



OFFICIAL

Election Period (Caretaker) Policy

Department/Unit	Governance & Risk	First Implemented	17 July 2012	Review Date	August 2027
Origin	Coordinator Governance & Risk	Reviewed	October 2023	Version	4
Authorising Officer	Endorsement by Council	Effective From	17 October 2023	TRIM Reference	E513/2

Purpose/Objective

The conduct of municipal elections is governed by the *Local Government Act 2020* (“the Act”). This Policy is prepared and endorsed in accordance with section 69 of the Act.

The Election Period Policy has been developed in order to ensure that the general election for the Mansfield Shire Council is conducted in a manner that is ethical, fair and equitable, and is publicly perceived as such.

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

Policy Statement

This policy has been developed to ensure transparency and the principles of good governance and accountability are practised by Councillors and staff in relation to the Council Election Period.

Definitions

Term	Definition
Election Period	Defined in the <i>Act</i> as the period that: a) starts at the time that nominations close on nomination day; and b) ends at 6.00pm on election day.
Community Engagement	A process where a group of individuals, organisations or the broader community is invited to provide feedback on a matter that relates to an issue affecting the entire municipality or is a consultative process relating to a major policy decision by Council. It does not include the provision of statutory notice relating to planning permit applications or any other decisions.

Term	Definition
Electoral Material	Is defined in the Act as 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	Is defined as 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 - <ul style="list-style-type: none"> 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.

Scope

This Policy applies to Councillors, Council Staff and Contractors to ensure the ordinary business of Council continues in a responsible, transparent and legally compliant manner during the Election Period. The caretaker period commences 32 days before the election, when nominations close, and ends at 6pm on election day. This policy impacts upon:

- ▶ The timing of the consideration and decision making for major policies;
- ▶ Timing of community engagement processes;
- ▶ Use of council resources, including staff;
- ▶ The publication of written material by Council;
- ▶ The timing and conduct of council events and activities;
- ▶ Access to Council information; and
- ▶ Use of the media, including all social media channels.

Responsibilities

The Chief Executive Officer (CEO) is responsible for:

- ▶ The dissemination of this policy to Councillors, Council staff and contractors; and,
- ▶ The approval of all written material prepared and published by Council, certifying that it does not contain any electoral material as defined by the Act.

The Coordinator Governance & Risk is responsible for maintaining a register of certified publications and information requests from Councillors and candidates.

Councillors, Council Staff and Contractors are responsible for understanding and complying with the provisions of this policy at all times during the Election Period.

Misuse of Position

Councillors need to be mindful of their responsibilities in relation to improper use of their position outlined in the Act. Section 123 and 124 of the Act prohibit Councillors from intentionally misusing or inappropriately making use of their position to:

- ▶ Gain or attempt to gain, directly or indirectly, an advantage for themselves or any other person; or
- ▶ Cause, or attempt to cause, detriment to the council or another person.

Council Decision Making

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. Council therefore commits to the principle that it will make every endeavour to avoid making significant decisions that bind an incoming Council.

Council Meetings

Council is still able to conduct its usual meetings during the Election Period as it is a core function of the elected Council. Council meetings will continue as normal during this time. Council agendas and minutes will be printed, distributed and published as normal.

Any questions to Council from the public submitted for public question time that relate to electoral matter will not be considered at any Council meeting during an election period.

The operation of Council Committees shall be suspended upon the commencement of the election period ahead of a general Council election. Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

Decisions Prohibited During the Election Period

Pursuant to Section 69(2) of the Act this Election Period Policy prohibits any Council decision during the election period that:

- ▶ Relates to the appointment or remuneration of the Chief Executive Officer (CEO) but not to the appointment or remuneration of an Acting CEO; or
- ▶ Commits Council to expenditure exceeding one per cent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- ▶ Council considers could be reasonably deferred until the next Council is in place; or
- ▶ Council considers should not be made during an election period.

Urgent Decisions

In such cases that a decision cannot be delayed, the CEO must first give approval for an urgent decision on a matter. The CEO must consider the following before giving approval for a decision being made on a significant issue (not a decision prohibited by the Act) during the Election Period:

- ▶ The urgency for a decision to be made;

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- ▶ Whether or not the matter was known or foreseen in the lead up to the election period, so as to provide an opportunity for a decision to be made outside of the election period;
- ▶ If there are any significant financial or legal implications if the decision is not made;
- ▶ Whether or not the deferral of a decision breaches or compromises any statutory requirement under another *act* or regulation, and what the consequences of such a breach are; and,
- ▶ Whether the decision is in the best interests of *council* and the community.

