



**Governance Rules
Schedule 1**

Election Period Policy

**(Extract from the East Gippsland Shire Council
Governance Rules adopted on 25 August 2020)**

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Purpose

The *Local Government Act 2020* (2020 Act) requires Council to adopt Governance Rules (section 60) which incorporate an election period policy (section 69). The Governance Rules stipulate the requirements for an election period policy.

An election period policy will ensure the conduct of the Local Government election is open and fair to all candidates by setting out procedures and practices to be followed during the election period.

The Policy provides guidance to Councillors, Council staff and candidates in the lead up to a Council election, known as the election period, to ensure that the election process remains free from inappropriate electioneering by existing Councillors, and to safeguard the authority of the incoming Council.

The Governance Rules require an Election Period Policy to prohibit Councils from making major policy decisions, using Council resources or publishing and/or distributing electoral matter during an election period. These provisions are intended to assist Councillors and officers to continue to conduct ordinary matters of administration that need to be addressed in the lead up to an election, while maintaining public confidence in an unbiased election process.

East Gippsland Shire Council is committed to the principle of fair and democratic elections and has adopted the practices detailed within this policy to guide the conduct of Councillors and officers throughout the election process.

This policy applies during the election period (see Definitions for explanation) and covers:

- decisions made by Council, delegated committees, community asset committees, or Council delegates;
- requirements for a Councillor or member of Council staff that nominates as a candidate;
- any material that is published by East Gippsland Shire Council;
- attendance and participation in functions and events;
- use of Council resources;
- access to Council information; and
- media services.

This policy will affect you during the Election Period if you are:

- involved in making a major policy decision;
- involved in making a significant decision that may bind the incoming Council;
- intending to publish any written or electronic material that refers to a candidate (including any current Councillor or member of Council staff); or the Council election; or an issue before the voters in connection with the election; or could be seen to advantage or disadvantage any candidate for election.
- involved in the creation of any Council publication;
- involved in the planning and/or organisation of any public consultation process;
- involved in the planning and/or organisation of any public Council functions or events;
- asked to supply resources, support or information to Councillors;
- a Councillor who is standing for re-election.

Scope

This policy applies to all current Councillors, all candidates to the general election, the Chief Executive Officer and all Council officers.

Policy Statement

This Policy establishes a series of practices to ensure that actions of the current Council do not bind an incoming Council and limit its freedom of action.

The provisions operate during the election period, which commences at the close of nominations to be a candidate for the Local Government elections – 22 September 2020. The election period will conclude at 6.00 pm on election day.

1.0 Council Decisions

Council will not make any decision that significantly affects the municipality and will unreasonably bind the incoming Council. This includes decisions at Council meetings, decisions of delegated committees or decisions by Council officers as delegates.

Section 69 of the *Local Government Act 2020* requires an election period policy to prohibit a Council from making major policy decisions during the election period. Decisions made in contravention of the 2020 Act may be invalid (section 69(4)) and a person who suffers a loss or damage as a result of acting in good faith on a Council decision that is invalid may be entitled to compensation from the Council for the loss of damage (section 69(5)).

Council will not make major decisions during the election period relative to:

- the remuneration, appointment or dismissal of a Chief Executive Officer;
- entering into any contracts worth more than 1% of the Council's revenue from rates and charges levied under section 158 of the *Local Government Act 1989* in the previous financial year; and
- the exercise of any entrepreneurial power under section 193 of the *Local Government Act 1989* if the amount assessed under section 193(5A) of the *Local Government Act 1989* in respect of the proposal exceeds whichever is greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the *Local Government Act 1989* in the previous financial year.

Council will not make inappropriate decisions, that may affect voting in an election or could reasonably be made after the election.

During the election period Council will not make significant decisions, i.e. decisions that may:

- have a significant effect on the municipality or the community;
- commit the Council to substantial expenditure or major actions; and/or
- otherwise unreasonably bind the incoming Council.

Election Period Statement – Council Decisions

During the election period the Chief Executive Officer will ensure that an election period statement is included in every report submitted to a Council meeting for decision.

Council will not make a decision on any matter or report that does not include a statement. This will ensure that no agenda item is included that could potentially influence voters' intentions or encourage Councillor candidates to use the item as part of their electioneering campaign.

