delegates make decisions. Delegates should therefore give careful consideration to the exercise of their powers during the election period.

Should a delegate be required to make a decision(s) under delegation in the ordinary course of Council business during the election period, the delegate must satisfy themselves beforehand that the decision is not a major policy decision or an inappropriate decision.

The following decisions may be considered inappropriate decisions and will be avoided during the election period:

- Allocating community grants or other direct funding to community organisations
- Major planning scheme amendments
- Changes to strategic objectives and strategies contained within the Council Plan.

## **5.2 Council Resources**

### Application of Resources

Councillors will continue to be provided with resources and receive information during the election period to continue to perform their elected role.

Council resources such as office space, staff, email services, equipment, branding and stationery are only to be used for normal Council business during the election period and not for any election campaign activities.

Information and briefing material prepared and provided to Councillors must be necessary to the carrying out of the Councillor's role and must not be used for election purposes.

Councillor-candidates should be mindful to manage any perceived conflicts even where a direct expense is not incurred, this may include for example:

- Where campaign-related calls are received on a Council device, provide and encourage the caller to use a non-council number for future calls.
- Where campaign-related emails are received in a Council email account, send any responses from a private email and encourage the correspondent to use that account in future.

### Council staff

Council staff must not be asked to undertake any tasks connected directly or indirectly with the election campaign of a councillor standing for re-election.

### Councillors' Entitlement to Reimbursement

Reimbursements of councillors' out-of-pocket expenses during the election period will only apply to expenses incurred in the performance of normal Council duties, and not for expenses that support, or are connected with a candidate's election campaign.

## **5.3 Public Consultation**

Public consultations will be avoided during the election period.

Council will not continue or commence public consultation on major policy decisions, contentious or potentially sensitive matters after the commencement of the election period.

Public consultation associated with activities and decisions which are the subject of statutory processes, for example

- Applications under the *Planning and Environment Act 1987*
- Consultation required under Section 223 of the *Local Government Act 1989*

can be expected to continue through the election period to ensure Council does not breach its statutory obligations.

Public consultation not associated with activities and decisions which are the subject of statutory processes shall only proceed if prior approval is given by the Chief Executive Officer.

Where community engagement has occurred prior to the election period but a related report has not yet proceeded to a Council meeting, results of the consultation will also not be provided to a Council meeting until the election period has concluded.

Any public consultation that does proceed during the election period will be vetted for electoral matter and express or implicit links to the election.

#### Postponing consultation

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right where possible and practicable, to postpone public consultation and any associated decisions where the matter is considered likely to affect voting in the election.

### **5.4 Council Events**

Normal Council events are not prohibited during the election period however Council will keep these events to a minimum.

Any civic or ceremonial Council event held during the election period should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or services an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identity.

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.

Material printed or disseminated during the election period to publicise a function or event will be subject to a certification process.

Functions or events for the purpose of electioneering will not be resourced or publicised by Council.

#### Information Request Register

An Information Request Register will be maintained by the Manager Governance during the election period. This Register will be a public document and records requests by persons who identify themselves as candidates when seeking information relating to electoral matters or when making other general enquiries. The register will also record the responses provided.

Any candidate may, upon request, obtain information about the recorded requests made by another candidate as recorded in the Information Request Register and a copy of information given in response to the request.

The Manager Governance may, at his or her discretion, automatically circulate to all candidates, the response to any request recorded in the Information Request Register.

### **5.5 Information**

With respect to Council held information, Councillor candidates will be treated in the same way as other candidates.

Councillors may continue to automatically access Council held documents during the election period, but only as is necessary for them to perform their current role and functions. Information routinely provided to Councillors will include:

- Information that is publicly and freely available, eg Council Plans, Annual Reports, strategies, policies.
- Information and advice provided by Council officers as part of Council meeting agendas.
- Briefing papers in relation to matters to be decided upon at forthcoming Council meetings. It is likely that the briefing information provided to Councillors during the election period will be of a more routine nature than normal, given the approach to decision making during the election period.

All requests received by Council staff for information about Council projects, programs or services will be responded to in a 'business as usual' manner. This means up to date responses will be provided about progress on Council projects or services to Councillors, candidates or the public.

Requests for information which require significant resources to be devoted to making a response or which might be perceived to support an election campaign, will be referred to the Chief Executive Officer or the Director Corporate Services for consideration.

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

## 5.6 Council Publications

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 Chief Executive Officer.

The prohibition in Section 55D does not apply to the publishing of any document published before the election period commences, or publication of any document required to be published in accordance with, or under any Act or regulation.

### Certification of Publications

New publications to be printed, published or distributed during the election period must first be certified by the Chief Executive Officer.

The certification by the Chief Executive Officer will be in writing on or affixed to a copy of the publication and be in one of the following forms:

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

*'Certified pursuant to s. 55D of the Local Government Act 1989'*

Copies of all certified documents will be retained on Council records.

