

1. PURPOSE

This policy provides a framework for the conduct of Council business during the 2024 general election period. It establishes a series of caretaker practices, which aim to ensure that prohibited decisions and actions of the current Council are not made, and ensure the use of Council resources and information throughout the election period is in accordance with the caretaker provisions of the *Local Government Act 2020*. This policy is designed to prevent the Council from making prohibited decisions or using resources inappropriately during the election period before the general election.

2. INTRODUCTION

Victorian Councils are required to observe special “caretaker arrangements” during a general election period. Caretaker arrangements aim to avoid the use of public resources in a way that may unduly affect the election result and minimise decisions that may unduly limit the decision-making ability of the incoming council. Section 69 of the *Local Government Act 2020* requires that Council 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 and any by-election.

3. SCOPE

This policy applies to individual Councillors, the Council as a Body Corporate, Delegated Committees of the Council, the Chief Executive Officer, Executive Managers, all Council staff and any person acting on behalf of the organisation under a delegation.

4. PRINCIPLES

Councillors and staff are committed to the lawful, transparent, fair and un-biased conduct of Council elections and will ensure that the terms, conditions and arrangements provided for under this policy will be adhered to. In addition, the reporting requirements contained in Council’s Public Interest Disclosures Procedure will be followed where disclosures of improper or corrupt conduct or detrimental action by Councillors or employees, in regard to election-related matters, are made.

4.1 Election Period

- 4.1.1 In the lead up to an election the Victorian Local Government sector adopts an election period mode. During this period Council will be deemed to be in election period mode and is prohibited from making major decisions or publishing /distributing election material.
- 4.1.2 The next relevant election day is Saturday 26* October 2024 in accordance with section 257 (1)(b) of LGA 2020
- 4.1.3 The election period commences 12 noon on Tuesday 17* September 2024 to 6pm Saturday 26 October 2024
- 4.1.4 Anyone who wants to be a candidate must nominate before 12 noon Tuesday 17* September 2024

**As confirmed by the local Government (Electoral) Amendment Regulations 2024 made on 25 June 2024.*

4.2 Prohibited Decisions

- 4.2.1 Council is prohibited from making any Council decision:
 - (a) during the election period for a general election that:
 - (i) 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
 - (ii) commits the Council to expenditure exceeding one per cent (1%) of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
 - (iii) the Council considers could be reasonably deferred until the next Council is in place; or
 - (iv) the Council considers should not be made during an election period; or

(b) 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.

4.2.2 For the purposes of clause 4.1.1 of this policy, **Council decision** means the following:

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

4.2.3 Decisions made prior to the election period by Council or by an officer under delegation can be implemented during the election period.

4.3 Council Publications and Communications

4.3.1 Section 304 of the *Local Government Act 2020* prohibits Council from printing, publishing and distributing material that is electoral matter during an election period. Electoral matter is broadly defined to be matter which is intended or likely to affect voting in an election. This limitation does not apply to electoral material that is only about the election process.

There is a requirement that the Chief Executive Officer is familiar with the requirements of the *Local Government Act 2020*, and any other requirements, with respect to the printing, publishing and/or distribution of electoral publications.

4.3.2 The Chief Executive Officer will review and approve all publications throughout the election period prior to publication, to ensure that they comply with the requirements of Section 304. This includes Council newsletters, handbills, pamphlets, advertisements and notices, media releases, brochures, leaflets and mail-outs (whether electronic or otherwise). This also applies to publication of material on Council's website and the social media.

4.3.3 In accordance with the intent of the *Local Government Act 2020*:

- the Chief Executive Officer must not intentionally or recklessly approve an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process
- the Chief Executive Officer must not delegate the power to approve any advertisement, handbill, pamphlet or notice under this section to a member of Council staff
- a Councillor or member of Council staff must not intentionally or recklessly 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 on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.

The requirements, above, do not apply to the publication of any document published before the commencement of the election period and to publication of any document required to be published in accordance with, or under, any Act or regulation.

4.3.4 Official media statements will only be made by the Chief Executive Officer during the election period, including radio and television interviews. In as much as it is possible throughout the election period, Council publicity and communications will be restricted to promoting normal Council activities and services and informing residents about the election process.

4.3.5 Councillors should not use their position as an elected representative or their access to staff and other Council resources or information in support of an election campaign.

This includes photos or images, or images provided by Council for past Council activities.

- 4.3.6 No publicity will be provided that involves specific Councillors including media releases quoting or featuring a Councillor.

4.4 Council and Delegated Committee meetings

The Chief Executive Officer will ensure that arrangements are in place so that papers prepared for council or delegated committee meetings during the election period do not include any agenda matter that could potentially influence voters' intentions at the forthcoming election or could encourage councillor candidates to use the matter as part of their campaign platform.

During the election period, Councillors will refrain from moving motions on or raise matters at a meeting that could potentially influence voting at the election. Council will not consider decisions relating to the following matters during the election period:

- allocation of community grants or other direct funding to community organisations
- major planning scheme amendments
- changes to strategic objectives and strategies in the council plan.

4.5 Use of Public Resources

Public resources must not be used in any way that may influence the way people vote in the general election or give Councillors any inappropriate real or perceived electoral advantage. The following guidelines during the election period will apply:

- Council resources, including offices, support staff, hospitality, equipment, email, mobile phones and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning.
- Any resource provided to a Councillor which has an expressly permitted private-use component (e.g. the mayoral vehicle) may still be used for private purposes, but nothing in connection with election campaigning.
- Reimbursement of out-of-pocket expenses for sitting Councillors 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.
- The council logo, letterhead or other Horsham Rural City Council branding will not be used for, or linked in any way to, a candidate's election campaign.
- Council officers will not be asked to undertake any tasks connected with a candidate's election campaign.
- Any requests for provision of information or advice held by Council, made by a sitting Councillor or candidate, should be directed to the Chief Executive Officer or appropriate senior management member. There shall be complete transparency in the provision of all information and advice and any information or advice provided to a sitting Councillor or candidate as part of the conduct of the Council election will be provided equally to all candidates and made available in an accessible format if requested.