The election period statement will be one of the following:

- *The recommended decision is not a major policy decision, or a significant decision as defined by Council's Election Period Policy.*

or

- *The recommended decision is not a major policy decision as defined by Council's Election Period Policy. The recommended decision is a significant decision within the meaning of Council's Election Period Policy, but an exception should be made for the following reasons: [insert reasons].*

Examples of other decisions that should be avoided during the election period include, but are not limited to:

- allocation of community grants or other direct funding to community organisations;
- allocation of funds from the Capital Quick Response Fund;
- major planning scheme amendments; and
- changes to strategic objectives and strategies in the Council Plan.

2.0 Council Resources

It is an established democratic principle that public resources must not be used in a way that would influence the way people vote in elections.

It is also an offence under section 76D of the *Local Government Act 1989 Act* for a Councillor to misuse his or her position to gain or attempt to gain an advantage for themselves or others, or to cause or attempt to cause detriment to anyone. The penalty for misuse of position by a Councillor is 600 penalty units, or imprisonment for five years, or both.

While East Gippsland Shire Council is committed to this principle, it is also important that Councillors continue to have access to the resources they need to fulfil their elected roles until the end of their term of office.

The following arrangements will apply during the election period:

- 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.
- 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 any candidate's election campaign.
- Council logos, letterhead, or other Council branding must not be used for, or linked in any way to any candidate's election campaign.
- Council owned photographs/images will not be used for any candidate's electioneering purposes.
- Council staff will not be asked or permitted to undertake any tasks connected with any candidate's election campaign.

Where it is impractical for Councillors to discontinue their use of Council funded services/equipment (e.g. mobile phones, computers, vehicles, etc.) Councillors will reimburse East Gippsland Shire Council for any election campaign-related usage of these services during the election period. Councillors will keep logbooks for this purpose, and these will be provided, on request.

Councillors will not use their Council-supplied email account for election campaigning for themselves or any other candidate.

2.2 Travel/Accommodation and Professional Development

Councillors will not participate in any interstate or overseas travel during the election period in their capacity as a Councillor.

In circumstances where it is imperative that the Mayor (or nominee) represent the organisation on a delegation or in a forum, Council may, by resolution, approve such attendance. If consideration by Council is impractical, the Chief Executive Officer may determine the issue.

Allocations of budget for Councillor seminars/training and attendance at events directly relevant to their work as a Councillor will be allocated on a pro-rata basis between the commencement of the relevant financial year and the election date. This will ensure incoming Councillors receive a fair allocation of the budget allocated for this purpose.

No new professional development opportunities will be undertaken or commenced by Councillors during the election period.

2.3 Councillor Expenditure

Claims for the reimbursement of expenses may continue to be lodged by Councillors, provided it conforms to the requirements set out in the Councillors Support and Expenses Policy and this Policy.

3.0 Council Communications and Publicity

Council communications are a legitimate way to promote Council activities and services. It is important that all Councillors have access to the Council's communication resources to enable them to fulfil their roles. However, they will not be developed or used in any way that might influence the outcome of a Council election.

Council will not release pamphlets, notices, advertisements etc. without a written declaration being included from the Chief Executive Officer certifying that the item does not contain electioneering material.

In respect of print and electronic media, during the defined election period:

- Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer. Only the Chief Executive Officer can certify items do not contain electioneering material.

No publication or communication during the election period may be printed, published or distributed unless the following certification – over the Chief Executive Officer’s signature – has been applied to the material:

Certified by the Chief Executive Officer that this document does not contain electioneering material.

Although the certification does not need to be printed on published versions, copies of all certifications and certified material must be retained on Council records.

Any publications that cannot be scheduled for before or after the election period, whether by Council or anyone acting on behalf of Council, must be certified by the Chief Executive Officer as not containing electoral material – this includes bulk letters/emails and newsletters issued during the election period.

The following outlines the approaches that will be taken for specific communication and publicity activities:

- Council publicity and communications will be restricted to promoting normal Council activities and services, and for informing residents about the conduct of the election.
- General correspondence addressed to Councillors will be managed in accordance with normal protocols. However, Councillors will sign only the necessary minimum of correspondence during the election period, and correspondence regarding significant, sensitive or controversial matters should be signed by the Chief Executive Officer. Responses will be prepared without political bias.
- Media releases will not mention or quote any Councillor(s) during the election period.
- No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- 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 any candidate’s election campaign.
- Council is required by the *Local Government Act 1989* to produce an Annual Report, which will be published during the election period. The Annual Report does not require certification. However, it will not contain any material that could be regarded as electioneering or promotion of individual Councillors. Councillor images will be kept to a minimum, and achievements of individual Councillors will not be included. A Council meeting will be conducted at an appropriate time during the election period to finalise the Annual Report process in accordance with the provisions of the *Local Government Act 1989*.

