HOBSONS BAY CITY COUNCIL

Hobsons Bay

Election Period Policy

2023 Version 4.0

Acknowledgment of Country

Council acknowledges the Bunurong People of the Kulin Nation as the Traditional Owners of these municipal lands and waterways, and pay our respects to Elders past, present and emerging.

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1. Purpose

The Election Period Policy ensures that during an election period for general council elections or any by-elections for Hobsons Bay City Council, the ordinary business of Council continues in a manner that:

- is responsible and transparent
- is ethical
- is fair and equitable
- accords with statutory requirements and established caretaker conventions

Election period provisions are intended to ensure that councils and Councillors will not use public resources in election campaigning or make major policy decisions that may bind the incoming Council.

The policy builds on the minimum statutory standards to enhance the transparency and accountability of Council, Councillors and Council staff during the election period.

Additionally, the policy addresses Councillors and staff standing as candidates in Council, state or federal elections.

2. Background

Section 69 of the *Local Government Act* 2020 (the Act) requires Council to include an Election Period Policy in its Governance Rules. An Election Period Policy must prohibit any Council decision during the election period for a general election that:

(a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Office 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

An Election Period Policy must also “prohibit any Council decision during the election period for a general election or by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence voting at the election” (section 69 (3) of the Act).

Bearing in mind the provisions of section 69 (3), Council will continue, through the use of previously appointed Panels, to undertake its approved program of capital works and road maintenance/rehabilitation during the election period, where it believes that works are expected by and for the benefit of the Hobsons Bay community and not likely to influence voting at the election.

Section 123 of the Act (Misuse of Position) prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in their role, to gain an advantage, or disadvantage another.

These statutory requirements are minimum governance standards only. This policy, to be read in conjunction with the Councillor Code of Conduct and Employee Code of Conduct, further defines the expectations on Council, Councillors and Council staff during the period prior to the conduct of Council elections. The Election Period Policy also expands

on the list of matters Council will treat as prohibited decisions and provides a process for dealing with them.

3. Scope

This policy applies to all Council staff, Councillors and candidates during an election period.

In accordance with the definition of “election period” in the Act, the election period starts at the time that nominations for the election of Council close on nomination day, and ends at 6pm on Election Day.

3.1. Council staff

Council staff are expected to comply with this policy and with the Employee Code of Conduct during an election period. The Code of Conduct states that “a conflict of interest exists where an employee’s public duty conflicts, or may be perceived to conflict, with their personal or political interests”. The provision of support to a candidate at an election for Hobsons Bay City Council would constitute a conflict of interest under this policy and is therefore prohibited.

Such support includes, but is not limited to:

- providing advice to a candidate
- distributing or preparing campaign material
- fundraising
- making a cash or in kind campaign donation
- permitting or placing electoral signage on their property

A member of Council staff may not support or participate in any campaign activity for any candidate standing for election at an election for Hobsons Bay City Council.

The Employee Code of Conduct does not limit the ability of a member of Council staff to support the candidacy of a person in a different municipal election or in state or federal elections. However, any member of Council staff who intends to support a candidate in any election must seek advice from the Manager Corporate Integrity and Legal Counsel with respect to appropriately managing any possible real or perceived conflicts of interest.

3.2. Councillors

Councillors are expected to comply with this policy regardless of whether they have nominated as candidates for election.

3.3. Candidates for election

3.3.1. Members of Council staff standing for election

Members of Council staff who are candidates for election are expected to comply with this policy, including the specific provisions listed under section 16.

3.3.2. Members of Council committees and advisory groups standing for election

Members of Council committees and advisory groups (other than Councillors) who are candidates for election are expected to comply with this policy, including the specific provisions listed under section 17.

3.3.3. Other candidates

Other candidates for election are expected to voluntarily comply with the obligations of this policy where they apply.

