



CITY OF
MONASH

GOVERNANCE RULES

**ELECTION PERIOD POLICY
FOR 2020 GENERAL ELECTIONS**

Adopted by Council at its meeting held on xxxxxxxxxxxx

DEFINITIONS

Act means the *Local Government Act 2020*.

by-election means a by-election held under section 260 of the Act.

election in this Policy means an election held under Part 8 of the Act.

election day means the day of an election determined under section 257 or section 260 of the Act.

election period, in relation to an election, means the period that—

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day.

election manager means—

- (a) the VEC; or
- (b) a person appointed by the VEC.

electoral material means an advertisement, handbill, pamphlet or notice 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.

Without limiting the generality of the definition of **electoral matter**, matter is to be 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.

general election means a general election held under section 257 of the Act.

nomination day means the last day on which nominations to be a candidate at a Council election may be received in accordance with the Act and any regulations made under the Act.

this Policy means this Election Period Policy.

publish means publish by any means including by publication on the Internet.

1. INTRODUCTION

The Act provides that, during the election period, certain prohibitions apply to the functions and powers of Council as it enters into a 'caretaker' period, while ensuring that the normal business of government continues and Council meets its responsibilities to the community.

2. POLICY OBJECTIVE AND BACKGROUND

This Policy addresses the requirements of the Act regarding the responsibilities, actions and behaviours of Council in the period leading up to a general election.

3. APPLICATION OF THE POLICY

This Policy applies to Councillors and Council staff.

This Policy applies only to the actual making of decisions by Council during the election period.

This Policy does not apply to announcements of decisions by Council prior to the commencement of the election period.

However, as far as practicable, such announcements will be made prior to the commencement of the election period.

4. ELECTION PERIOD

The election period for the 2020 Council general elections commences at midnight Tuesday 22 September 2020 and ceases at 6.00 pm on election day, Saturday 24 October 2020.¹

5. PROHIBITIONS

5.1. Council decisions

Council will not, during the election period for a general election, make decisions that:

- (a) relate to the appointment or remuneration of the Chief Executive Officer, other than those relating to the appointment or remuneration of an Acting Chief Executive Officer; or
- (b) commits Council to expenditure exceeding one per cent of Council's income from general rates, municipal charges and service rates and

¹ Note that these dates are subject to change on commencement of the Regulations to be made under the Act and reference should be made to those Regulations once commenced.

charges in the Financial Year immediately preceding that in which the general election is to be held; or

- (c) it considers could be reasonably deferred until the next Council is in place; or
- (d) it considers should not be made during an election period.

Council will not make any 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.

Prohibitions include decisions made by a Delegated Committee or Community Asset Committee or by a Council officer under delegated authority.

5.2. Use of Council resources

Council resources will not be used in a way that is intended to affect, or is likely to affect, voting in, or the result of, an election.

Without limiting the generality of the statement above, 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, 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.

Councillors must not unreasonably use any Council resource for campaign purposes during the election period or seek reimbursement from Council for costs incurred for a campaign-related purpose.

Council recognises that some incidental use of Council resources, particularly Council-issued equipment (such as a vehicle in the case of the Mayor, or a mobile phone or tablet), for purposes connected with a Councillor's campaign for re-election may occur. Council does not consider that such incidental use, where it occurs in the ordinary course of a Councillor's daily and typical use of such a resource, breaches this Policy or any applicable electoral laws. Council considers that the provision of such resources and their continued use during the election period, including their incidental use in respect of any campaign purpose, does not confer any particular, unreasonable or unfair electoral advantage on a Councillor-candidate compared to other candidates.

In reaching this position, Council notes the position expressed in its Policy For Provision of Equipment To Councillors and Reimbursement of Expenses,

that it is reasonable for Councillors to use these resources for both Council and incidental non-Council related purposes and that any out of pocket costs arising from such use for non-Council purposes should not be claimed as reimbursement from Council.

Council has also considered that the use of mobile phones, computers and cars is almost universal in the wider community today and that there is no unique or special advantage conferred on a Councillor-candidate by merely continuing to have access to one or more of these resources during the election period.

Council considers that it would be impractical for a Councillor to have to operate two mobile phones or two of any of the other resources merely to avoid use of any one of those Council provided resources in connection with a campaign purpose.

