

# Buloke Shire Council

## Election Period Policy

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## **1. Purpose**

- (a) The Election Period Policy (Policy) has been developed in accordance with the Local Government Act 2020 (Act), in order to ensure Buloke Shire Council general elections and by-elections are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.
- (b) During an election period, local government goes into 'caretaker' mode, avoiding actions and decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council.
- (c) The Act requires councils to have a Policy to explain to their community how they will conduct their business immediately prior to an election. This is to ensure council elections are not compromised by inappropriate electioneering by existing councillors and to safeguard the authority of the new council.
- (d) The policy also provides guidance at an operational level to ensure compliance with legislative requirements, demonstrates the Council's commitment to probity in its elections and ensures transparency and accountability of the Council, Councillors and staff during the election period.

## **2. What is this policy designed to achieve?**

This Policy applies during an 'election period' (refer below for definition) to cover:

- decisions that are made by Council, a delegated committee or a person acting under delegation by the Council
- any material that is published by the Council or on Council's behalf
- protocols for Council and Committee meetings
- limits on public consultation and scheduling of Council events
- attendance and participation in functions and events
- the use of Council resources
- access to Council information
- media and media services.

## **3. Election Period (Operation of Policy)**

This Policy applies during the election period, which:

- commences at the time that nominations close on Nomination Day for that election; and
- concludes at 6pm on Election Day

## **4. Scope**

- (a) This policy applies to all Councillors and Council staff and includes contractors and volunteers carrying out work for or on behalf of the Buloke Shire Council.

- (b) External candidates for election are expected to comply with the obligations of this policy where applicable.

## 5. Definitions

Key terms and definitions used in this Policy include:

TERM	DEFINITION
Act	Local Government Act 2020
Candidate	A person who has nominated as a candidate for an election under section 256 of the Local Government Act 2020
Chief Executive Officer	The person appointed by a Council under section 44 to be its Chief Executive Officer or any person acting in that position.
Council	Means Buloke Shire Council, being a body corporate constituted as a municipal Council under the Local Government Act 2020
Delegated Committee	(a) a delegated committee established by a Council under section 63; or (b) a joint delegated committee established by 2 or more Councils under section 64; or (c) a committee, other than a Community Asset Committee, exercising any power of a Council under this Act or any other Act delegated to the committee under this Act or any other Act
Election Manager	(a) the Victorian Electoral Commission (VEC); (b) or a person appointed in writing by the VEC
Staff, Council staff or staff member	Means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Buloke Shire Council.

## **6. Accountability**

### **6.1. Role of Councillors**

During the Election Period, Councillors:

- (a) will continue to fulfil their Councillor Duties (unless they are granted leave of absence);
- (b) will continue to engage, and communicate with, the community in their Councillor role;
- (c) must comply with the Act and the Councillor Code of Conduct and this Policy; and
- (d) must not use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy.

### **6.2. Role of Staff**

An important part of Buloke Shire Council integrity is that all staff need to remain impartial at all times.

During the lead up to (not just the election period) staff need to maintain impartiality by avoiding making any comment or expressing an opinion, in any context which is public or may become public, in relation to candidates, potential candidates or policy debates in the lead up to an election.

This is particularly the case where employees are identified as a Buloke Shire Council staff or representing Buloke Shire Council in the public arena. Social media use of this kind also requires extreme caution and judgement, and employees are discouraged from engaging with candidate hosted online media platforms.

Staff also need to avoid working on any task that could be seen to relate to the candidates for the election or to any role that current Councillors may play in the election, particularly when representing Buloke Shire Council.

## **7. Decisions during the election period**

### **7.1. What is a Council Decision?**

For the purposes of clause 7 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.

### **7.2. Prohibited decisions**

- 7.2.1. Council, a delegated committee of Council or a person acting under delegation given by the Council must not make prohibited decisions during the election period for a general election.

- 7.2.2. Provisions under section 69 of the Act prohibit Council from making certain decisions during the election period for a general election. A prohibited decision is one that:
- (a) Relates to the appointment or remuneration of a CEO but not to the appointment or remuneration of an Acting CEO; 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; or
  - (e) 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 (this also applies to by-elections).
- 7.2.3. Any Council decision made in contravention of 7.2.2. (a) and (b) above, is invalid.
- 7.2.4. 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 section 69(4) of the Act, is entitled to compensation from the Council for that loss or damage.