4. Definitions

Candidate	means a person: 1. who has been nominated as a candidate for an election under section 256 of the Act 2. who has either or both: (a) publicly expressed an intention to run as a candidate in the election (b) formally nominated as a candidate in the election with the election manager
Chief Executive Officer	means the member of Council staff appointed to be its Chief Executive Officer, and includes a person acting as Chief Executive Officer
Council	means Hobsons Bay City Council
Councillor candidate	means a current Councillor who has nominated, or is considering nominating, for election in a general council election or by-election
Council resources	includes but is not limited to Council staff, support staff, office space, hospitality services, equipment, stationery and use of Council-owned vehicles
Council staff	means any employee of Council whether permanent, temporary or casual, and includes contractors and volunteers carrying out work for or on behalf of Council
Electioneering	means any action, statement or publication that contains material directly related to, or likely to influence, a Councillor's re-election or a candidate's election

Election day	means the day of an election determined under section 257 or 260 of the Act
Election manager	means the Victorian Electoral Commission or the person appointed in writing by the Victorian Electoral Commission
Electoral material	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
Electoral matter	means 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. Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on: 1. The election 2. A candidate in the election 3. An issue submitted to, or otherwise before, the voters in connection with the election Examples of electoral matter include material which: • publicises the strengths or weaknesses of a candidate • advocates the policies of Council or of a candidate • responds to claims made by a candidate • publicises the achievements of the elected Council
Election period	means the period that starts at the time that nominations close on nomination day and ends at 6pm on election day
Functions and events	means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to Council and its community. Functions and events may

	take the form of conferences, workshops, forums, launches, promotional activities and social occasions such as dinners, receptions and balls For the purposes of this policy, the meaning of "functions and events" does not include routine events and programs conducted as part of Council's day-to-day activities (e.g. immunisation sessions, gallery exhibitions, library programs).
General election	in accordance with section 257 of the Act, means an election which is to be conducted in each ward of a Council, for all the offices of Councillor.
Nomination day	means the last day on which nominations to be a candidate at a Council election may be received
Prohibited decision	means any Council decision, including decisions by delegated committees or members of Council staff acting under a delegation given by Council, during an election period for a general election that: (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer (b) commits Council to expenditure exceeding 1% of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year (c) Council considers could be reasonably deferred until the next Council is in place (d) Council considers should not be made during an election period Additionally, section 69 (3) of the Act requires Council to prohibit any decision that would enable the use of Council resources that is intended to or would likely influence voting at the election.
Publication	means a published work in any form, including printed material, electronic information and web-based productions, or the act or process of publishing
Publish	means publish by any means including publication on the Internet

Public consultation	means a process that involves an invitation or invitations to individuals, groups or organisations, or the community generally, to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public
Significant decisions	means any Council decision, including decisions by delegated committees or members of Council staff acting under a delegation given by Council, during an election period for a general election that: 1. May irrevocably commit the incoming Council to substantial expenditure or to other significant actions 2. May have an irrevocable or significant impact on the municipality or a significant section of the community

5. Election Period

The election period for the 2024 general council elections will apply from 24 September 2024 until 6pm on Election Day (26 October 2024), inclusive.

6. Policy and principles

During an election period for a general council election, or longer if so resolved by Council, this policy covers:

(a) Decisions made by Council, a delegated committee or a person acting under delegation by Council

(b) Any material that is published by Council or on Council's behalf

(c) Public consultation activities

(d) Scheduling, attendance and participation in functions and events

(e) The use of Council resources

(f) Access to Council information

(g) Media services

This policy additionally covers provisions relating to Councillors and staff standing as candidates in Council, state or federal elections.

Any such decisions or actions, if allowed at all, must only be made or taken subject to the guidelines set out in this policy.

