

4 ELECTION CARETAKER PERIOD POLICY

FILE REFERENCE INT1984641

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RECOMMENDATION

That Council adopt the Election Caretaker Period Policy.

Attachments

1 Election Caretaker Period Policy 6 Pages

EXECUTIVE SUMMARY

The Council is required to "prepare, adopt and maintain an election period policy in relation to procedures to be applied by Council during the election period for a general election"

Section 93B(2)(b) of the Act stipulates that following the general election on 22 October 2016, Council must continue to maintain the election period policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period. This review should have been undertaken prior to September however this provisions was not identified prior to this time and no communications were received from Local Government Victoria in this regard. There are no consequences to this.

BACKGROUND

Council prepared an Election Caretaker Period Policy for the conduct of the 2016 election. This Policy needs some minor revision for the 2020 election. The legislative provisions regarding the requirements of the election period have not changed since the 2016 election therefore the details contained within the policy do not require major amendment however some minor amendments are required due to specific \$ amounts referenced in the Policy needing to be to be revised and the inclusion of a clause regarding breaches of the Policy.

The Policy details the statutory provisions relating to the election period and includes commitments that Councillor candidates at the election will not use their position to gain an advantage over other candidates.

POLICY IMPLICATIONS

Council has previously adopted an Election Caretaker Period Policy and this Policy needs to be revised for the 2020 election period.

RELEVANCE TO COUNCIL PLAN

Nil.

CONSULTATION/COMMUNICATION

No community consultation has been undertaken regarding this updated policy.

FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial implications involved in amending and adopting this Policy

CONCLUSION

Council is required to review and if required amend the Election Caretaker Period Policy for the 2020 election.



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1. Introduction

- 1.1 There are specific provisions in the *Local Government Act 1989 (the Act)* that Councils must implement during an election period. These include limits on Council publications and prohibitions on certain types of decisions. (Refer sections 55D, 93A and 93B of the Act.)
- 1.2 The Act provides that the election period commences on the last day on which nominations for the election can be received and concludes at 6pm on the Election Day. For the 2020 Council election, this means that the election period will be from Tuesday 22 September through to 6pm on 24 October.

2. Purpose

- 2.1 The Election Caretaker Period Policy has been developed to ensure that general elections for Cardinia on Saturday 24 October 2020, and any subsequent elections are conducted in a manner that is ethical, fair and equitable, and is publicly perceived as such.
- 2.2 The Chief Executive Officer will ensure as far as possible, that all Councillors and staff are informed of the requirements of this Policy

3. Major Policy Decisions and Inappropriate Decisions

- 3.1 During the election period the Council can only deal with matters that meet *the Act* provisions and should not make any major policy decisions that bind the incoming Council. These provisions however do not preclude the Council making decisions where the issue:
- 3.1.1 is urgent;
 - 3.1.2 the decision is significant;
 - 3.1.3 cannot be reasonably deferred without major negative repercussions; and
 - 3.1.4 where the decision relates to the completion of an activity already undertaken and endorsed by Council eg. via the Budget, Council Plan or long term strategies or policies, but does not meet the definition of 'major policy' in the *Local Government Act 1989 (The Act)*.
- 3.2 It shall be the responsibility of the Chief Executive Officer to determine if a matter is significant and if it is urgent.
- 3.3 In the context of this Policy, a 'major policy' decision as defined in the Act means any decision:
- 3.3.1 relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;
 - 3.3.2 to terminate the appointment of as Chief Executive Officer under section 94;
 - 3.3.3 to enter into a contract the total value of which exceeds whichever is the greater of \$150,000 for goods and services contracts or \$200,000 for works

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contracts or 1% of the Council's revenue from rates in the preceding financial year, (1% of Council's revenue from rates equates to approx \$970,000);

3.3.4 to exercise any power under section 193 of 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 in the preceding financial year.

3.4 If Council considers that there are extraordinary circumstances where the Cardinia 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

3.5 During the election period Council will not make any inappropriate decisions, which are defined as:

3.5.1 decisions that would affect voting in an election;

3.5.2 decisions that could reasonably be made after the election

3.6 Council will also not intentionally adopt any new Policy, Strategy, Local Law or major planning scheme amendment during this period

4. Public Consultation

4.1 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 or proposed action or proposed policy, and includes discussion of that matter with the public.

4.2 Public consultation may be undertaken during the election period to facilitate the day-to-day business of Council, to ensure matters continue to be proactively managed.

4.3 However no new consultation activities will be commenced during the election period.

4.4 Any consultation activities conducted during the election period will avoid express or implicit links to the election.