Councillors will 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.

4.6 Public Consultation, Council Events and other activities

Consultation forms an integral part of policy development and operations; however, consultation undertaken close to a general election may become an election issue in itself and influence voting. Issues raised through the consultation and decisions that follow may also unreasonably bind the incoming council.

4.6.1 Events

The scheduling of council events in the lead-up to elections also frequently raises concerns over their potential use by sitting councillors for electioneering purposes. Events and functions

can take many forms including conferences, workshops, forums, launches/openings, promotional activities, and social occasions (such as dinners, receptions and balls).

Any public consultation or scheduling of council events during the election period will be reviewed by the Chief Executive Officer who may determine that an individual activity or event is:

- not permitted to proceed; or
- is permitted to proceed but subject to any restrictions which the Chief Executive Officer may impose.

4.6.2 Consultation

If the Chief Executive Officer determines that consultation must be undertaken or an event held during this time, the Chief Executive Officer (on behalf of the Council) must justify to the community the special circumstances making it necessary and how risks over influencing the election will be mitigated or prevented.

Public consultation must be undertaken during an election period if the consultation is mandated by legislation.

Where consultation is discretionary then the consultation can occur during the election period but only after the Chief Executive Officer determines whether or not the consultation will influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates then it may be prudent for the Chief Executive Officer to delay the consultation until after the election period.

4.6.3 Councillor attendance at events and functions

Councillors can continue to attend events and functions during an election period provided that their attendance is consistent with the ordinary course of their Council duties.

If a Councillor is asked to give a speech at an event or function during an election period then they should take particular care to only use or provide information that would generally be the nature of a speech to the relevant audience.

4.6.4 Council staff activities during an election period

Council staff should not undertake any activity that may influence the outcome of an election, except where the activity relates to the election process and is authorised by the Chief Executive Officer.

Council staff should not authorise, use or allocate a Council resource for any purpose which may influence voting in the election, except where it relates to the election process and is authorised by the Chief Executive Officer. This includes making Council resources available to Councillors for campaign purposes. Council staff must not assist any Councillor with their election campaign at any time, including outside working hours. Where the use of Council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

4.7 Assistance to candidates

- 4.7.1 Information of documentation provided to any candidate or councillor during the election period will be made equally available to all Councillors and Candidates.
- 4.7.2 All election-related enquiries from candidates including sitting Councillors will be directed to the VEC Election Manager.
- 4.7.3 Council upholds that all candidates for the Council election will be treated fairly and equally. For the purposes of this Policy, any Councillors whether standing for Council or not will be regarded as a candidate during the election period.

4.8 Record keeping

The Chief Executive Officer shall keep a documented record of all:

- documentation reviewed
- documentation approved
- media or other statements released
- information or advice provided on request to a sitting Councillor or candidate
- information relating to events and consultation permitted to proceed, under this policy during the election period.

5. COMMUNICATION

Individual Councillors, Councillor Portal, HRCC Website, Intranet

6. RESPONSIBILITY

Policy Owner: Director Corporate Services

This Policy will be reviewed every 4 years or earlier as required by changed circumstances including changes to legislation and plans, strategies or policies of HRCC.

7. DEFINITIONS

Definition	Meaning
Council as a Body Corporate	Refers to decisions and actions arising from a meeting of the Horsham Rural City Council.
Delegation	Principally a formal document issued by the Council or the Chief Executive Officer which empowers another officer or officers to undertake an action, duty or responsibility, but an individual may have authority arising from an informal or implied direction or instruction (delegation) from a body or senior person.
Election period (also known as Caretaker Period)	Is defined in the <i>Local Government Act 2020</i> to be the period from the last day of nominations until the election day (a 32 day period). In conjunction with Section 44(1) of the Interpretation of Legislation Act 1984, the first day of the period for the 2024 general election will therefore be Tuesday, 24 th September 2024.
Prohibited Decision or Prohibited Action	A decision or action whenever made by the current Council that binds the incoming Council and limits its freedom of action.

8. SUPPORTING DOCUMENTS

Document	Location
Local Government Act 2020	Internet
Public Interest Disclosures Procedure	HRCC Intranet

9. DOCUMENT CONTROL

Version Number	Approval Date	Approval By	Amendment	Review Date
01	15 February 2016	Council	Replaces Council Election Caretaker Arrangements Policy 2019	1 October 2019
02	28 October 2019	Council	Review	1 October 2023
03	21 September 2020	Council	Review in line with Local Government Act 2020	1 October 2023
3.1	March 2023	n/a	New logo	1 October 2023
04	25 September 2023	Council	Updated as part of review for preparation for the 2024 General Election	1 October 2027
4.1	8 July 2024	n/a	Administrative changes to key dates updated in accordance with <i>Local Government (Electoral) Amendment Regulations 2024</i> confirmed 25 June 2024	1 October 2027

It is recognised that from time-to-time circumstances may change leading to the need for minor administrative changes to Council and Administrative Policies. Where an update does not materially alter a Policy, such a change may be made administratively, without the need for formal adoption by EMT or Council. Examples include a change to the name of a Council Department/Position Title, a change to the name of a Federal or State Government Department, and a minor update to legislation which does not have a material impact. However, all changes will be noted in the document control section and version number updated.