7. Procedural guidelines

This policy must be complied with during an election period, or longer if resolved by Council. If:

- a decision of Council, a delegated committee of Council, or a person acting under delegation given by Council is being considered **Refer to Section 8**
- a decision that may bind the incoming Council is being considered **Refer to Section 8**
- written material is about to be published which contains reference to: **Refer to Section 9**
  1. A candidate (including sitting Councillors)
  2. The election
  3. An issue before the voters in connection with the election
- a Council publication is being created **Refer to Section 9**
- a public consultation process is being considered **Refer to Section 10**
- a sitting Councillor is planning to attend a function or event **Refer to Section 11**
- Council staff supply administrative or resource support to Councillors **Refer to Section 12**
- a Councillor requests access to Council information **Refer to Section 13**
- a sitting Councillor requests media advice or services **Refer to Section 14**
- election signage is to be placed on private or public land or affixed to a vehicle, trailer, bicycle, pram or similar **Refer to Section 15**
- a Council staff member is considering standing for election as a Councillor **Refer to Section 16**
- a member of a Council committee or advisory group is considering standing for election as a Councillor **Refer to Section 17**
- a Councillor or a Council staff member is considering standing for election in a state or federal government election **Refer to Section 19**

8. Decisions during the election period

8.1. Who does this part of the policy apply to?

This section of the Election Period Policy applies to decisions made by Council, a delegated committee of Council, or a person acting under delegation given by Council or sub-delegation from the Chief Executive Officer.

8.2. Decisions made under delegation

The prohibitions outlined in this section apply equally to decisions made by delegated committees and Council staff acting under delegation from Council or sub-delegation from the Chief Executive Officer. The ordinary day-to-day business of local government must continue throughout the election period, and must be conducted by Council, its delegates and staff in a responsible and transparent manner in accordance with statutory requirements.

Significant decision-making power is formally delegated to staff and the decision of a delegate is deemed to be a decision by Council. The same constraints that apply to decisions made in Council meetings therefore apply when decisions are made under the delegated authority of Council.

Delegates should give careful consideration to the exercising of their powers during the election period, including:

- whether the decision is significant
- whether the decision is urgent or can be deferred until the election period has concluded
- the possibility of financial repercussions if it is deferred
- whether the decision is likely to be controversial
- whether the decision is in the best interests of Council and the community

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.

Should a delegate require assistance in determining whether a decision is likely to be prohibited in the context of the Act or significant within the meaning of this policy, they should seek advice from the Manager Corporate Integrity and Legal Counsel in the first instance.

8.3. Scheduling consideration of decisions

In accordance with section 69 (2) (c) and section 69 (3) of the Act, Council must not make any decision during an election period for a general election or by-election that:

- could reasonably be deferred until the next Council is in place
- would enable the use of Council resources in a way intended or likely to influence voting at the election

Decisions should instead be either:

1. Considered by Council prior to the election period
2. Scheduled for determination by the incoming Council

Where items must be resolved by Council or a delegated committee during the election period, all agenda papers prepared for Council or delegated committee meetings will be carefully vetted by the Chief Executive Officer to ensure that no agenda item is included that could potentially influence voters at the election or encourage Councillor candidates to use the item as part of their electioneering. All items listed on an agenda during an election period will be prefaced with an election period statement in accordance with section 8.8 of this policy.

The requirements above do not preclude the implementation of a decision made by Council through a Council resolution prior to the commencement of the election period.

Councillors commit to refraining from moving motions or raising matters at a meeting that could potentially influence voting at the election. This extends to matters raised as urgent business during a meeting.

8.4. Prohibited decisions during the election period

If a decision cannot be scheduled prior to or after the election period, refer to the list below to determine whether it is affected by this policy. If it is unclear whether a decision falls within the list below, contact the Manager Corporate Integrity and Legal Counsel, Coordinator Governance and Information Management, Director Corporate Services or Chief Executive Officer.

Under section 177 of the Act, an exemption from the Minister for Local Government may be sought for a decision that is prohibited under section 69 of the Act, if Council considers that extraordinary circumstances exist which require such a decision. The matter must first be approved by the Chief Executive Officer and a Council resolution made to seek ministerial exemption.