### **7.3. Other types of decisions that will be avoided (inappropriate decisions)**

- 7.3.1. Inappropriate decisions are defined in this policy as meaning decisions that:
- would affect voting in an election
  - may unreasonably bind an incoming council and could reasonably be made after the election.
- 7.3.2. The following inappropriate decisions will also be avoided during the election period:
- allocation of community grants or other direct funding to community organisations
  - major planning scheme amendments
  - sale or discontinuance of roads etc
  - changes to strategic objectives and strategies in the Council Plan.

### **7.4. Considerations for officers with delegated authority**

- 7.4.1. Most Council decisions are not made at meetings of the Council. Significant decision-making power is formally delegated to staff and the decision of a delegate is 'deemed' to be a decision by Council.
- 7.4.2. Because a delegate's decision is the same as a Council decision, the same constraints that apply to decisions made in Council and Delegated Committee



meetings apply when delegates make decisions. Delegates should therefore give careful consideration to the exercise of their powers during the election period.

- 7.4.3. Should a delegate be required to make a decision(s) under delegation in the ordinary course of Council business during the election period, the delegate must satisfy themselves beforehand that the decision is not a prohibited decision and should consider the following:
- (a) whether the decision is prohibited, or falls within the 'other types of decisions to be avoided' category
  - (b) the urgency of the issue (that is, can it wait until after the election?)
  - (c) the possibility of financial repercussions if it is deferred
  - (d) whether the decision is likely to be controversial or influence voters
  - (e) within the best interests of Council.
- 7.4.4. Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Manager Governance in the first instance.

## **8. Meetings**

Council and Delegated Committee meetings will continue to take place during the election period, however the following modifications to standard protocols will be made:

### **8.1. Audio and video recordings of Council and Committee meetings**

Notice of meetings, Council and Committee agenda papers, minutes and livestreaming (attendance by electronic means) are considered to be part of normal Council business, audio and visual recordings of these meetings will continue to take place during the election period and be made available on Council's website.

### **8.2. Election period statement in reports**

All reports to Council and Delegated Committees will be assessed by the Chief Executive Officer, in accordance with the Act and this policy, and if approved, will include an election period policy statement in the form as follows:

*'The recommended decision is not a prohibited decision as defined in section 69 of the Local Government Act 2020 or an inappropriate decision within the meaning of the Election Period Policy.'*

### **8.3. Notices of motion by Councillors**

All Notices of Motion by Councillors will be suspended during the election period.

### **8.4. Public question time**

Public Question time will be suspended at all Council and Delegated Committee meetings during the election period.

### 8.5. Reports by Councillor Delegates

Reports by Councillor Delegates will be suspended during the election period.

### 8.6. Tabling petitions and joint letters

Tabling of petitions or joint letters will be suspended during the election period

## 9. Council publications during the election period

During the election period (and where appropriate or necessary immediately preceding it) the Chief Executive Officer (or their delegate) will cause all Council communications, including social media, all Council managed websites and printed and/or published material, to be subject to review to ensure consistency and compliance with this Policy and the Act.

### 9.1. Prohibition on publishing materials during the election period

Council must not publish material containing electoral matter that may influence, or be seen to influence, people's voting decisions.

**Electoral matter** is defined in the Act 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.'

Council will not:

- print, publish or distribute, or
- cause, permit or authorise others to print, publish or distribute on behalf of the Council,
- any advertisement, handbill, pamphlet or notice that contains 'electoral matter' during the election period.

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

A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:

- the election; or
- a candidate in the election; or
- an issue submitted to, or otherwise before, the voters in connection with the election.

Some examples include publishing material which:

- sets out the strengths or weaknesses of a candidate
- advocates the policies of the Council or a candidate
- responds to claims made by a candidate
- sets out the achievements of the elected Council or Councillor.

The controls do not cover electoral material produced by, or on behalf of, the Election Manager for the purposes of conducting an election or advertisements/posts which simply announce the holding of a meeting or the election process itself.

## **9.2. Process for review and approval of Council publications**

Relevant Council publications will be approved by the Chief Executive Officer (or their delegate), before they may be printed, published or distributed during the election period, whether by Council or anyone acting for Council.

