

Election Period Policy

Preamble

The Election Period Policy sets out how Council will meet the requirements of the *Local Government Act 2020*. This Policy is designed to ensure that Council and Councillors avoid certain actions and decisions which could be seen to be influencing voters or that would have a significant impact on the incoming Council.

Policy objectives

The Policy provides clear direction on:

- Decisions to be made by Council
- Any material to be published by Council
- Attendance and participation in functions and events
- Public Consultation
- The use of Council resources
- Access to Council information and
- Media and Communications engagement

The Election Period Policy applies to Councillors, Council officers, Delegated Committees or Community Asset Committees under delegation.

Definitions

Where terms used in this policy are defined in the *Local Government Act 2020* (the Act), their use in this policy is consistent with the definitions set out in the Act.

Policy statement

I. Election Period

The 'election period' is defined by the Act:

election period 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 day is the fourth Saturday in October 2020.

The election period for the 2020 local government elections will commence at 12:00noon on 22 September 2020 and end at 6.00pm on 24 October 2020.

2. Council Decision Making

Section 69 of the *Local Government Act 2020* prohibits Council from making certain decisions during the election period.

The Act states:

- (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.

As set out in Section 59 (2) a decision by resolution of Council includes:

- (a) a resolution made at a Council meeting;
- (b) a resolution made at a meeting of a delegated committee;
- (c) the exercise of a power or the performance of a duty or function of the Council by a member of Council staff or a Community Asset Committee under delegation.

The table below includes a range of scenarios which may come before Council for decision. It provides guidance on whether Council can or cannot make the decision and the basis for that recommendation.

Proposed Council Decision	Is it allowed?	Source
Employment or remuneration of a Chief Executive Officer under section 45, other than a decision to appoint an acting Chief Executive Officer.	No	This is prohibited by s69(2)(a) of the Act
Committing the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in	No	This is prohibited by s69(2)(b) of the Act

Proposed Council Decision	Is it allowed?	Source
the preceding financial year (estimated at \$600,000).		
A decision which Council considers could be reasonably deferred until the next Council is in place.	No	This is prohibited by s69(2)(c) of the Act
Decisions that significantly affect the municipality or unreasonably bind the incoming Council.	No	This is prohibited by s69(2)(c) of the Act
A decision to issue a planning permit in accordance with the Bass Coast Planning Scheme.	Yes	Failing to make a decision in these instances could be an abdication of Council's responsibilities under the <i>Planning and Environment Act 1987</i> and relegate the decision to the Victorian Civil and Administrative Tribunal.
A decision to proceed with a Planning Scheme Amendment.	No.	This is prohibited by s69(2)(d) of the Act
Decision to adopt a Planning Scheme Amendment.	No	This is prohibited by s69(2)(d) of the Act
A decision to send submissions received in response to an exhibited Planning Scheme Amendment to an Independent Panel.	Yes	This a procedural decision in a situation where the decision to undertake the amendment has already been made by Council. The decision does not bind Council to adopt the amendment after the panel report is received. It is considered that these decisions should not be held up by the election period.

3. Material Published by Council

Section 304(2) of the Act prohibits Council 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.

Councillors are however, able to publish campaign material on their own behalf, but cannot purport for that material to be originating from, or authorised by, Council or the Bass Coast Shire (e.g. by use of Council logos).

Publication should be read broadly to include electronic information and web based productions.

The controls do not cover newspaper advertisements which simply announce the holding of a meeting or the election process itself.

Material is definitely electoral matter if it:

- Publicises the strengths or weaknesses of a candidate;
- Advocates the policies of the Council or of a Candidate; or
- Responds to claims made by a candidate.

Considerations of Chief Executive Officer in granting publication approval

In considering whether to grant approval for the publication of material during the election period, in accordance with the provisions in the Act, the Chief Executive Officer:

Must not permit any materials to be published which include reference to the following:

- The election;
- A candidate in the election;
- A current Councillor; or
- An issue before the voters in connection with the election.

May approve publication of material which only contains information about:

- The election process itself; or
- Council information that does not include any reference to a current Councillor otherwise precluded by this Policy.

Bass Coast Shire Council Website and Social Media

During the election period the website, Facebook or Twitter will not contain material which contravenes this Policy. Any references to the election will only relate to the election process. 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 Council.