Proposed decision	**Is it allowed?**	**Source**
Employment or remuneration of a Chief Executive Officer under section 44, other than a decision to appoint an Acting Chief Executive Officer	No	Prohibited under section 69 (2) (a) of the Act
Committing Council to expenditure which exceeds 1% of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year (estimated at $1.118 million)	No	Prohibited by section 69 (2) (b) of the Act
Allocating community grants or other forms of direct funding for community organisations	No	Significant decision within the scope of this policy
Major planning scheme amendments	Generally no and only with approval from Chief Executive Officer	Significant decision within the scope of this policy
Changes to strategic objectives or strategies in the Council Plan	No	Significant decision within the scope of this policy
An irrevocable decision that significantly affects the municipality	Generally no and only with approval from Chief Executive Officer	Significant decision within the scope of this policy

Proposed decision	Is it allowed?	Source
Adoption of any new policy, strategy or local law during an election period	No	Significant decision within the scope of this policy
Any other significant decisions not specified above which will bind the incoming Council	Only with approval from Chief Executive Officer	Significant decision within the scope of this policy

8.5. Invalid decisions

A Council decision made in contravention of 69 (2) (a) or (b) of the Act is invalid in accordance with section 69 (4) of the Act.

8.6. Compensation

In accordance with section 69 (5) of the Act, any person who suffers any loss or damage as a result of acting in good faith on a Council decision made during an election period that is invalid is entitled to compensation from Council for that loss or damage.

8.7. Considerations for the Chief Executive Officer in giving approval

In the case of a decision referred to the Chief Executive Officer which is not expressly prohibited under section 69 of the Act, in deciding whether to give approval, the Chief Executive Officer will need to have regard to a number of factors including:

(a) Whether the decision is indeed significant

(b) The urgency of the issue (that is, can it wait until after the election)

(c) The possibility of financial or legal repercussions if it is deferred

(d) Whether the decision would require the spending of unbudgeted monies

(e) Relevant statutory obligations and timeframes

(f) Whether the decision is in respect of the completion of an activity already commenced and endorsed by the incumbent Council

(g) Whether the decision is likely to be controversial or affect voting in the election

(h) Whether the disadvantage of avoiding or deferring the decision exceeds the benefit of making the decision

(i) The best interests of Council and the community

8.8. Election period statement

During the election period, the Chief Executive Officer will ensure that an election period statement is included for every item listed on an agenda to be submitted to Council for a decision during the election period, including notices of motion. The election period statement will appear at the start of each item listed on the agenda and will take the following form:

"This report is being considered by Council during an election period. The recommendations, if moved and carried by Council: *[select statement (a), (b), (c) or (d) as appropriate]*

(a) Constitute neither prohibited decisions in accordance with section 69 (2) and (3) of the *Local Government Act* 2020, nor significant decisions within the meaning of Council's Election Period Policy

(b) Do not constitute a prohibited decision in accordance with section 69 (2) and (3) of the *Local Government Act* 2020, but do constitute a significant decision within the meaning of Council's Election Period Policy. An exception is required for the following reasons: *[insert reasons for exemption]*

(c) Seek an exemption from the Minister for Local Government because the matter requires a prohibited decision within the meaning of section 69 (2) and 69 (3) of the *Local Government Act* 2020

(d) Constitute a prohibited decision within the meaning of section 69 (2) or 69 (3) of the *Local Government Act* 2020, but compliance exemption was sought from the Minister for Local Government in accordance with section 177 of the Act and was granted on *[insert date]*.

Councillors are reminded that, under the Hobsons Bay Election Period Policy 2023, they cannot make a decision during the election period that would be binding on the incoming Council.

Councillors are also not permitted to use the public forum provided by the Council Meeting for purposes of campaigning, or to use their position to gain electoral advantage or to disadvantage another candidate."

If statement (a) is selected, the recommendation must include: "That Council notes that the recommended decisions constitute neither a prohibited decision in accordance with section 69(2) and section 69(3) of the *Local Government Act* 2020, nor significant decisions within the meaning of Council's Election Period Policy."

