



MORNINGTON
PENINSULA
Shire

Election Period (Caretaker) Policy

Adopted by Council 23 June 2020

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1 INTRODUCTION AND PURPOSE

The role of a Councillor must be kept separate from the role that a person may take as a Candidate (or prospective Candidate) in an election. A Councillor must avoid any conflicts, or appearance of conflict between the two roles and endeavour to demonstrate they understand the separation between the two roles.

Section 60 of the Act requires the Mornington Peninsula Shire Council (Council) to develop, adopt and keep in force Governance Rules for or with respect to an election period policy in accordance with section 69. Section 69 of the Act requires Council to include an election period policy in its Governance Rules. The *Election Period (Caretaker) Policy* (Policy) and any Procedures developed pursuant to it (Procedures) have been developed in order to ensure that the general elections for the Council on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.

The Policy also facilitates the continuation of the ordinary business of local government in the Council throughout the Caretaker Period in a responsible and transparent manner, in accordance with statutory requirements and best practice.

2 DEFINITIONS

Act	Means the <i>Local Government Act 2020</i> .
Candidate	Means a person who has nominated as a candidate for an election under section 256 of the Act.
Caretaker Period	Has the same meaning as Election Period.
Certify	Means approval in writing by the Chief Executive Officer or Head of Governance and Legal that no Electoral Matter is contained in material for publication during the Caretaker Period.
Certified	
Certification	
Councillor Candidate Information Kit	Means the Councillor Candidate Information Kit provided by the Victorian Electoral Commission with additional information relating to the Council.
Councillor duties	Means those duties of the Councillor as detailed in the Act, including section 28 of the Act.
Election Period	Means the period that – a) Starts at the time that nominations close on nomination day (12 noon); and b) Ends at 6pm on election day
Electoral Material	Has the meaning in section 3(1) of the Act.
Electoral Matter	Has the meaning in section 3(4) of the Act.
Inappropriate Decision	Means a decision made by Council during the Caretaker Period that would affect voting in an election or any decision that could reasonably be made after the Election.
Information Request Register	The Information Request Register will be a public document that records all requests relating to Electoral Matters and non-routine requests for information by Councillors and Candidates, and the responses given to those requests.
Prohibited	Means a decision described in section 69(2) and (3) of the Act.

Decision

Publication Means any means of publication including letters and information on the internet.

Public Consultation Means a process that involves an invitation or invitations to individuals, groups or organisation or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.

Returning Officer Means the person appointed in writing by the Victorian Electoral Commission to conduct the election.

Significant Decision Means an irrevocable decision that significantly affects the municipality.

3 APPLICATION OF POLICY

This Policy applies to all Councillors and Officers during the Caretaker Period.

This Policy replaces and overrides any previous policy or document that refers to the Caretaker Period.

4 ROLE OF THE CHIEF EXECUTIVE OFFICER

The Chief Executive Officer has the following responsibilities in supporting the implementation and application of the Policy. In addition to the Chief Executive Officer's statutory responsibilities, the Chief Executive Officer will ensure as far as possible, that:

- a) All Councillors and Officers are informed of and supported in the application of this Policy 30 days prior to the commencement of the Caretaker Period;
- b) Matters of Council business requiring Prohibited Decisions or Significant Decisions are scheduled for Council to enable resolution prior to the commencement of the Caretaker Period or deferred where appropriate for determination by the incoming Council; and
- c) Not include in the order of business for any Ordinary Council, Special Council Meeting, Advisory Committee or Special Committee meeting scheduled during the Caretaker Period, any matter requiring Major Policy Decision or matters that could be considered as considering Inappropriate Decisions.

5 ROLE OF COUNCILLORS

During the Caretaker Period, Councillors:

- a) Be supported to continue to undertake their role as Councillor;
- b) Will continue to fulfil their Councillor duties (unless granted a leave of absence); and
- c) Will continue to engage, and communicate with, the community in their Councillor role.

