

Chapter 7 – Election Period Policy



Maribyrnong
CITY COUNCIL

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Introduction

The *Local Government Act* 2020 ('the *Act*') requires that Council includes an Election Period Policy in its Governance Rules.

The Election Period Policy ensures that Maribyrnong Council elections are conducted in a fair, transparent and equitable manner.

The Election Period Policy outlines prohibitions on identified Council decisions during the Election Period, whilst still ensuring that the general business of Council continues throughout the Election Period in a responsible and transparent manner.

Purpose

The Election Period Policy ('the Policy') is adopted by Council in compliance with the requirements of sections 60 and 69 of the *Act*.

The Election Period for the 2024 council elections will commence from 12.00pm on 24 September 2024 and conclude at 6.00pm on 26 October 2024. This Election Period Policy replaces the Election Period Policy adopted by Council on 18 August 2020.

Policy Statement

The Election Period Policy provides assurance that local government elections for Maribyrnong City Council are conducted in fair, equitable and transparent manner.

Scope

The Election Period Policy applies to all Councillors, Candidates and Council Officers.

Definitions

Candidate means a person who has nominated as a candidate for an election under section 256 of the *Act*.

Chief Executive Officer (CEO) means:

- The person appointed by a Council to be its Chief Executive Officer under section 44 of the *Act* or any person acting in that position;
- The Chief Executive Officer's delegate; and/or
- Such other person that the Chief Executive Officer selects for the purpose of giving effect to this Policy.

Council means Maribyrnong City Council.

Councillor-candidate means a current Councillor who has nominated, or is considering nominating for election in the 24 October 2024 Council elections.

Council Land as defined within Council's General Purposes Local Law 2015, means any land vested in or under the control of the Council, including reserves, watercourses, reservations and the like, but excludes a road.

Council Officer means any employee/staff of Council whether permanent, temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Maribyrnong City Council

Delegated Committee means a delegated committee established by Council under section 64 of the *Act*.

Electioneering means any action, statement and/or publication which contains material directly related to a Councillor's re-election, or a candidate's election.

Election Manager means:

- The Victorian Electoral Commission; or
- The person appointed in writing by the Victorian Electoral Commission.

Election Period, also known as the caretaker period, means the 32 day period that starts on the last day of nominations and ends at 6.00pm on Election Day (section 3(1) of the *Act*).

Electoral material means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

Electoral matter 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 Election Manager for the purposes of conducting an election.

Publish means publish by any means, whether in hard copy or electronically, including publication on the internet.

The Act means the *Local Government Act 2020*.

Election Period Policy

Overview

In summary, during the Election Period:

- Council and Council Officers will not make major or inappropriate decisions contrary to this policy.
- Council will limit public consultation, public meetings, civic and ceremonial events and hosting of Advisory Committees to avoid any express or implied links to the election.
- A Councillor or Council Officer will not print, publish or distribute electoral matter contrary to the Act.
- Council resources, events and activities must not be used at any time for election campaign purposes, or in a way that might improperly influence the result of an election.
- Information, assistance and advice by Council will be equally and transparently available and accessible to all candidates.
- The Chief Executive Officer shall take reasonable steps to inform relevant stakeholders of this policy.

Election Period Policy Notification

No later than 30 days prior to the commencement of the Election Period, the Chief Executive Officer shall ensure:

- all Councillors, Council Officers and Advisory Committee members are notified of the forthcoming Election Period and the application of this Election Period Policy;
- Ensure the policy is displayed on Council's website for the benefit of the community and election candidates.

Decision Making During the Election Period

Council, a Delegated Committee of Council or a Council Officer acting under delegated authority of Council must not make Prohibited Decisions or Inappropriate Decisions during the Election Period.

1. Prohibited Decisions

Prohibited Decisions include any decision:

- a. In relation to the appointment or remuneration of the Chief Executive Officer (but not to the appointment or remuneration of an Acting Chief Executive Officer);
- b. That commits Council to expenditure exceeding one percent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year;
- c. That Council considers could be reasonably deferred until the next Council is in place;
- d. That Council considers should not be made during an Election Period; and
- e. That would enable the use of Council's resources in a way that is intended to influence voting at an election.