If statement (b) is selected, the recommendation must include: "That Council notes that the recommended decisions constitute a significant decision within the meaning of Council's Election Period Policy, but do not constitute a prohibited decision in accordance with section 69(2) and 69(3) of the *Local Government Act* 2020, and further notes that an exception is required for the following reasons: *[insert reasons for exemption]*"

If statement (c) is selected, the recommendation must include: "That Council seeks an exemption from the Minister because the matter requires a prohibited decision within the meaning of section 69 (2) and (3) of the *Local Government Act* 2020."

If statement (d) is selected, the recommendation must include: "That Council notes that despite the recommended decision constituting a prohibited decision in accordance with section 69 (2) or 69 (3) of the *Local Government Act* 2020, compliance exemption has been sought from the Minister in accordance with section 177 of the Act and Council's prior resolution on *[insert date of Council resolution to seek exemption]* and was granted on *[insert date exemption granted]*."

Due to the election period, Council will not make a decision on any matter or report that does not include an election period statement.

8.9. Announcement of decisions made prior to the election period

To avoid doubt, the policy applies only to the actual making of decisions, not the announcement of decisions which have been made prior to the election period. However, as far as practicable such announcements should be made before the election period begins.

9. Council publications during the election period

9.1. Prohibition on publishing materials during the election period

It is prohibited under section 304 of the Act for a Councillor or member of Council staff to:

(a) Print, publish or distribute or

(b) 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, 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.

Any publications to be issued during the election period are to be approved by the relevant Director and then sent to the Governance unit for vetting for electoral matter. Once vetted, the publication will then be submitted to the Chief Executive Officer for approval.

Councillors can publish campaign material on their own behalf but must assume responsibility for compliance with the relevant sections of the Act and cannot purport for that material to be originating from, or authorised by Hobsons Bay City Council (e.g. by use of Council logos).

The Chief Executive Officer will ensure that information is provided to Councillors, Council staff and contractors prior to the election period to preclude unauthorised publication of materials during an election period.

9.2. Considerations of Chief Executive Officer in granting approval

Except as described more specifically elsewhere in this policy, in considering whether to grant approval for the publication of material during the election period, the Chief Executive Officer:

(a) Must not permit any materials to be published which include reference to:

- a candidate in the election
- a current Councillor
- the strengths or weaknesses of a candidate
- response to claims made by a candidate
- advocacy for, or criticism of, the policies of Council or of a candidate
- publicity for the achievements of the incumbent Council
- an issue before the voters in connection with the election

(b) May approve publication of material which only contains:

- information about the election process itself

- Council information that does not include any reference to a current Councillor and is otherwise not precluded by this policy

9.3. Hobsons Bay City Council websites

During the election period Council websites will not contain material precluded by this policy. Any references to the election will only relate to the election process. Information about Councillors will be restricted to names, portrait photographs, ward profile and contact details. Links to Councillors' private social media profiles will be removed during the election period.

9.4. Publication of Council agenda papers and minutes

Council agenda papers and minutes are considered to be part of normal Council business and do not require approval by the Chief Executive Officer.

Public Question Time will continue to be listed on the Council meeting agenda during a general election period, but questions will not be read out during the Council meeting and responses will be provided in writing.

9.5. Social media

The Chief Executive Officer will determine whether for the duration of the election period Council's social media channels will continue or be suspended. In the event that social media use continues, the Chief Executive Officer will determine the processes and resourcing necessary to moderate social media in accordance with this policy.

9.6. Email usage

The Chief Executive Officer will ensure that information is provided to Councillors, Council staff and contractors prior to the election period to preclude unauthorised distribution of materials via the Council email system during an election period.

The Chief Executive Officer will advise that all email communication during the election period that relates to the election must only contain information about the election process or information required in accordance with, or under, any Act or regulation. Any publications to be distributed via email during the election period are to be authorised by the Chief Executive Officer as required by section 9.1 of this policy.

9.7. Annual Report

Due to the publication date of the 2023-24 Annual Report occurring during the election period, it is affected by the legislative restrictions on publications. Information about Councillors will be restricted to what is required by the Local Government (Planning and Reporting) Regulations 2020 and membership of delegated committees and other bodies to which they have been appointed by Council.