During the Caretaker Period, the Council will not:

- a) Make a Prohibited Decision;
- b) Make a Significant Decision;
- c) Make an Inappropriate Decision; or
- d) Use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy.

6 DECISION MAKING

6.1 COUNCIL MEETINGS

Ordinary Council Meetings will continue to take place during the Caretaker Period. However, the following adjustments will be made to the Agenda:

- a) Public Question Time will be suspended;
- b) General Business and Notice of Motion will not be allowed where the matter is an Electoral Matter; and
- c) Councillors will limit their discussion during debate to the topic under consideration and will avoid raising Electoral Matter where possible.

6.2 OFFICER AND SPECIAL COMMITTEE DECISION MAKING

Council officers and Special Committees with delegated decision-making authority are not permitted to make a Prohibited Decision, Significant Decision or Inappropriate Decision during the Caretaker Period.

7 PUBLIC CONSULTATION

7.1 RIGHT TO POSTPONE

Some public consultation activities may be necessary during the Caretaker Period to facilitate the day to day business of Council.

Any such public consultations will avoid express or implicit links to the election or an Electoral Matter. Council will not continue or commence public consultation on any contentious or politically sensitive matter after the commencement of the Caretaker Period.

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the Caretaker Period, Council reserves the right to postpone a matter if the issue is likely to become an Electoral Matter.

The requirements of clause 7.1 do not apply to public consultation required under the *Planning and Environment Act 1987* or matters subject to section 223 of the *Local Government Act 1989*.

8 COUNCIL PUBLICATIONS

8.1 PROHIBITION ON PUBLISHING MATERIAL DURING THE CARETAKER PERIOD

Section 304 of the Act provides that a Councillor or member of Council staff must not use Council resources in a way that is intended to or is likely to affect the result of an election under the Act. It further provides that a Councillor or member of Council staff must not use resources to print, publish or distribute any Electoral Material. Accordingly the Chief Executive Officer or Head of Governance and Legal must certify prior to Council printing, publishing or distributing any advertisement, handbill, pamphlet or notice during the Election Period that the material does not contain any Electoral Matter, unless that material is only about the election process.

8.2 CERTIFICATION OF PUBLICATIONS

Publications to be printed, published or distributed during the Caretaker Period must first be Certified. Copies of all Certified documents will be retained on Council records.

Publications which require Certification include:

- Brochures, pamphlets, handbills, flyers, magazines and books;
- Reports (other than agenda papers and minutes);
- Advertisements, newsletters and notices except newspaper notices of meetings;
- New website material;
- Social media publications (which includes Facebook and Twitter posts);
- Emails with multiple addresses, used for broad communication with the community;
- Mass mail outs or identical letters sent to many people by or on behalf of Council;
- Media releases;
- Material to publicise a function or event; and
- Any publication or distribution of Councillors' speeches.

8.3 PROHIBITED MATERIAL

In accordance with section 3(5) of the Act, 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.

8.4 COUNCIL PUBLICATIONS INCLUDING COUNCILLOR INFORMATION

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during a Caretaker Period must not include promotional text.

8.5 WEBSITE

Material published on Council's website in advance of the Caretaker Period is not subject to Certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that could be considered Electoral Matter, were it to be published during the Caretaker Period.

Councillor contact information will remain available on the website during the Caretaker Period, but Councillors' profiles will be removed. Any material published on Council's website during the Caretaker Period must be Certified.

8.6 ANNUAL REPORT

Council is required by the Act to produce and put on public display a copy of its Annual Report. The 2019/2020 Annual Report will be published during the Caretaker Period. The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

The Annual Report does not require Certification, however any publication of an extract or summary of the Annual Report will require Certification.

8.7 COUNCIL AND COMMITTEE AGENDAS AND MINUTES

Agenda papers and minutes of Council and Committee meetings do not require Certification unless they are printed or published for a wider distribution than normal.