- 9.2.1. The approval process is to apply to any documents produced for the purpose of communicating with people in the community. This may mean some material requires approval before the commencement of the election period in order for it to be issued/disseminated during the election period.
- 9.2.2. All material will be submitted to the Governance Department (within a time frame to be determined) for vetting. Staff will be notified by return email once approval has been provided (all effort will be made to ensure approval is provided in line with specified deadlines).
- 9.2.3. All approved material will bear the following affixation and be signed and dated: *'Approved by the Chief Executive Officer (or their delegate) on [insert date].'*
- 9.2.4. All documentation in relation to the approval process will be retained on Council records.
- 9.2.5. Material that may be affected includes, but is not limited to:
  - new material on Council websites
  - social media posts
  - Council newsletters, brochures, flyers and magazines
  - material available in libraries and Council offices
  - media releases
  - public speeches
  - brochures on service/facilities
  - advertisements (including job advertisements)
  - Council newspapers
  - mail outs to multiple addresses

## **9.3. Prohibited decisions**

Council may provide information, education and publicity designed only to promote public participation in the electoral process.

## **9.4. Publication of Council and Committee agenda papers and minutes**

- 9.4.1. Council is required by the Governance Rules to:
  - Give public notice of Council meetings and Delegated Committee meetings; and
  - Produce and make available agendas and minutes of Council meetings and Delegated Committee meetings.

- 9.4.2. To enable Council compliance with our statutory obligations and the Governance Rules, both of the above categories of documents will continue to be published during the election period and will be reviewed in accordance with section 9.2.

#### **9.5. Council Annual Report**

- 9.5.1. Due to the publication date of the Annual Report generally occurring during the election period, it is affected by the legislative restrictions on publications and therefore information about Councillors will be restricted to what is required by the Local Government (Planning and Reporting) Regulations 2020, a photograph of the Councillor, and membership of Council appointed committees to which they have been appointed by the Council.
- 9.5.2. The Annual Report will not contain a Foreword from the Mayor.

#### **9.6. Council websites During the election period**

- 9.6.1. Council's websites will not contain material which contravenes this policy. All Councillor biographical information and profile photographs will be removed from Council's website.
- 9.6.2. Any references to the election will only relate to the election process. Councillor profiles will be restricted to:
- names
  - contact details
  - titles

#### **9.7. General Council publications**

Information about Councillors will be restricted in any Buloke Shire Council publications, consistent with 9.6 above.

- 9.7.1. Any publication of the Mayor's message will be suspended during the Election Period.

#### **9.8. Social Media**

Social media includes, but is not limited to:

- Facebook
- X (formerly known as Twitter)
- YouTube
- LinkedIn
- Pinterest.

- 9.8.1. In accordance with section 9.2, any publications on social media sites under the auspices of Council during the election period require approval, prior to publication.
- 9.8.2. Protocols have been developed for managing Council's corporate social media and online channels. While Council's Communications Staff will monitor the mainstream platforms, any staff member who manages a social media or online channel as part of their role with the Buloke Shire Council is required to apply the same protocols.

## **10. Public consultation and engagement**

- 10.1. No public consultation will be undertaken during the Election Period unless prior approval is obtained from the Chief Executive Officer.
- 10.2. The results of any public consultation undertaken outside the election period will not be reported to Council until after the election period.
- 10.3. The requirements of this section do not apply to public consultation required under the Planning and Environment Act 1987.

## **11. Media**

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

### **11.1. Media advice**

Any requests for media advice or assistance from Councillors during the election period must go through the CEO. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

### **11.2. 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 CEO will determine the appropriate person.

### **11.3. 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 CEO. In any event, Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and will not involve specific Councillors.

### **11.4. 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.

#### **11.5. 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 CEO.

### **12. Attendance at functions and events during the election period**

In this part, reference to events and functions 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 the Council and its community and may take the form of workshops, forums, launches, promotional activities or social occasions such as dinners and receptions.

#### **12.1. Council organised events**

Council organised events and functions held during the election period will be reduced to only those recurring held annually at this time which are National or Statewide events, such as Seniors Week.