Any publication of an extract or summary of the Annual Report should not contain information that could be considered electoral matter. Despite publication of the Annual Report during the election period, it is deemed appropriate that the Mayoral Message be included in the Annual Report for the preceding financial year.

9.8. Council publications

Any Council publication which is potentially affected by this policy will be reviewed by the Manager Corporate Integrity and Legal Counsel, the Director Corporate Services or the Chief Executive Officer to ensure that any circulated, displayed or otherwise publicly available material during the election period does not contain material that may be construed as electoral matter.

Any increase in the publication or distribution of a Council publication must be approved by the Chief Executive Officer.

9.9. Council noticeboards and buildings

During the election period Council noticeboards and buildings will only be used for display of material that contains:

(a) Information about the election process itself

(b) Information that would not reasonably be considered to be electoral matter

10. Public consultation during the election period

10.1. Prohibition

It is prohibited under this policy for public consultation (whether new consultation or existing) on a Council issue to be undertaken during the election period unless prior approval is given by Council or the Chief Executive Officer.

The requirements of this section 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.

Where public consultation occurred prior to the election period but a report has not yet been submitted to Council or a delegated committee for consideration, the results of the consultation will not be reported to Council or a delegated committee until the election period has concluded.

10.2. Approval for public consultations

Due to the prohibition in section 10.1, Council will not commission or approve any public consultation that is likely to run into the election period unless prior approval is given by Council or the Chief Executive Officer.

Where public consultation is approved to occur during the election period:

- public consultation materials will be vetted for electoral matter and express or implicit links to the election
- the results of that consultation will not be reported to Council until after the election period, except where approved by the Chief Executive Officer

10.3. Postponing consultation

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 where possible and practicable to postpone public consultation and any associated decisions where the matter is likely to affect voting in the election.

11. Attendance at functions and events during the election period

11.1. Public events staged by external bodies

Councillors, including those intending to run as a candidate at a state or federal election, may continue to attend events and functions during the election period. As a rule, any such attendance will not be represented as acting in an official capacity on behalf of Hobsons Bay City Council.

11.2. Council events and functions

Only Council organised events and functions that are essential to the operation of Council will be held during the election period.

This may be varied by a Council resolution or where prior approval has been given by the Chief Executive Officer.

Where Council organised events and functions are held during the election period, Councillors and candidates, including members of Council staff standing for election, must not use the forum for campaigning and must not distribute electoral matter.

11.3. Speeches and keynote addresses

Councillors should not act in an official capacity, including giving public speeches or addresses at Council organised or sponsored events and functions, during the election period.

11.4. Recording attendance at external meetings and functions

The presence of Councillors at external meetings and functions may be recorded in attendance records, except where this record of attendance is in conjunction with information and or promotional material (i.e. text or images) that may be considered as electoral matter.

11.5. 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.

11.6. Council and community committees

Meetings of Council's advisory groups, community working groups and committees will not be held during the election period.

12. Council resources

Council will ensure that due propriety is observed in the use of all Council resources during the election period, and Council staff are required to exercise appropriate discretion in that regard.

Council staff should avoid assisting Councillors and members of Council staff or members of Council committees and advisory groups who are standing for election 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 must be sought from the Manager Corporate Integrity and Legal Counsel, the Director Corporate Services or the Chief Executive Officer.

12.1.Council resources

Council resources should be used exclusively for normal Council business during the election period, and must not be used in connection with a candidate's election campaign.

A Councillor must not use Council resources in connection with, or in any way that may be perceived as in connection with, an election campaign. This applies to a Councillor standing in council, state or federal government elections. Such use would constitute misuse of position by the Councillor.

12.2.Correspondence

Councillors will sign only necessary correspondence, if any, during the election period.

Correspondence addressed to Councillors that relates to operational matters will be referred to the relevant Director for a response.

