

ELECTION PERIOD POLICY

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Responsible Officer:	Manager Governance
Owner:	Governance
Responsible Director:	Corporate Performance
Relevant Legislation/Authority:	<i>Local Government Act 2020 (Vic)</i> <i>Freedom of Information Act 1982 (Vic)</i>
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1. PURPOSE

- 1.1 This Policy has been developed to ensure that general elections and by-elections for the Council are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.
- 1.2 It specifies procedures intended to prevent the Council and City from making inappropriate decisions, taking inappropriate actions or using resources inappropriately during the Election Period before a general election, a by-election and at other times as specified in this Policy.
- 1.3 Further, this Policy:
 - 1.3.1 Facilitates the continuation of the ordinary business of local government in the municipality throughout the Election Period in a responsible and transparent manner.
 - 1.3.2 Ensures the authority of an incoming Council is not restricted by decisions to which it may find itself unreasonably bound and unable to change. This could include significant contractual matters.
 - 1.3.3 Requires that Council and City materials produced and/or publicly available during the Election Period must not contain matters that will affect voting at the election.

2. BACKGROUND

- 2.1 This Policy has been prepared in accordance with the *Local Government Act 2020 (Vic)* which requires Council to include an Election Period policy in its Governance Rules to be applied by Council during the Election Period for a general election, a by-election and at other times as specified in this Policy.

3. SCOPE

- 3.1 This Policy applies to the Council, Councillors, Council Committees, the CEO and City employees.
- 3.2 This Policy replaces and overrides any previous policy that refers to the Election Period.

4. DEFINITIONS

In this Policy:

Act means the *Local Government Act 2020* (Vic).

Candidate means a person who is nominated to stand for a Federal, State or Local election, including a current Councillor.

Chief Executive Officer (CEO) means the person appointed by Council to be its Chief Executive Officer, or any person acting in that position.

City means the Greater Bendigo City organisation, being a body corporate constituted under section 14 of the Act.

City Employee means a natural person appointed by the Chief Executive Officer (other than an independent contractor under a contract for services or a volunteer) to enable:

- a) the functions of the Council and City to be carried out; and
- b) the CEO to carry out their functions;

The CEO is also a City employee.

Community Consultation means the process in which the City and/or Council and municipal community connect with each other to exchange views, ideas and information to:

- a) inform decisions;
- b) build capacity; and
- c) strengthen relationships.

Council means the Greater Bendigo City Council being all of the Councillors operating collectively in accordance with section 59 of the Act.

Councillor means a person holding the office of member of Greater Bendigo City Council.

Councillor Candidate Information Kit means the Councillor Candidate Information Kit provided by the Victorian Electoral Commission.

Council Meeting means a Council Meeting that complies with section 61 of the Act.

Delegate:

- a) of the CEO means the Director, Corporate Performance and/or another Director or Manager as appointed.
- b) of the Manager Communications means another City employee as appointed.

Election Day means the day of an election as determined under the Act.

Election Period has the same meaning as 'election period' in the Act.

Electoral advertisement, handbill, pamphlet or notice means any document that is produced for the purpose of communicating with the community and which contains electoral matter, such as:

- a) newsletters and other circulars (including those sent by email);
- b) media releases;
- c) leaflets, pamphlets, handbills, flyers, magazines and brochures;
- d) any new email, web-based publications or social media posts; and
- e) mailouts to multiple addresses

Electoral Material means an advertisement, handbill, pamphlet or notices that contains Electoral Matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

Electoral Matter means 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 election manager for the purposes of conducting an election. Electoral matter is taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:

- a) the election; or
- b) a Candidate in the election; or
- c) an issue submitted to, or otherwise before, the voters in connection with the election

Information Request Register this Information Request Register will be a public document that records all requests relating to Electoral Matters and non-routine requests for information by Councillors and Candidates, and the responses given to those requests.

Publish means publish by any means including by publication on the internet.

5. PRINCIPLES

The City is committed to fair, transparent and democratic elections and therefore adopts and endorses the legislative requirements.