A prohibited decision in relation to (a) and (b) above is in contravention of section 69 (a) and (b) of the Act and is invalid.

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) of the Act is entitled to compensation from the Council for that loss or damage.

2. Inappropriate Decisions

Decisions on the following matters during the Election Period, whether made by Council, a Delegated Committee or Council Officer exercising a delegation, are considered Inappropriate Decisions for the purposes of this Policy:

- Adoption or amendment of policies, protocols, strategies, master plans or frameworks;
- Changes to the strategic objectives and strategies in the Council Plan;
- Adoption of a revised budget;
- Major planning scheme amendments;
- Sale or discontinuance of roads or similar;
- Noting the results of community consultation;
- Acquisition or disposition of land;
- Adoption or amendment of a Local Law;
- Appointing representatives to Council committees; and
- Naming or re-naming of roads, reserves or features.

The disbursement of community grants are permitted during the Election Period as outlined below:

- The grants or allocations are made by a Council Officer pursuant to a delegation from Council, from an existing budget established by Council,
- The grants or allocations are made by a Council Officer in accordance with an established policy; guideline; or framework established by Council.
- Deferring the decision on the grant or allocation would be inappropriate in the event of an emergency and not in the interests of the community.

Council Officers are encouraged to liaise with the Director Corporate Services or their nominee for guidance in relation to matters which may constitute inappropriate decisions.

Officer Decisions under Delegated Authority

Under section 11 of the *Act*, a Council may by instrument of delegation delegate to the members of a Delegated Committee or the Chief Executive Officer any power, duty or function of a Council under the *Act* or any other Act, other than a power, duty or function specified in section 11(2) of the *Act*. Other Acts may require certain powers to be delegated to Council Officers directly from Council.

As decisions of a delegate are deemed to be a decision of Council, Council Officers must give due consideration to the exercise of their powers during the Election Period and must satisfy themselves beforehand that the decision is not a Prohibited Decision or Inappropriate Decision during the Election Period.

Council Officers should also consider:

- Whether a decision is or may be perceived as inappropriate;
- Whether a decision could be controversial or potentially affect voting in an election;
- Whether the decision required community engagement;
- Whether the disadvantage of not making a decision exceeds the benefits of making a decision;
- Whether the delay in making a decision could have a negative impact on Council or the community.

Council Officers are encouraged to liaise with the Director Corporate Services or their nominee for guidance in relation to matters which may constitute inappropriate decisions.

Council and Committee Meetings

During the Election Period, reports to Council and Delegated Committee Meetings will be carefully considered by the Chief Executive Officer or their nominee, to ensure that agenda items, matters or content is not included which could foreseeably influence voters' intentions at the upcoming election, or encourage Councillor-Candidates to use for electioneering.

Election Period Statement

During the Election Period, the Chief Executive Officer will ensure that a statement is included on every Council or Delegated Committee Agenda as follows:

"The officer recommendations on all reports in this Agenda do not fall within or contravene the definition of a Prohibited Decision, as defined in section 69(2) of the *Local Government Act 2020* or an Inappropriate Decision as defined in Council's Election Period Policy".

Public Question Time

Where a public question submitted for a Council meeting is deemed to contain electoral matter, the Chief Executive Officer shall recommend to the Chairperson that the question not be admitted pursuant to the Governance Rules.

Councillor-Candidate Obligations

Councillor-Candidate Conduct at Meetings

Councillor-Candidates attending Council and Delegated Committee meetings should:

- Exercise caution to ensure that discussion and debate as far as practicable is not likely to be, or be perceived as electoral matter;
- Not raise a Notice of Motion, Urgent Business or Councillor Question, which is likely to be, or be perceived as electoral matter.

Council Resources

Use of Council resources during the Election Period is supported by the Council Support, Expenses and Reimbursement Policy and Councillor Code of Conduct. Councillor-Candidates may continue to use Council equipment provided to them to facilitate their performance of normal Council business during the Election Period.