Council further notes that there is no cost or other impact for Council if a Councillor uses one of these resources for non-Council purposes. Moreover, Council's Policy For Provision of Equipment To Councillors and Reimbursement of Expenses expressly contemplates this sort of arrangement in relation to mobile phone use and deals with the process for attributing the out of pocket costs of the phone calls between Council-related calls and non-Council related calls. However, during the election period, Councillors should be especially mindful not to seek reimbursement for any out of pocket costs which arise from a campaign-related purpose.

Accordingly, Council has formed the view, and this is the position adopted in this Policy that it is impractical and unnecessary for current Councillors who are seeking re-election to have to go out and purchase their own devices merely for use during the election period. In fact it is considered that it would be an unreasonable and unnecessary imposition on Councillor-candidates if they were forced to have to purchase such resources personally for the purposes of only a matter of a few weeks for use during the election period.

Council further notes that this approach is consistent with the approach adopted in the Victorian Parliament and the Australian Parliament for Members of Parliament in those places.

6. MEDIA

6.1. General Media

The Chief Executive Officer has final sign-off on all media releases or campaigns during the election period.

All media enquiries will continue, during the election period, to be channelled through the Executive Manager Communications.

Public comment on behalf of the organisation during the election period will be provided by the Chief Executive Officer.

Media releases will during the election period, be issued by the Executive Manager Communications, following approval by the Chief Executive Officer.

6.2. Use of Social Media

Any publication on Council's social media sites during the election period must be approved by the Chief Executive Officer, either generally or in a particular case.

Council officers responsible for administering Council's social media sites will monitor these sites during the election period and use moderation features (where they are available) to ensure that no electoral matter is posted on these sites.

7. DISCRETIONARY EXPENDITURE FUNDS

Council will not make any decisions relating to requests for funding from the Council's Discretionary Expenditure Fund, during the election period.

8. MISUSE OF POSITION

Section 76D of the *Local Government Act 1989* makes it an offence for a Councillor to misuse their position to:

- gain, or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
- cause, or attempt to cause, detriment to Council or another person.²

Penalties apply.

Councillors must take care not to use their position as a Councillor to gain any advantage for themselves, or to cause detriment to any other person, while a candidate in the election.

² Note that this offence will be replaced by section 123 of the Act, which is in nearly identical terms, on 24 October 2020.

9. COUNCIL EVENTS & PUBLIC CONSULTATION

During the election period, Council will schedule only those events and public consultation processes that are required for and relate to its normal responsibilities and legislative requirements and which cannot be left until after election day.

10. CANDIDATES AT 2020 COUNCIL ELECTIONS

The Council will ensure that access to information that it provides to candidates at the 2020 Council elections is made equally available to all of those candidates.

Councillors will be able to 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.

11. ONLINE ACCESSIBILITY OF THE POLICY

An electronic copy of this Policy is available on the Council's website at www.monash.vic.gov.au.

APPENDIX 1

Approval Procedures for Council Publications During the Election Period

The following procedures will apply for the approval of publications for the election period for the 2020 Council elections:

1. All proposed publications during the election period must be forwarded to the Chief Operating Officer, in the first instance.
2. The Chief Operating Officer, or someone authorised by the Chief Operating Officer for the purpose, will determine if there is any electoral material in the proposed publication (other than factual election process information).
3. Should the proposed publication contain such information, it will be returned to the author for correction.
4. Should the proposed publication not contain such information, it will be forwarded to the Chief Executive Officer for approval.
5. The Chief Executive Officer will determine whether it is appropriate to approve the proposed publication.
6. Notwithstanding the preceding provisions of these procedures, the Chief Executive Officer may, from time to time, approve categories of publications for the purpose. If she does so:
 - a. all publications will be provided to the Chief Operating Officer in accordance with these procedures;
 - b. the Chief Operating Officer, or someone authorised by the Chief Operating Officer for the purpose, will determine if a proposed publication contains electoral matter and:
 - i. if it does, it will be dealt with in accordance with paragraph 3 of these procedures; but
 - ii. if it does not, the Chief Operating Officer, or someone authorised by the Chief Operating Officer for the purpose, will determine if it falls within one of the categories of approved publications and:
 1. if it does, it can be published without the need for specific approval from the Chief Executive Officer; but
 2. if it does not, it will be dealt with in accordance with paragraphs 4 and 5 of these procedures.
7. The Chief Executive Officer may, in her absolute discretion, determine not to follow these procedures, on such conditions as she sees fit.