Council Publications

In accordance with section 304(2) Council will ensure that it does not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

Council's annual report will be produced to meet legislative requirements without reference to any electoral matter.

Information on Council's website, all Mansfield Shire Council social media accounts or in the Mansfield Matters section of the Mansfield Courier will be limited to that which relates to the factual details about the Election and the Electoral process.

Information on Council's website or other forms of electronic media relating to the current Council will be limited to Councillors' names and contact details in recognition that they still have duties to perform during the Election Period. All other Councillor images and profile material will be removed from all electronic media and Council buildings.

An election period statement will be placed on Council's website and social media accounts advising Council will not be updating or adding new information to those channels, other than necessary operational information.

All Council media releases, publications, advertisements and public notices must be certified by the CEO in writing prior to publishing, printing or distribution. The CEO must not certify any publication that contains electoral material.

Emails associated with the normal conduct of Council business are not required to be certified by the CEO unless the email is to be used for broad communication with the community.

A register of certified documents will be maintained by the Coordinator Governance & Risk.

For Staff, During the Election Period:

- ▶ Wherever possible, Council publications will not be released during the Election Period, other than those that relate to the conduct of the Election itself.
- ▶ When publications are released, they must not be used in any way that might be construed as influencing the outcome of an election, including material about the performance of an incumbent Council or Councillor, candidate or issue that is likely to affect voting.
- ▶ Council publications will not contain Councillor photographs but will include their contact

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details if it is necessary to support them in conducting their duties as current elected representatives.

- ▶ Media releases or other such statements must not feature any photographs, quotes or names of incumbent Councillors. Quotes must be from the CEO only.
- ▶ Publicity campaigns will only be undertaken during the Election Period if they relate to the process of conducting the Election, as agreed with the Victorian Electoral Commission, or are deemed as being necessary for the conduct of a normal Council function. All campaigns are to be signed off by the CEO prior to being undertaken.
- ▶ Council staff must not make any public statement that can be interpreted as political comment or have influence on the electoral process. All requests for staff to comment on sensitive or political issues are to be referred to the CEO.
- ▶ The Shire's segment on local radio, if required, will only involve the CEO. Information provided during this segment must only convey information about usual Council services or functions or electoral process information. There must be no comment on candidates or any issues surrounding the election.

For Councillors, During the Election Period:

- ▶ The Mansfield Shire Council logo or any images which are the property of the Shire must not be used in any electoral material produced by candidates.
- ▶ Individual Councillors may make statements as candidates in the election provided that they are clearly communicated as personal opinions and do not undermine the standing of Council within the community. Such statements must not be prepared by Council staff. This ensures sitting Councillors, who are also candidates, are afforded the same opportunities as other candidates.
- ▶ Sitting Councillors may refer to adopted Council policies or decisions but there should be a clear distinction between the adopted Council position and any political commentary the candidate may wish to make.
- ▶ No media advice or assistance will be provided to Councillors on election campaign matters or in regard to publicity that involves specific Councillors.
- ▶ Councillors may still refer to themselves as 'Councillor' during the Election Period however, to avoid confusion, they must ensure that any election publication using the title 'Councillor' clearly indicates that it is their own electoral material and does not represent views of the Council.
- ▶ No electoral material may be placed in any Mansfield Shire buildings including the Visitor Information Centre, Mansfield Library or the Noticeboard Managed by Council. This does not include material produced by the Returning Officer or Victorian Electoral Commission for the purposes of conducting the election.

Certification Process

The process for the certification of documents will be as follows:

- ▶ When drafting a publication, check and ensure that no electoral material is present – if uncertain, check with the Coordinator Governance & Risk.
- ▶ Once the draft is prepared and checked, the document is to be given to the CEO under memo, using the attached FORM 1.
- ▶ The CEO will use the wording in FORM 2 attached to this policy to certify the document.
- ▶ Councillors are able to publish campaign material on their own behalf, but cannot imply for that material to be originating from, or authorised by, Council (eg cannot use Council logo).

Use of Council Resources

Councillors and members of Council staff will comply with section 304 of the Act regarding prohibition of Council resources during the election period.