6. POLICY

6.1 Role of Councillors

6.1.1 During the Election Period, Councillors will:

- a) be supported to continue to undertake their role as Councillor;
- b) continue to fulfil their Councillor duties (unless granted a leave of absence); and
- c) continue to engage and communicate with the community in their Councillor role.

6.2 Role of the Chief Executive Officer (CEO)

6.2.1 In addition to the CEO's statutory responsibilities, the CEO has the following responsibilities:

- a) to inform all Councillors and City employees of this Policy 30 days prior to the commencement of the Election Period;
- b) to support all Councillors and City employees in the application of this Policy during the Election Period; and
- c) to reschedule matters of Council business requiring decisions prohibited during the Election Period by this Policy or the Act to Council Meetings before or after the Election Period, as appropriate.

6.3 Decision making

6.3.1 In accordance with section 69(2) of the Act, Council and the City are prohibited from making any decision during the Election Period for a general election that:

- a) relates to the appointment or remuneration of the CEO, but not to the appointment or remuneration of an acting CEO;
- 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;
- 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.

6.3.2 In accordance with Section 69(3) of the Act, Council and the City are prohibited from making any decision during the Election Period for a general election or a by-election that would enable the use of City resources in a way that is intended to influence, or is likely to influence, voting at the election.

6.3.3 During the Election Period, a Councillor, the Council, a Committee of Council, the CEO or a City employee acting under delegation will not:

- a) approve, amend or repeal any policy, plan or strategy, including those contained in or related to the Greater Bendigo Planning Scheme, which has been adopted by Council; or
- b) use their position to influence City employees, or access City resources of information, in support of any election campaign or candidacy.

6.3.4 A Council decision made in contravention of subsection 6.3.1 (a) or (b) above is invalid under the Act.

- 6.3.5 Under the Act, any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of this clause is entitled to compensation for that loss or damage.

6.4 Council Meetings

- 6.4.1 Council Meetings will continue to take place during the Election Period. However, the following adjustments will be made to the Agenda:
- a) Public Question Time will be suspended and Petitions may be tabled, but not debated;
 - b) Mayoral Reports, Councillor Ward Reports and Notices of Motion will be suspended;
 - c) Councillors will limit their discussion during debate to the topic under consideration and will avoid raising an Electoral Matter;
 - d) The Chair, and all Councillors, will monitor each other's discussion during debate and raise any Points of Order, as appropriate under the [Governance Rules](#).
 - e) Reports for the consideration of Council will be referred to the CEO for approval before inclusion on the meeting agenda.

6.5 Application of Resources

- 6.5.1 The use of City resources including, but not limited to, vehicles, staff, services, property, equipment, stationery, websites, social media and hospitality for any Federal, State or Council election campaign purposes is prohibited.
- 6.5.2 Where the use of City resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the Chief Executive Officer or delegate.
- 6.5.3 In accordance with section 304 of the Act, a Councillor or City employee must not use City resources in a way that is intended to or is likely to affect the result of an election under this Act.
- 6.5.4 A Councillor or City employee must not use City resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the Election Period on behalf of, or purporting to be on behalf of, the Council or City unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

6.6 Use of City Equipment by Councillors

- 6.6.1 Councillors may continue to use any City equipment provided to them to facilitate their performance of normal Councillor duties, subject to existing protocols and terms of use.
- 6.6.2 Councillors must not use City equipment as a resource to assist with election campaigns. Specifically, City resources, including (but not limited to) fleet vehicles, computers, tablets, mobile phones, offices, IT, meeting rooms, support staff, hospitality services, photographs, equipment and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election campaign.

6.7 Councillor Allowance and Reimbursement

6.7.1 Payment of Councillor allowances continues during the Election Period.

6.7.2 Reimbursements of Councillors' out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Councillor business, in accordance with the Councillor Expenses and Support Policy and not for expenses that support or relate to a Candidate's election campaign.

6.8 Community engagement

6.8.1 Councillor community consultation/engagement activity or event attendance will be suspended during the Election Period and/or organised so as not to fall within this period.

6.8.2 Some City community consultation activities may be necessary during the Election Period to facilitate the day-to-day business of the City and must be approved by the CEO or their Delegate.

6.8.3 Any such City community consultations will avoid express or implicit links to the election or an Electoral Matter. The City will not continue or commence public consultation on any contentious or politically sensitive matter after the commencement of the Election Period.