Any event held during the election period will:

- be required to demonstrate how it will be managed to avoid any perceived voter influence;
- not include any Council generated or sponsored publicity other to advertise the event using the following words  
(Event Name) is occurring on (Date) at (Venue)
- not include official speeches or formal opening from the Mayor or Councillor;
- not be attended by Councillors; and
- have all publicity and event plans approved by the Chief Executive Officer.

#### **12.2. Speeches and keynote addresses**

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

#### **12.3. 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 section 9 of this Policy.

### **13. Council resources**

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. 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 might be construed as being related to a candidate's election campaign, advice will be sought from the CEO.

#### **13.1. Councillor Requests**

Councillors may only make operational requests to the Chief Executive Officer, during the Election Period.

### **13.2. Councillor Correspondence**

General correspondence (including email) addressed to Councillors will be answered as usual.

However, Councillors will only respond to the necessary minimum correspondence during the election period and correspondence in respect to significant, sensitive or controversial matters should be responded to by the CEO, or their delegate.

### **13.3. Title of Councillor**

Councillors may continue to use the title 'Councillor' in their election material, as they hold that position during the election period. However, Councillors should ensure that any election material using the title clearly indicates that it is their own material and does not represent Council.

### **13.4. Use of Council facilities**

Council facilities that are normally available for public hire will be able to be hired by candidates (including councillor candidates) at the normal hire rate, terms and conditions of hire set for the facility.

No promotional material related to an election event, apart from simple directional signage, is to be displayed in the common public areas of a Council facility being hired.

### **13.5. Use of Council equipment and services by Councillors**

Councillors may continue to use any Council equipment and services provided to them to facilitate their performance of normal Council duties in line with the Councillor Expenses Policy.

Council-issued resources, including vehicles, hospitality services, mobile phones and numbers, laptops and council email addresses, computers or printers, are not to be used in connection with any election campaign.

Councillors should also be mindful to manage any perceived conflicts even where a direct expense isn't incurred, this may include for example:

- Where campaign-related emails are received in a Council email account, send any responses from a private email and encourage the correspondent to use that account in future.
- Where campaign-related calls are received on a Council device, provide and encourage the caller to use a non-council number for future calls.

**13.6. Reimbursement of expenses incurred by Councillors**

Reimbursement of expenses and costs incurred by Councillors during the election period must only relate to the conduct of normal Council duties and not electoral purposes.

**13.7. Council branding and stationery**

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

**13.8. Support to the Mayor, Deputy Mayor and Councillors**

No staff, including support staff for Councillors must be asked to undertake any tasks connected directly or indirectly with an election campaign.

**13.9. Councillor photographs**

Councillors are not permitted to use photos or images taken by, or provided by Council, for the purposes of their election campaign (including photographs appearing on Council websites).

**13.10. Council data**

Databases and mailing lists held by the organisation remain the property of the Council and are subject to the requirements of the Privacy and Data Protection Act 2014 and are not available to members of the public, candidates or to Councillors.

**14. Electoral signage on council-controlled land and property**

Candidates and their supporters are not permitted to affix, attach or place advertising signs/electoral material on Council-controlled land, assets or a Council road, in the lead up to, or during the election period.

**15. Equal access to information for Candidates**

The Council affirms that all candidates for the Council election will be treated equally and recognises candidates have certain rights to information relevant to their election campaigns from the Council administration subject to legislative constraints such as:

- Sections 123 of the Act which prohibit Councillor-candidates from misusing or inappropriately making use of their position; and
- the Privacy and Data Protection Act 2014.
- Councillors will continue to be provided with information to enable them to perform their current role and function as a Councillor.



- Beyond that, only information that is readily available to any member of the community will be provided to any candidate.

#### **15.1. Information Request Register**

An Information Register will be maintained by Council's Manager Governance during the Election Period to register and response to Candidate questions.

The Chief Executive Officer will sign off on all responses to Candidates.

This Register will be a public document located on Buloke Shire Council website in the section dedicated to Council elections. Candidates will receive email notification of responses to submitted questions.

#### **15.2. Information for candidates**

Council will make the following information available on its website for prospective candidates:

- Information about this Policy.
- Information about nominating as a candidate (with links to relevant sites).
- Key dates and activities, including dates of induction activity and briefing meetings post- election.
- Information about election campaign donation returns
- Any other relevant information.