4.5 The requirements of this Clause do not apply to public consultation activities required under the *Planning and Environment Act 1987*, or matters subject to section 223 of the Act.

5. Council Events

5.1 No Council events will be conducted during the election period.

5.2 Council sponsored community events will be encouraged to not be held during the election period

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- 5.3 No election material or active campaigning is to be conducted at Council sponsored events or displays.
- 5.4 Councillor participation at Council sponsored community events should not be used to gain attention in support of an election campaign.

6. Council Resources

- 6.1 The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer or the Manager Governance.
- 6.2 Councillor candidates undertake to use Council resources, including offices, support staff, hospitality services, equipment (such as mobile phones or computers including Council email addresses, printers etc) and stationery exclusively for normal Council business during the election period, and not use such resources for any electioneering activity.
- 6.3 Reimbursements of Councillors' out-of-pocket and travel expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- 6.4 No Council logos, letterheads, business cards or other material such as photographs sourced by Council or other Cardinia branding should be used for, or linked in any way to, a candidate's election campaign.
- 6.5 The Chief Executive Officer or any staff should not be asked to undertake any tasks connected directly or indirectly with electioneering.

7. Information

- 7.1 The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.
- 7.2 Information and briefing material prepared by staff for Councillors during the pre-election caretaker period will relate only to matters before the Council or to existing Council services and programs.
- 7.3 An Information Request Register will be maintained by the Manager Governance commencing nomination day, 22 September 2020. This Register will be a public document that records all requests for any information by candidates, and the responses given to those requests. Those responses will be provided by General Managers, Manager Governance or the Chief Executive Officer. Only information that

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can be reasonably accessed will be released. The Register will exclude queries relating to items listed on formal Council meeting agendas during the election period.

- 7.4 The Council will suspend the holding of Council or Town Planning Committee meetings during the election period.

8. Communication

- 8.1 Council communication will not be used in any way which might influence the outcome of a Council election.
- 8.2 Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive or their delegate.
- 8.3 During the election period, no employee will initiate any public statement that relates to an election issue. Contact with the local media will be restricted to the communication of normal Council activities as identified in the *Council Plan* and will only respond to questions not involving the election or election outcome.
- 8.4 In response to media inquiries the Chief Executive Officer, General Managers, Managers or the Manager Communications will only provide information that relates to current services and operations.
- 8.5 During the election period, Council initiated communications, other than for the purpose of conducting the election, shall be restricted to the communication of normal Council activities as identified in the *Council Plan*.
- 8.6 No media advice or assistance will be provided to Councillors in relation to election campaign matters or publicity which involves specific Councillors.
- 8.7 Councillors should not use their position as an elected representative or their access to Council staff and other Council resources or information to gain media attention in support of an election campaign. This includes photos or images provided by Council.
- 8.8 Councillors should refrain from using social media to promote their position as a councillor to gain advantage as part of their election campaign.

8. Council Publications

- 8.1 Section 55D of the Act prohibits Council from printing, publishing or distributing publications during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.
- 8.2 Any advertisement, notice, media release, leaflet, brochure, mail out to multiple addresses and editions of Connect Cardinia or any other Council sponsored newsletter must be submitted to the Chief Executive Officer for certification prior to publication. This certification does not need to be printed or published but the certification will be retained on Council record.

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- 8.3 No publication during the period will contain any express or implicit reference to or comment on
- 8.3.1 the election; or
 - 8.3.2 a candidate in the election; or
 - 8.3.3 an issue submitted to, or otherwise before, the voters in connection with the election.
- 8.4 Any references to Councillor candidates in Council publications printed, published or distributed during an election period will not include any promotional text.
- 8.5 During the election period Council's website will not contain material which is precluded by this Policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process. Information about Councillors will be restricted to the names of the elected representatives and contact details.
- 8.6 The *Annual Report* will be compiled during the election period and will not contain any material that could be regarded as electioneering or that 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.
- 8.7 Council Newsletter *Connect Cardinia* will not be published during the election period.
- 8.8 Any publication on social media sites such as Twitter and Facebook will not contain any electoral matter during the election period.
- 9. Assistance to Candidates**
- 9.1 The Council affirms that all candidates for the Council election will be treated equally, fairly and without discrimination.
- 9.2 Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.
- 9.3 All election related 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 or a designated member of Council staff.
- 10. Complaints regarding breach**
- 10.1 Any complaints regarding a breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer. Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate at www.lgi.vic.gov.au

Disclaimer

This Policy has been written to provide a guide only for Council staff, Councillors and candidates and is not a substitute for legal advice. Individuals should seek their own independent advice if they are unsure about any aspect of the *Local Government Act 1989* in relation to the election period.

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