Publications which require certification may include:

- Brochures, pamphlets, handbills and flyers
- Reports (other than agenda papers and minutes required under the Act for Council meetings)
- Advertisements and notices, except newspaper notices of meetings
- New website material
- Social media publications
- Emails with multiple addresses, used for broad communication with the community
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council
- Media releases
- Material to publicise a function or event
- Any publication or distribution of councillors' speeches.

Documents permitted or required under legislation (such as rate notices, food premises registrations and parking fines) are not publications for the purposes of the prohibition under section 55D of the Act and do not require certification.

### Council publications including Councillor Information

References to councillors who are standing for re-election in Council publications printed, published or distributed during the election period could be considered electoral matter and will be carefully vetted during the certification process.

### Existing publications

Existing publications, including material published on Council's website in advance of the election period, are not subject to certification requirements.

Existing publications will be reviewed at the start of the election period. Publications or material which is prominently displayed and might be regarded as likely to influence how people vote may be temporarily removed from display. Any material so removed may still be provided to members of the community upon request.

In the context of Council's website, prominently displayed means content visible on the Gannawarra Shire Council's website: [www.gannawarra.vic.gov.au](http://www.gannawarra.vic.gov.au) and all pages contained within.

During the election period, Councillor profile pages will be limited to names, contact details and date elected.

### Annual Report

Council is required by the Act to produce and put on public display a copy of its Annual Report. The 2019-20 Annual Report will be published during the election period. The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual councillors.

The Annual Report does not require certification by the Chief Executive Officer, however any publication of an extract or summary of the Annual Report will require certification.

### Council and Special Committee Meetings

Council is required by the Act to:

- Give public notice of Council meetings and Special Committee meetings; and
- Produce and make available agendas and minutes of Council meetings and Special Committee meetings.

No Special Committee meetings will be scheduled during the election period.

Agenda papers and minutes of Council meetings do not require certification by the Chief Executive Officer unless they are printed or published for a wider distribution than normal.

### Social Media

At the start of the election period, a message will be posted on Council's social media channels and website stating these channels will have no new content added until after the election period unless it relates to existing Council services.

Any new publication on social media channels including Facebook, Twitter, Instagram, blogs and wiki pages created by Council during the election period must be certified by the Chief Executive Officer.

As public comments posted on Council's social media channels could be considered electoral matter, staff responsible for administering social media channels will, where possible, disable public commenting. Where public commenting cannot be disabled, staff will monitor their respective channels during the election period and where possible, remove electoral matter as soon as reasonably practicable after it is posted.

## **5.7 Media Services**

### Restriction on services

During the election period, Council resources must not be used in any way that might promote a councillor as an election candidate.

New Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and subject to certification by the Chief Executive Officer.

### Media Releases/Spokespersons

Media releases during the election period will minimise references to specific councillors and will not identify any councillor in a manner that could promote a councillor as an election candidate. Where it is necessary to identify a spokesperson, the Chief Executive Officer will be consulted.

Media releases will require certification by the Chief Executive Officer.

### Councillors

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

## **5.8 Assistance to Candidates**

All election 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.

## Council staff

Upon becoming a candidate in a Gannawarra Shire Council election, the Council staff member must:

- Inform the Chief Executive Officer
- Take leave from their duties at least for the duration of the election period in accordance with the Act
- Return any Council equipment (including but not limited to motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the election period; and
- If elected, immediately resign from their employed position at Council, in accordance with the Act.

## **5.9 Advertising signage**

Candidates and their supporters are not permitted to affix, attach or place advertising signs on Council land or a Council road during election campaigns including during the election period.

Advertising signs must be erected or placed in accordance with Gannawarra Shire Council Local Law No. 1 Community Amenity and the Gannawarra Planning Scheme.

Gannawarra Planning Scheme - Clause 52.05-10 (Signs not requiring a permit):

A sign with a display area not exceeding 5 square metres publicising a local educational, cultural, political, religious, social or recreational event not held for commercial purposes. Only one sign may be displayed on the land, it must not be an animated or internally illuminated sign and it must not be displayed longer than 14 days after the event is held or 3 months, whichever is sooner. A sign publicising a local political event may include information about a candidate for an election.

## **6. RELATED LEGISLATION/POLICIES**

*Local Government Act 1989*

## **7. POLICY REVIEW**

Council will review this Policy not later than twelve months from the commencement of the election period for the next election.

At the time it was reviewed, this Policy was compliant with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

## **8. FURTHER INFORMATION**

Members of the public may inspect all policies at Gannawarra Shire Council's Kerang and Cohuna office or online at [www.gannawarra.vic.gov.au](http://www.gannawarra.vic.gov.au).

Any enquiries in relation to this policy should be directed to the Director Corporate Services on (03) 5450 9333.

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