3.1 Social Media and Website

Council’s website and social media sites such as Facebook, Twitter, YouTube, Linked In and blogs may continue to be a corporate voice for Council, and will not be used for any electioneering purposes by Councillors or Council officers.

Councillor profiles on the Council website will be limited to a name, portfolio title and contact details. Photographs and profiles will be removed.

Individual Councillors and/or achievements, or any material considered campaign material, will not be published on any of Council's websites.

A statement will be posted on Council website and in all social media channels informing the general public that a notice/comment posted during the election period cannot be responded to, or published, should the post be political in nature.

Council's social media sites will be monitored for electioneering material and any inappropriate posts will be removed as soon as practicable.

No new pages, documents or posts will be uploaded to any East Gippsland Shire Council social media platform during the election period without prior written certification by the Chief Executive Officer.

3.2 Functions and Events / Speeches

Wherever practicable, civic events and functions will not be conducted during the election period.

Where this is not possible, during the election period these will relate only to legitimate Council business and will not be used, or be capable of being seen as being used, to promote the campaign of any candidate.

All speeches prepared for use at events or functions will be reviewed by the Manager Customer Experience and Communication or another officer nominated by the Chief Executive Officer, to ensure the content does not breach this Policy.

Where required and consistent with normal practice, a Councillor may make a speech during an event or function. However, the speech must be approved by the Chief Executive Officer in advance and delivered as written. Speeches will not have any political reference that may be construed as providing any candidate with an advantage.

Council officers may conduct the mandatory candidate training as prescribed in regulation or assist with Council election information sessions.

3.3 Provision of Information

Council recognises that all election candidates have certain rights to information from the Council administration subject to the *Privacy and Data Protection Act 2014 (Vic)* which restricts disclosure of certain information.

It is important that current Councillors continue to receive information that is necessary to fulfil their roles. However, Councillors must not request or receive information or advice from Council officers to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.

Request for Information Register

During the election period a Request for Information Register will be maintained by the Chief Executive Officer. This register will be available for inspection by the public and will record all requests relating to electoral matters, and non-routine requests for information by Councillors and election candidates, as well as the responses provided.

3.4 Advice to Candidates

All candidates for the Council election will be treated equally. Any advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

All election related enquiries from candidates, whether current Councillors or not, will be directed to the Victorian Electoral Commission Election Managers, or where the matter is outside the responsibilities of the Election Managers, to the Chief Executive Officer or General Manager Business Excellence (or nominee).

4.0 Community Engagement

For the purposes of this Policy, public engagement is any process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy. It includes discussion of those matters with members of the public.

Wherever possible, public consultations will be avoided during the election period.

Where public consultation during the election period is essential to maintain the normal day to day business of Council, it may be undertaken only with prior written approval by the responsible General Manager.

The community engagement website <http://yoursay.eastgippsland.vic.gov.au/your-say> will be disabled for the duration of the election period.

Facilitators of any consultation held during the election period must be able to justify to the community the special circumstances making the session necessary and how the risks of influencing the election will be mitigated or prevented to avoid potential electioneering.

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right to postpone a matter if the issue is likely to affect voting. Council will not continue or commence consultation on any contentious or politically sensitive matter during the election period.

No Council advisory board or committee meetings will be held during the election period unless exceptional circumstances apply, and the Chief Executive Officer has approved the meeting.

5.0 Council Spokesperson

In the event that a spokesperson is required in relation to any publication or communication, the Chief Executive Officer will fulfil that role or nominate an appropriate officer to act as spokesperson.

Council employees must not make any public statement that could be construed as influencing the election. Statements of clarification may be required from time to time and these are to be approved by the Chief Executive Officer.

NOTE: The Policy is not intended as a substitute for legal advice and individuals should seek their own independent advice if they are unsure about any aspect of the Local Government Acts 1989 and 2020, associated regulations, Governance Rules and this policy in relation to the election period.