Correspondence in respect to significant, sensitive or controversial matters, or to policy matters, should be signed by the Chief Executive Officer.

Replies will be prepared in all cases to protect Council staff from any perception of political bias.

12.3.Expenses incurred by Councillors

Payment or reimbursement of costs relating to Councillors' out-of-pocket expenses incurred during the election period should only apply to necessary costs incurred in the performance of normal Council duties, not expenses incurred as a result of campaigning or that could be perceived as supporting or being connected with any candidate's election campaign.

In the case of Councillor claims that cover a combination of Council and electoral business, the Chief Executive Officer may approve a partial reimbursement to cover Council activities.

12.4.Council branding and stationery

Council logos, letterheads, or other Hobsons Bay City Council branding must not be used for, or linked in any way to, a candidate's election campaign.

12.5.Photographs and images

Photographs and images taken by or provided by Council are not to be used by Councillors for the purpose of electioneering or in support of their election campaign. This applies equally to images on the Council website, which are subject to copyright and must not be reproduced.

12.6.Support to the Mayor and Councillors

Council staff, including support staff for the Mayor and Councillors, must not be asked to undertake any tasks connected directly or indirectly with an election campaign.

12.7.Forums

No local community forums, ward meetings or any other forums of the type identified in the Community Engagement Framework will be held by Councillors during the election period.

13. Access to Council information

All candidates have equal rights to access public information relevant to their election campaigns from the Council administration, subject to legislative constraints including the *Privacy and Data Protection Act* 2014 and section 123 of the Act.

Councillors will continue to receive information that is necessary to fulfil their elected role as Councillors.

Neither Councillors nor candidates will be provided information or advice from Council staff that might be perceived to support and advise them during the election period.

13.1.Information and briefing material

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

13.2.Information Request Register

The Manager Corporate Integrity and Legal Counsel will maintain an Information Request Register during the election period commencing on the opening of nominations. This register will be a public document recording all requests for information by Councillors or candidates, and the response given to those requests. The Information Request Register will be made available on the Council website.

Council staff will be required to provide details of requests and responses to the Manager Corporate Integrity and Legal Counsel for inclusion in the register.

Any enquiries by staff regarding information requests or briefing material perceived to be of an electoral nature or related to election issues will be referred by staff in the first instance to the Manager Corporate Integrity and Legal Counsel for a determination.

14. Media and media services

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

14.1.Media advice

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

in regard to publicity that involves specific Councillors who intend to run for a local, state or federal election.

14.2.Media releases/spokespersons

Media releases will not refer to specific Councillors during an election period, including those Councillors that intend to run for state or federal election. Where it is necessary to identify a spokesperson in relation to an issue the Chief Executive Officer or Director Corporate Services will determine the appropriate person.

14.3.Publicity campaigns

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

14.4.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 for a local, state or federal election.

14.5.Council staff

During the election period Council staff cannot make any public statement that relates to an election issue, unless the statements have been approved by the Director Corporate Services or the Chief Executive Officer.

15. Equity in assistance to candidates

All candidates for the Council election will be treated equally.

15.1.Candidate assistance and advice

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. The type of assistance available will be documented and communicated to all candidates in advance.

Candidates will complete and submit an election campaign donation return to the Chief Executive Officer in the prescribed form within 40 days after election day. The return must contain details of any campaign donation or gift valued at more than the gift disclosure threshold (currently $500 as at June 2022) which was received between the date 30 days after the previous election and the date 30 days after the current election.

15.2.Election process enquiries

All election process related enquiries from any candidate, whether a sitting Councillor or not, will be directed to the Victorian Electoral Commission (VEC) appointed Election Manager or, where the matter is outside the responsibilities of the Election Manager, to the Manager Corporate Integrity and Legal Counsel or the Director Corporate Services.

15.3. Misuse of position

Using Council resources for campaigning may be a criminal misuse of a Councillor's position under section 123 of the Act. Serious penalties are prescribed for any Councillor who inappropriately makes use of their position or information obtained in their role as a Councillor, to gain an advantage for themselves or for any other person.