Councillor-Candidates will ensure that due propriety is observed in the use of all Council resources during the Election Period. Council resources include but are not limited to:

- Council offices, equipment and vehicles;
- Laptops and computers, including Council owned email accounts and social media accounts;
- Mobile phones, including use for calls, data, SMS messages, photos and videos;
- Councillor business cards and name badges;
- Council logos, branding, stationary or merchandise; and
- Photographs or images taken by Councillor Officers or paid for by Council

These resources will only be used for normal Council business during the Election Period and must not be used, or perceived to be used, in connection with an election campaign or issue.

In circumstances where it is unclear if the use of Council resources is related, or may be perceived as being related, to a Councillor-Candidate's election campaign, the use should be referred to the Chief Executive Officer for a determination.

Role of Council Officers

Council Officers must not be requested to undertake any tasks directly or indirectly related with the election campaign of a Councillor-Candidate. This extends to Council Officers being asked by a Councillor-Candidate to prioritise a complaint or issue which may be, or is likely to be perceived as assisting an electoral campaign.

Councillor-Candidate Expenses and Reimbursement

Reimbursements of Councillor-Candidates' out-of-pocket expenses during the Election Period will only apply to expenses incurred in the performance of ordinary Council business and not for expenses connected with, or perceived to be connected with, a Councillor-Candidates' election campaign.

Council Branding and Stationary

No Council logos or letterheads can be used for, or associated in any way to, a Councillor-Candidate's electioneering. Use of Council logos, branding and stationery is permitted for ordinary Council business only.

Council Photographs and Images

Photographs and images taken of Councillors during their term by Council are not permitted to be used in any electoral material for any Councillor candidate. This includes images of Councillors at meetings and events.

Councillor-Candidate Communications

Councillor-Candidates, like other candidates, are permitted to issue their own media releases provided they do not use Council resources, including email, fax, logo or any branding, letterhead or any Council owned device.

Councillor- Candidates must make it clear that the views expressed are personal views only, and not the views of Council.

Councillor-Candidates are not permitted to comment in any official capacity about a Council related issue raised by the media during the Election Period.

If a media outlets contact a Councillor-Candidate directly for a comment about an issue during the Election Period, the Councillor-Candidate is able to comment, provided they make it known to media outlets that the views expressed are personal views only, and not the views of Council.

Any Councillor requests for media advice, comment or assistance from Council Officers during the Election Period will be referred to the Chief Executive Officer or delegate. Council Officers cannot provide media advice or assistance to Councillor-candidates in relation to election issues

Councillor-Candidate Correspondence

Councillor-Candidates will continue to receive correspondence during the Election Period. However, to avoid perceptions of providing undue advantage to Councillor-Candidates during the Election Period, responses to correspondence addressed to a Councillor-Candidate will be signed by the Chief Executive Officer or appropriate Director/Manager, and a copy provided to the Councillor-Candidate.

Responses will also include an acknowledgement noting that Council Officers are responding due to prohibitions upon Councillor-Candidates during the Election Period

Notwithstanding the above, Councillor-Candidates can choose to individually respond to correspondence without any Council Officer involvement or input.

Use of the Title 'Councillor'

Councillor-Candidates are permitted to use the title 'Councillor' in their election material, as they continue to hold office during the Election period.

Councillors should ensure that any election publication using the title 'Councillor' clearly indicates that it is their own material and does not represent Council.

Council Communications

Prohibited Publication Material

The Act prohibits Councillors or members of Council Officers from publishing material that contains electoral matter.

Section 304(2) of the Act states: “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 in behalf of, the Council.”

The above prohibition does not apply to electoral material that contains only information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

The prohibition on publication materials does not apply to:

- Any material produced by or on behalf of the Election Manager for the purposes of conducting an election;
- An advertisement in a newspaper announcing the holding of a meeting; or
- Publishing of any documents published before the commencement of the Election Period or publication of any document required to be published in accordance with any Act or regulation.

The following publications may be published if approved by the Director Corporate Services or their nominee:

- New brochures and pamphlets on Council service
- New website material
- New social media publications
- Media releases

Council Publications Containing Councillor Information

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during the Election Period must not include promotional text promoting the referenced Councillor.