Annual Report

Due to the publication date of the 2019/2020 Annual Report occurring during the election period, it is affected by the legislative restrictions on publications and therefore will not include information about Councillors beyond what is required by the *Local Government (Finance and Reporting) Amendment Regulations 2011*.

Council Publications

Any Council publication which is potentially affected by this Policy will be reviewed by the Governance Manager to ensure that any circulated, displayed or otherwise publicly available material during the election period does not contain material that may be construed as 'electoral matter'. 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 returning officer for the purpose of conducting the election."

4. Functions and Events

In this section reference to functions and events means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities or social occasions such as dinners, receptions and balls.

Public Events Staged by External Bodies

Councillors may continue to attend events and functions during the election period. If a Councillor is attending an event in their capacity as a Councillor, they must refrain from participating in any activity that could be considered electioneering.

Council Events and Functions

Council organised events and functions held during the election period will be reduced to only those essential to the operation of Council. This may be varied by a Council resolution or where prior approval has been given by the Chief Executive Officer.

Speeches/Keynote addresses

Councillors should not give speeches or keynote addresses at Council organised or sponsored events and functions during the election period.

Councillors may make short welcome speeches at Council organised or sponsored events and functions during the election period, subject to prior approval from the Chief Executive Officer.

Publication of promotional material

In preparing any material concerning a Council organised or sponsored function or event which will be published or distributed during the election period, such preparation must be consistent with the controls under this Policy.

5. Community Engagement

Community Engagement means a process that 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.

Where possible, community engagement should not be undertaken during the election period unless it is required to facilitate the day to day business of Council and cannot be deferred until the new Council term.

Consultation on any contentious or politically sensitive matter will not commence, or continue, during the election period.

Community engagement required pursuant to the *Planning and Environment Act 1987* is exempt from this clause.

All public consultation that will run into the election period must have prior approval from the CEO. Where approved, the results will not be reported to the Council until after the election period, unless the CEO decides otherwise.

6. Use of Council resources

The use of Council resources to support a candidate's election campaign or to develop or deliver election campaign material is expressly prohibited.

Section 304(1) of the Act prohibits Councillors or Council staff from using Council resources in a way that:

- (a) is intended to; or*
- (b) is likely to—*
affect the result of an election under this Act.

The Act further stipulates that:

- (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.*

Council resources, including but not limited to offices, support staff, mayoral vehicle, meeting facilities, hospitality, equipment, photocopying and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election.

Council staff must avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Council resources, including staff, might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.

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 Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

No Council logos, letterheads, or other Bass Coast Shire Council branding will be used for, or linked in any way, to a candidate's election campaign.

7. Access to Council information

All candidates have equal rights to access public information relevant to their election campaigns from Council administration. Neither Councillors nor candidates will be provided information or advice from Council staff that might be perceived to support election campaigns, and there shall be transparency in the provision of all information and advice during the election period.

Information and Briefing Material

Information and briefing material prepared or secured by staff for a Councillor during the Election Period must be necessary to the carrying out of the Councillors' role and must not be related to election issues or to issues that might be perceived to be of an electoral nature.

8. Media and Communications engagement

Council's communications services are intended to promote Council activity or initiatives and must not be used in any way that might favour a candidate.

Media advice

Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive Officer or the Chief Executive Officer's delegate. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

Media releases/spokespersons

Media releases will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue the Chief Executive Officer will determine the appropriate person.

Publicity campaigns

During the election period, publicity campaigns, other than for the purpose of conducting the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the Chief Executive Officer. In any event, Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

Councillors

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign.

Council employees

During the election period no Council employee may make any public statement that relates to an election issue unless statements have been approved by the Chief Executive Officer.

Additional documents

Media Engagement Policy

Social Media Policy

Councillor Code of Conduct

Local Government Act 2020

Review process

The Election Period Policy will be reviewed no later than 12 months prior to a general election and maintained as part of Council's Governance Rules 2020.

Accountability process

The Manager Governance and Property will ensure compliance with the requirements under this Policy. If any Councillor or Council officer requires advice on any aspect of this Policy they should contact the Manager Governance and Property.

It is the role of the Chief Executive Officer to authorise all published material during the Election Period to ensure Council is not distributing election material.

Approval

Adopted by Council at its meeting held on

Date 19 August 2020

Signed by the Mayor, Cr Brett Tessari

A handwritten signature in black ink, appearing to read 'Brett Tessari', is written over a light blue rectangular background. The signature is cursive and includes a long horizontal stroke at the end.