6.8.4 In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the Election Period, the CEO reserves the right to postpone a matter if the issue is likely to become an Electoral Matter.

6.8.5 The requirements of this clause do not apply to community consultation required under the *Planning and Environment Act 1987* (Vic).

6.9 Council Publications

6.9.1 Council and City employees are prohibited from printing, publishing or distributing any advertisement, handbill, pamphlet or notice during an Election Period unless it has been approved by the CEO, the Manager Communications (or the equivalent) or their respective delegates.

6.9.2 The publication of any material containing Electoral Matter is prohibited unless that material is only about the election process.

6.9.3 Publications which require approval include:

- a) Brochures, pamphlets, handbills, flyers, magazines and books;
- b) Reports (other than agenda papers and minutes);
- c) Advertisements, newsletters and notices except newspaper notices of meetings;
- d) New website material;
- e) Social media publications (which includes Facebook and Twitter posts);
- f) Emails with multiple addresses, used for broad communication with the community;
- g) Mass mail outs or identical letters sent to many people by or on behalf of Council;
- h) Media releases;
- i) Material to publicise a function or event; and
- j) Any publication or distribution of speeches.

6.9.4 A publication is taken to contain Electoral Matter if it contains an express or implicit reference to, or comment on:

- a) The election; or
- b) A Candidate in the election; or
- c) An issue submitted to, or otherwise before, the voters in connection with the election.

6.10 Media Releases

6.10.1 Media releases must be approved by the CEO or the Manager Communications or their respective Delegates.

6.11 Councillor Information

6.11.1 Any Council or City publications printed, published or distributed during an Election Period must not include text that promotes Councillors re-standing for election.

6.12 Website

6.12.1 Material published on the City's website in advance of the Election Period is not subject to approval as set out above, however, existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that could be considered Electoral Matter, were it to be published during the Election Period.

6.12.2 Councillor contact information will remain available on the website during the Election Period, but Councillors' profiles will be removed.

6.12.3 Any material published on the City's website during the Election Period must be approved by the CEO or the Manager Communications (or equivalent) or their respective Delegates.

6.13 Annual Report

6.13.1 Council is required by the Act to produce and publish an Annual Report. The Annual Report must, in the year of a general election, be presented at a Council meeting open to the public on a day not later than the day before election day (section 100 of the Act).

6.13.2 The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

6.14 Ward Specific Publications

6.14.1 Ward-specific publications, or Councillor profiles and articles in the Council Newsletter, will be suspended during the Election Period.

6.15 Council and Committee Agendas and Minutes

6.15.1 Agendas and minutes of Council and Committee meetings do not require approval by the CEO or the Manager Communications (or equivalent) or their respective delegate unless they are printed or published for a wider distribution than normal.

6.16 Social Media

- 6.16.1 Any publication on social media sites including Facebook, Twitter, Instagram, blogs and Wikipedia pages during the Election Period must be approved by CEO or the Manager Communications (or equivalent) or their respective Delegates.
- 6.16.2 Staff responsible for administering individual social media sites will monitor their respective sites during the Election Period and use moderation features where available to ensure no Electoral Matter is posted.

6.17 Council Branding

- 6.17.1 No City logos, letterheads, or other corporate branding will be used for, or linked in any way to, a Candidate's election campaign.

6.18 Photographs and Images

- 6.18.1 Photographs and images paid for by the City or taken by City employees are not to be used in electoral material for any Candidate. This includes images of Councillors, Council events and Council owned or maintained infrastructure.

6.19 City spokesperson

- 6.19.1 It is recognised that during the Election Period it may be necessary to release information on the day-to-day business and events of the City.
- 6.19.2 During an Election Period the primary spokesperson for the City will be the CEO.
- 6.19.3 Only the CEO or their Delegate will speak on behalf of the City on matters relating to the election process.
- 6.19.4 Media releases and speeches issued/delivered by the CEO will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election Candidate.
- 6.19.5 During the Election Period no City employee may make any public statement that relates to an Electoral Matter unless prior approval has been obtained by the CEO or their Delegate.