The use of any Council publications that feature specific Councillors and/or individual achievements will be avoided for the duration of the Election Period.

Council Websites and Social Media

Council website and media services are intended to promote Council activities and services and must not be used in any way that might favour any election candidate or influence the outcome of a Council election.

During the Election Period, Council Officers are not permitted to make or publish any public statement that could be construed as influencing the elections. This does not include statements of clarification in relation to the election process that have been approved by the Director Corporate Services or their nominee.

Media Advice

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer or their nominee. No media advice or assistance will be provided in relation to election campaign matters.

Media Releases and Responses

All media releases and / or responses during the Election Period must not contain reference to, or quotes by, any candidate, including Councillor-Candidates.

All Council media releases, responses or statements will be issued in the name of the Chief Executive Officer during the Election Period.

Publicity Campaigns

During the Election Period, Council publicity campaigns, other than for the purpose of conducting the election or promoting ordinary Council activities, should be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council service or function, it must be approved by the Chief Executive Officer or their nominee.

Website and Social Media

During the Election Period, information about Councillors on Council's website will be restricted to names, contact details, titles, membership to committees and other bodies to which they have been appointed by Council.

Council Officers will carefully review and assess existing publications and online information prior to the commencement of the Election Period and, where practicable and appropriate (having particular regard the resources required) will remove any material that might otherwise constitute electoral matter or reasonably influence or be seen to influence, people's voting decisions the election.

In order to comply with Section 304(2) of the Act, during the Election Period, Council will:

- a) Disable all external posts and comments to Council's social media sites; or
- b) Moderate external posts and comments to ensure they are free from electoral matter before they are published.

A statement outlining the Election Period provisions will be published on Council's websites and social media accounts prior to and during the Election Period.

Council's social media sites such as Facebook, Instagram, X (Formerly known as Twitter) and YouTube, will continue to be a corporate voice for Council, and not be used for any electioneering purposes.

Annual Report

The 2024-25 Annual Report will be published during the Election Period, however it is limited by legislative restrictions, and not contain any material that could be regarded as electioneering or promoting individual Councillors.

Access to Council Information

Councillor-Candidates will continue to receive information during the Election Period, deemed necessary for their role.

Information provided by Council will relate only to factual matters and existing Council services. Councillor-Candidates and candidates will not receive information or advice from Council Officers that might be perceived to support electioneering. There shall be complete transparency in the provision of all information and advice provided to candidates during the Election Period.

All requests received by Council Officers 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 community.

Council Officers will provide accurate and complete information, however, a 'business as usual' approach does not include extensive research or analysis involving significant Council resources, or providing a level of information which would not normally be available.

Equality

All candidates in an election will be treated equally by Council, and all information and advice provided to one candidate will be provided equally to all candidates.

- Officers will not provide responses to requests for information that express support, or may likely be perceived to express support for a candidate's election campaign.
- Officers will only provide information to a known candidate or prospective candidate that is generally available to the community.
- Requests for information which require the use of significant Council resources in order to provide a response will be referred to the Chief Executive Officer to determine whether a response can be provided.

Request for Information Register

During the Election Period, a request for information register will be maintained by Council's Governance and Commercial Services Department. This register is a public document that records all requests relating to electoral matters, routine and non-routine requests for information by Councillor-Candidates and candidates, as well as the responses provided.

Public Consultation, Meetings and Events

Public Consultation

Public consultation processes will not be undertaken during the Election Period, unless approved by the Chief Executive Officer or their nominee. For the purposes of this section, public consultation includes:

- A process where individuals, groups, organisations or the broader community are invited to comment on an issue, action or policy;
- Direct mail outs, public advertisements, focus groups or online surveys.

Public consultation does not include consultation required under the Planning and Environment Act 1987, or section 223 of the Act.

Public consultation on prohibited decisions, contentious or politically sensitive matters potentially affecting Council should be avoided in the lead up to the Election Period where possible to mitigate the risk of influencing, or being perceived to influence the election.