#### **15.3. Staff as candidates**

A staff member is not prevented from nominating as a candidate at an election. Upon becoming a candidate in a Buloke Shire Council election, the staff member must:

- Inform the Chief Executive Officer
- Take leave from their duties at least for the duration of the election period in accordance with sections 34 and 256 the Act
- Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the election period
- If elected, immediately resign from their employed position at Council prior to taking the oath or affirmation of office, in accordance with sections 34 and 256 of the Act.

#### **15.4. Member of Council Delegated or Advisory Committees**

Upon becoming a candidate, any person who is a member of one of Council's Delegated Committees or other committees is expected to:

- Comply with this Policy

- Inform the Chief Executive Officer
- Take leave from the Delegated Committee or Advisory Committee
- Return any Council equipment, documents or information which is not available to the public for the duration of their candidacy and/or the election period, and
- If elected, immediately resign from the Delegated Committee or other committee.

#### **15.5. Election process enquiries**

All election process related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election Manager or, where the matter is outside the responsibilities of the Election Manager, to the Chief Executive Officer.

### **16. Suspension of matters during election period**

In accordance with the Act, any applications made, or internal arbitration processes or proceedings before a Councillor Conduct Panel or the Victorian Civil and Administrative Tribunal regarding the misconduct, serious misconduct or gross misconduct of a person who is a Councillor, must be suspended during the election period.

## **17. Breaches**

#### **17.1. Misuse of position**

Section 123 of the Act prohibits current or former Councillors or members of delegated committees from using their position to gain access to information or resources that would otherwise not be available. The Act specifies the following circumstances as a misuse of position:

- making improper use of information acquired as a result of the position he or she held or holds
- disclosing information that is confidential information within the meaning of section 3(1) of the Act
- directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff
- exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform
- using public funds or resources in a manner that is improper or unauthorised or
- participating in a decision on a matter in which the person has a conflict of interest.

A breach of section 123 of the Act attracts serious penalties, including possible imprisonment. Allegations of breaches of the Act are independently received and investigated by the Local Government Inspectorate.

#### **17.2. Prohibition on Councillor or member of Council staff**

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 result of an election under the Act.

In addition, section 304 of the Act 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.

### **17.3. Breach of this Policy**

Any breach of this Policy relating to staff conduct is to be referred to the CEO.

Allegations of breaches of this Policy by Councillors will be dealt with under the Dispute Resolution Procedures of the Councillor Code of Conduct. The Chief Executive Officer will take the place of the Mayor in managing complaints received under the Election Period Policy.

Complaints must be directed to the Chief Executive Officer in writing, providing details of the alleged contravention, when it occurred and who it involved. The Chief Executive Officer will assess the information and follow the provisions of the Dispute Resolution Procedures of the Councillor Code of Conduct.

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate at email address [inspectorate@lgi.vic.gov.au](mailto:inspectorate@lgi.vic.gov.au) or phone 1800 469 359.

## **18. By-elections**

This policy shall be observed during any by-election, except sections 7.1(a) to (d).

Other provisions of relevance to the municipality as a whole shall be limited in application to the ward in which the by-election applies to.

## **19. Administrative updates**

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively.

Examples include a change to the name of a Buloke Shire Council department, position titles, 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, any change or update which materially alters this document must be made with the approval of Chief Executive Officer or where required, resolution of Council.

## **20. Distribution of this Policy**

A copy of this policy must:

- (a) Be provided to each Councillor as soon as practicable after its adoption
- (b) be available for inspection by the public at Council's Wycheproof District Office; and
- (c) be published on the Council's internet website.

## **21. Monitoring, Evaluation and Review**

This Policy will be reviewed not later than 12 months before the commencement of each subsequent general election.

## **22. Human Rights Charter Compatibility**

This Policy has been assessed as being compatible with the Charter of Human Rights and Responsibilities Act 2006.

## **23. References**

Local Government Act 2020

Local Government Act 1989

Local Government (Electoral) Regulations 2020

Local Government (Governance and Integrity) Regulations 2020

Local Government Amendment (Governance and Integrity) Act 2024

Privacy and Data Protection Act 2014

Victorian Electoral Act 2002

Councillor Code of Conduct Councillor and Staff Interaction Policy

Community Engagement Policy

Councillor Expenses Policy