6.20 Council Advisory and Reference Committees and Working Groups

- 6.20.1 With the exception of the Audit and Risk Committee, the operation of Council Advisory and Reference Committees and Working Groups shall be suspended upon the commencement of the Election Period ahead of a general election.
- 6.20.2 Any outstanding Delegate's Reports may still be reported to a Meeting of Council during this period.
- 6.20.3 Such Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

6.21 Access to Information & Candidate Information

- 6.21.1 A Councillor may continue to access City information only as it is necessary for them to perform their role as Councillor and in accordance with the Councillor Communication and Information Policy.
- 6.21.2 As a member of the public, all election Candidates have equal rights to City information relevant to their election campaigns from the City in accordance with the Public Transparency Policy and the *Freedom of Information Act 1982* (Vic).
- 6.21.3 Neither Councillors nor Candidates will receive information or advice from a City employees that may improperly advantage Candidates in the elections.
- 6.21.4 The City will provide Candidates with a copy of a Councillor Candidate Information Kit (if any) produced by the Victorian Electoral Commission to assist them in running and nominating for Council.
- 6.21.5 The City will provide Candidates with a copy of this Policy. A copy of this Policy will be available publicly online.

6.22 Information Request Register

- 6.22.1 The Governance unit will maintain an Information Request Register during the Election Period.

6.23 City employees

- 6.23.1 City employees are discouraged from engaging with candidate hosted on-line media platforms including, but not limited to, websites and all forms of social media.

6.24 City employees as a candidate

- 6.24.1 Section 34 of the Act prohibits a person who is a City employee serving as a Greater Bendigo City Councillor.
- 6.24.2 Under section 256(8) of the Act a City employee is not prevented from nominating as a Candidate at an election if, for the duration of the Election Period for that election:
- a) the person has taken leave from that office or position; and
 - b) the person does not perform any of the duties of that office or position.
- 6.24.3 A City employee cannot take the oath or affirmation of office as a Greater Bendigo City Councillor unless they resign from that office or position before taking the oath or affirmation of office.
- 6.24.4 If a City employee nominates as a candidate for a Federal, State or Local election, they need to immediately notify their manager in writing, with a copy to the Manager Governance. On receiving such notice, the relevant manager will enter into an agreed work plan with the City employee to ensure:
- a) There is no conflict of interest between their duties as a City employee or access to information and his/her role as an election Candidate;
 - b) They do not have access to information that would place them at an advantage over other candidates in the election; and
 - c) No City resources are used in support of their candidacy.

6.24.5 The agreed work plan must be:

- a) Approved by the relevant Director;
- b) Forwarded to the CEO and Manager Governance for noting.

7. ROLES AND RESPONSIBILITIES

As set out in clause 6.

8. RELATED DOCUMENTS

Readers are encouraged to access relevant documents and/or resources which are available as per the below.

These include:

- Local Government Act 2020 (Vic)
- Freedom of Information Act 1982 (Vic).
- City's Public Transparency Policy
- City's Community Engagement Policy
- Councillor Candidate Information Kit, Victorian Electoral Commission

Further information or advice on this policy should be directed to Governance

9. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

10. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a City unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made through consultation with the staff Consultative Committee and with the approval of EMT or where required, resolution of Council.

11. DOCUMENT HISTORY

Date Approved	Responsible Officer	Unit	Change Type	Version	Next Review Date
18/09/2019	Manager Governance	Governance	Review (significant)	1	August 2023
19/08/2020	Manager Governance	Governance	Review (significant)	2	August 2023
20/01/2024	Manager Governance	Governance	Election 2024	3	January 2028

APPENDIX 1

Relevant sections from the Local Government Act 2020 (Vic)

Section 69 – Governance Rules to include election period policy

- (1) A Council must include an election period policy in its Governance Rules.
- (2) 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 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.
- (3) 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) A Council decision made in contravention of subsection (2)(a) or (b) is invalid.
- (5) Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.

Section 304 – Prohibition on Councillor or member of Council staff

- (1) A Councillor or member of Council staff must not use Council resources in a way that –
 - (a) Is intended to; or
 - (b) Is likely to –

Affect the result of an election under this Act.
- (2) A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.