Roles and Responsibilities

These management positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure that scheduling of significant policy or strategy decisions is made well in advance of the election period or deferred for consideration by the incoming Council. Certify that any published material does not contain electoral matter. Ensure the Election Period Statement is included on Council Reports where applicable.
General Manager Business Excellence	Policy owner. Ensure all Councillors and staff are informed of the requirements of this policy. Provide advice and guidance on the implementation of the policy. Ensure that a copy of this policy is given to each Councillor as soon as practicable after it is adopted; available for inspection by the public at all Council Service Centres; and published on Council's website.
Responsible General Managers	Approve in writing, any public consultation that is considered essential to maintain the normal day to day business of Council and must be conducted during the election period.
Manager Customer Experience and Communications	Review all speeches to be delivered by Councillors at Council approved events during the election period. Implement an appropriate process to ensure that no material is published without Chief Executive Officer certification.
Executive Leadership Team	Provide support and guidance to staff with implementing this policy.
Manager Governance	Maintain the Request for Information Register and ensure it is available for public inspection on request.
Governance and Compliance Unit	Assist with any day to day queries with respect to the implementation of this policy.
All Councillors and staff	Adhere to the guiding principles as outlined in this policy.

All staff have an obligation to report occurrences of non-compliance with Council policy. Incidents of non-compliance should be reported immediately to the General Manager Business Excellence or the Governance and Compliance Unit.

Where non-compliance has been identified the matter will be investigated by internal review and where applicable further action taken in accordance with Council's Disciplinary Procedures Policy.

References and Supporting Documents

Applicable Legislation:

- *Local Government Act 2020*
- *Local Government Act 1989*

Other:

- Councillor Code of Conduct
- Councillors Support and Expenses Policy
- East Gippsland Shire Council Staff Code of Conduct

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with this policy will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of compliance with the Act. Personal information about an individual held by Council must only be used to carry out the primary or directly related purpose of collection. Furthermore, Council must not collect personal information unless the information is necessary for one or more of its functions.

Individuals have the right to make a complaint to the Victorian Commissioner for Privacy and Data Protection if they believe their privacy has been breached.

The Election Period Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of the *Human Rights Responsibilities Act 2006*.

Definitions

Term	Meaning / Responsibility
<i>Certification by Chief Executive Officer</i>	The certification by the Chief Executive Officer that material for publication or distribution does not contain electoral matter.
<i>Council Officers</i>	East Gippsland Shire Council staff
<i>Election period</i>	As defined in the Act, commences at the time nominations close on nomination day and ends at 6.00 pm on election day.
<i>Election period statement</i>	Statement published on all reports submitted to a Council meeting for decision by the Chief Executive Officer.
<i>Electoral material</i>	Defined in the Act means an 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. It includes any matter that is intended or likely to affect voting in the election.
<i>Inappropriate decision</i>	A decision made by a Council during an election period including any of the following— (a) decisions that would affect voting in an election; (b) decisions that could reasonably be made after the election.
<i>Major decision</i>	Means decisions that relate to: <ul style="list-style-type: none"> • the appointment or remuneration of the Chief Executive Officer; or • committing the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or • matters that could reasonably be deferred until the next Council is in place; or • the Council considers should not be made during an election period.

<i>Publication</i>	A broad interpretation should be used to include all documents that are produced for the purpose of communicating with people in the community, including newsletters, advertisements and notices, media releases, leaflets and brochures, emails and mailouts to multiple addresses, electronic information and web based productions including Council's website and social media pages.
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Term	Meaning / Responsibility
<i>Publish</i>	Means publish by any means including by publication on the internet.
<i>Significant decisions</i>	Include irrevocable decisions that commit the council to substantial expenditure or major actions, or decisions that will have a major impact on the municipality or the community and will unreasonably bind the incoming Council.
<i>The Policy</i>	Election Period Policy

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	07/08/2012	Council	4897306	
2	Approved	09/04/2013	Council	5167063	Redraft into new template format
3	Approved	01/03/2016	Council	6647876	Merge Policy and Procedure into one Policy document
4	Approved	21/11/2017	Council	7336118	Amended to make dates/times/content generic rather than specific to the timeframes of the previous election
5	Approved	18/02/2020	Council	8326083	Redraft into new template format, update position titles
6	Approved	25/08/2020	Council	8618748	Updated in line with the <i>Local Government Act 2020</i> for adoption by 1 September 2020.