Prior to the election period the Chief Executive Officer will ensure that all members of Council staff are advised in regard to the application of the election period procedures:

- ▶ Council staff will not undertake an activity that may affect voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.
- ▶ Council staff will not authorise, use, or allocate a Council resource for any purpose that may influence voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.
- ▶ Councillors must not ask the Chief Executive Officer, nor Council staff to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.
- ▶ Councillors may continue to use any Council equipment provided to them to facilitate their performance or normal Council duties, subject to existing protocols and terms of use.
- ▶ No Council resources such as photocopiers, logos, letterheads, or other corporate branding will be used for, or linked in any way to, a candidate's election campaign.
- ▶ Where Councillors have Council funded services, such as mobile phones, landlines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, Councillors will reimburse the Council for usage of those services during the election period that exceeds normal usage levels.
- ▶ Where a Council staff member wishes to be involved in a private capacity in the campaign of any candidate, the staff member must ensure that all election related activity is strictly carried out after working hours and that no Council resource is used in their electoral activities.
- ▶ Any staff member involved privately in the campaign of any candidate must:
 - Seek approval from the CEO of their involvement;

- Take the necessary action to clearly separate their working and private activities;
- Avoid conflict of interest that may arise between their support of a particular candidate and their employment at Mansfield Shire Council.

Community Engagement

No community engagement process will be conducted by Council, Council Staff or any other third party contracted by Council during the Election Period in relation to a significant or contentious issue or an issue relevant to the election.

Where community engagement processes have been conducted just prior to the Election Period, the outcomes and findings of such processes must not be reported upon to either Council, the community or the media during the Election Period.

The above does not apply to public consultation required pursuant to the *Planning and Environment Act 1987* or to matters subject to section 223 of the 1989 Act. Consultation under this statutory provision shall only proceed after the express agreement by the CEO where it relates solely to the normal day to day business of Council, and the consultation is not deemed to be controversial.

Attendance at Functions and Events

Council organised events and functions held during the Election Period will be reduced to only those essential to the operation of the Council. The CEO will ensure that the scheduling of functions and events avoids the Election Period, where possible.

Councillors may continue to attend public events staged by external bodies during the Election Period.

Councillors may make speeches at Council organised or sponsored events and functions during the Election Period subject to prior approval of the Chief Executive Officer.

Access to Council Information

All candidates must have equal access to public information held by Mansfield Shire Council that is relevant to the election. However, neither candidates nor sitting Councillors will be provided with information or advice from Council staff that could be perceived to support an election campaign.

Information circulated to any Councillor or the Council by Council staff must relate only to the carrying out of Councillor functions.

Information and briefing material prepared by Council staff and circulated to a Councillor or the Council (such as via the Councillor Communique) must not relate to any election issues or matters that might be perceived to be of an electoral nature.

All requests for information received from Councillors and candidates are to be directed to the Coordinator Governance and Risk. A register of such requests will be kept, and made public, detailing the nature of the request and whether or not information was provided.

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Once the information request has been reviewed by the Coordinator Governance and Risk, it will be referred to the relevant Departmental Manager or CEO for response. Only the Managers or the CEO may respond to a Councillor or candidate information request.

Any request for information relating to the conduct of the election will be referred to the appointed Returning Officer appointed by the Victorian Electoral Commission.

References / Related Policies

- ▶ *Local Government Act 2020*
- ▶ Mansfield Shire Councillor Code of Conduct & Councillor Charter

Gender Impact Assessment

The Election (Caretaker) Period Policy has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Election (Caretaker) Period Policy has been assessed as not requiring a Gender Impact Assessment (GIA).

Implementation

This policy was endorsed by Council on 17 October 2023

Review Date

August 2027

Authorisation to Implement Policy

Signed: _____

Councillor

Witnessed: _____

Chief Executive Officer

Approval dated: 17 October 2023

Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.

Request for Chief Executive Officer to certify material

FORM 1 - Certification of Material

This material has been checked and does not contain any electoral or electoral related matter to the best of my knowledge in accordance with section 304 of the *Local Government Act 2020*.

Name..... **Signature**.....

Name..... **Signature**.....

Date.....

Chief Executive Officer certification

FORM 2 - Certification of Material

I certify that the attached material is suitable for printing, publishing or distributing on behalf of Mansfield Shire Council in accordance with section 304 of the *Local Government Act 2020*.

Signature..... **Date**.....

Chief Executive Officer – Kirsten Alexander