8.8 SOCIAL MEDIA

Any publication on social media sites including Facebook, Twitter, Instagram, blogs and Wikipedia pages during the election period must be Certified.

Staff responsible for administering individual social media sites will monitor their respective sites during the Caretaker Period and use moderation features where available to ensure no Electoral Matter is posted.

8.9 PHOTOGRAPHS AND IMAGES

Photographs and images paid for by Council or taken by Council officers are not to be used in electoral material for any Candidate. This includes images of Councillors, Council events and Council owned or maintained infrastructure.

9 COUNCIL RESOURCES

9.1 APPLICATION OF RESOURCES

Council resources, including officer vehicles, staff, hospitality, services, property, equipment and stationery must be used exclusively for normal Councillor duties during the Caretaker Period and must not be used in connection with any election campaign or issue.

9.2 ROLE OF MAYOR AND COUNCILLOR SUPPORT STAFF

Mayor and Councillor Support staff, Governance staff, or any other staff member, will not be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor or Candidate standing for election.

9.3 ROLE OF COMMUNICATIONS

Council's Communications team undertake the promotion of Council business, activities and initiatives.

During the election period this team's services must not be used in any way that might promote a Councillor as an election Candidate.

Council publicity during the election period will be restricted to communicating normal Council business, activities and initiatives and subject to Certification.

9.4 USE OF COUNCIL EQUIPMENT BY COUNCILLORS

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Councillor duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns. Specifically Council resources, including (but not limited to) offices, meeting rooms, support staff, hospitality services, photographs, equipment and stationery will be used exclusively for normal Council business during the Caretaker period, and will not be used in connection with any election campaign.

9.5 COUNCILLORS ENTITLEMENT TO REIMBURSEMENT

Reimbursements of Councillors' out-of-pocket expenses during the Caretaker Period will only apply to costs that have been incurred in the performance of normal Council business and in accordance with policy and not for expenses that support or are connected with a Candidate's election campaign.

9.6 COUNCIL BRANDING

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

9.7 CESSATION OF WARD SPECIFIC PUBLICATIONS

Ward-specific publications, or Councillor profiles and articles in the Council Newsletter, will be suspended during the Caretaker Period.

9.8 OFFICER'S DISCRETION

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. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the Chief Executive Officer or his/her delegate.

10 MEDIA SERVICES

10.1 MEDIA RELEASES /SPOKESPERSON

Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election Candidate. Where it is necessary to identify a spokesperson, the Chief Executive Officer or his/her delegate will be consulted.

Media releases will require Certification.

10.2 COUNCIL EMPLOYEES

During the Election Period no Council employee may make any public statement that relates to an Electoral Matter unless prior approval has been obtained by the Chief Executive Officer or his/her delegate.

11 ACCESS TO INFORMATION

11.1 CANDIDATES ACCESS TO INFORMATION

A Councillor may continue to access Council information only as it is necessary for them to perform their role as Councillor.

All election Candidates have equal rights to information relevant to their election campaigns from the Council administration.

Neither Councillors nor Candidates will receive information or advice from Council officers that may improperly advantage Candidates in the elections (which includes internal publications such as Councillor Communicator and the Long Range Agenda as it relates to meetings post-election date).

There will be complete transparency in the provision of all information and advice during the Caretaker Period.

11.2 INFORMATION REQUEST REGISTER

The Governance and Legal team will maintain an Information Request Register during the Caretaker Period.

12 ASSISTANCE TO CANDIDATES

12.1 ROLE OF RETURNING OFFICER

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 his/her delegate.

12.2 CANDIDATE INFORMATION

Council will provide Candidates with a Councillor Candidate Information Kit to assist them in running and nominating for Council.

Candidates will be informed of their obligation to complete a nomination form which will be available from the Returning Officer, accompanied by the nomination fee.

Candidates will also be reminded of their obligations under the *Electoral Act 2002*.