Public Meetings and Events

Where practicable, civic and ceremonial Council events and functions will not be scheduled during the Election Period. These do not include routine events such as programs and events conducted as part of Council's day to day operations (e.g. library programs, immunisation sessions etc).

Any invitation to a Council function, ceremony or event shall be approved and issued by the Chief Executive Officer and not in the name of the Mayor or an individual Councillor.

During the Election Period, Councillor-Candidates will be invited to attend Council events in their official standing role. However, Councillor-Candidates will not be provided with any official roles (e.g. speeches, master of ceremony) and will not be permitted to use the forum of electioneering purposes. The Chief Executive officer or delegate will perform any required ceremonial function and duties.

External Events and Functions

Councillor-Candidates are able to attend events or functions conducted by external bodies during the Election Period, however it is critical to determine whether a request is to attend:

- As a representative of Council; or
- As a candidate in the forthcoming election.

When attending as a representative of the Council, Councillor-Candidates must be mindful that they do not use and are not perceived as using the opportunity to electioneer.

Where Councillors are invited to represent Council at an external function or event during the Election Period, and make a speech, Councillor-Candidates may do so provided:

- The organiser is contacted in advance and briefed on the limitations imposed on Councillors during the Election Period; and
- The organiser is requested to avoid any express or implied reference to the election or candidates in the election; and
- The Councillor-Candidate's speech is pre-approved by the Chief Executive Officer or their nominee and does not contain any express or implied reference to the election or candidates in the election.

Council Officer Standing as a Candidate

If an existing council officer stands as a candidate, they must:

- Inform the Chief Executive Officer;
- Take leave from their duties for the Election Period in accordance with sections 34 and 256 of the *Act*; and
- Return any council resources not available to the public during the Election Period

If elected as a Councillor, the Council Officer must resign from their employed position at Council in accordance with sections 34 and 256 of the *Act*.

Members of Council Advisory Committees Standing as a Candidate

If an existing member of a Council Advisory Committee stands as a candidate, they must:

- Comply with this Policy;
- Inform the Chief Executive Officer;
- Take leave from the Council Advisory Committee for the Election Period;
- Return any council resources not available to the public during the Election Period; and
- If elected as a Councillor, resign from the Council Advisory Committee.

Members of Council Advisory Committees are not to use any confidential information provided to the Advisory Committee as a part of their electioneering.

Advertising

Under Council's General Purposes Local Law 2015, candidates are not permitted to place any political advertising on Council land. This includes placing or affixing any letter, figure, poster, sign or advertisement on Council land. Any breaches of Council's General Purposes Local Law 2015 may result in penalties.

Breaches under the Act

Division 1 of the *Act* outlines improper conduct provisions for Councillors. Section 123 of the *Act* prohibits Councillors from misusing or inappropriately making use of their position. A breach of this section attracts serious penalties, including possible imprisonment. Allegations of breaches of the *Act* are independently received and investigated by the Local Government Inspectorate.

Section 304 of the *Act* prohibits Councillors or a member of Council staff from using resources in a way that is intended to or likely to affect the results of an election. Furthermore, it also prohibits Councillors or a member of Council staff from using 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.

Consultation

Pursuant to Section 60(4) a process of community engagement is required in the development or amendment of a Council's Governance Rules. Under Section 69, this Policy is included within the Governance Rules and is subject to the requirements of Section 60(4). This requirement will be met through the provisions outlined within Council's Community Engagement Policy.

Implementation and Monitoring

Policy Owner	Directorate
Manager Governance and Commercial Services	Corporate Services

Review of Policy

This policy will be reviewed in accordance with sections 60 and 69 of the *Act* or as required.

References and Related Legislation

Local Government Act 2020 (Vic).

Maribyrnong City Council's Community Engagement Policy

Maribyrnong City Council's Council Support, Expenses and Reimbursement Policy

Maribyrnong City Council's Councillor Code of Conduct

Maribyrnong City Council's Employee Code of Conduct

Revision Record

Date	Revision Description
February 2016	Policy Adopted.
April 2020	Policy reviewed to satisfy requirements of <i>Local Government Act 2020</i> .
March 2024	Policy reviewed in preparation for 2024 local government elections.