16. Council staff member standing for election as Councillor

In the event that a member of Council staff stands for election as a Councillor for Hobsons Bay City Council, they must:

(a) Inform the Chief Executive Officer immediately on becoming a candidate for election

(b) In accordance with sections 34 and 256 of the Act, take leave for the duration of the election period to stand for election to the office of Councillor (with leave commencing, at the latest, from the time of nominating as a candidate)

(c) Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public for the duration of the election period

(d) If elected, resign as a Council staff member in accordance with section 34 and 256 of the Act immediately upon being declared elected

A member of Council staff may stand for election for another Council without being required to follow the above process, but must continue to comply with this policy and the Employee Code of Conduct as a Council staff member.

17. Member of Council committee or advisory group standing for election as Councillor

In the event that a member of a Council committee or advisory group (other than a Councillor) stands for election as a Councillor for Hobsons Bay City Council, they must:

(a) Inform the Chief Executive Officer immediately upon becoming a candidate for election

(b) Return any Council equipment, documents or information which is not available to the public for the duration of the election period

(c) If elected, resign from the committee immediately upon being declared elected

18. Election signage

This part of the policy provides guidance in relation to the rules which apply to signage that promotes candidates in an election or relates to election issues.

The content of election signage must meet the requirements for election material under the Act.

18.1. Election signs on private land

Election signs may be displayed on private land with permission from the owner of the land, subject to the following restrictions which are set out in clause 52.05-10 of the Hobsons Bay Planning Scheme:

(a) The advertisement area of the sign must not exceed five square metres

(b) Only one sign may be displayed on the land

(c) The sign must not be animated or internally illuminated

(d) The sign must not be displayed longer than 14 days after the election is held

18.2. Election signs on public land

Election signs are prohibited on land that is owned or managed by Council (including but not limited to recreation reserves, halls, facilities, nature strips, median strips and road reserves) and instances will be dealt with as a breach of the Hobsons Bay Planning Scheme.

18.3. Election signs on vehicles, trailers, bicycles, prams or similar

Portable or moveable election signs that are attached to a vehicle, trailer, bicycle, pram or similar may be displayed on a road provided that:

(a) The sign does not unreasonably restrict the use of the road or endanger the safety of members of the public

(b) The relevant parking restrictions and requirements are observed

Election signs attached to a vehicle, trailer, bicycle, pram or similar cannot under any circumstances be displayed on a footpath.

18.4. Breach

A breach of any of the above conditions regarding election signage will result in a request that the sign be removed within 48 hours.

Failure to adhere to this request will result in Council removing the sign and holding it at Council. An infringement may be issued and the relevant costs to Council will be payable by the candidate to whom the signage belongs. All collateral signs retained by Council will be disposed of 48 hours after the election has taken place. Any costs related to this disposal will be borne by the candidate to whom the signage belongs.

19. State and federal government elections

19.1. Councillors

Councillors will ensure there is a demonstrable distinction between their obligations to Council and their personal interests as a candidate, or member of a political party, in an election period prior to a state or federal election.

Councillors will not use Council resources or participate in electioneering at Council meetings, functions or events in support of any candidate in a state or federal election.

19.2. Councillors to declare candidacy in a state or federal election

As soon as practicable after becoming an endorsed candidate of a registered political party or expressing their intention to run as an independent candidate in a state or federal election, a Councillor must advise the Chief Executive Officer in writing. The Chief Executive Officer must advise all Councillors in writing as soon as practicable.

A Councillor who is a candidate for a state or federal election should declare this at a Council meeting as soon as practicable after the formal nomination date.

A Councillor standing as a candidate in state or federal elections is encouraged to take a leave of absence from the formal nomination date until election day. During this time, the Mayor will not delegate any responsibility to represent the office of Mayor to any Councillor who is standing as a candidate.

In the case of a Mayor standing as candidate, the Deputy Mayor will undertake Mayoral responsibilities during the election period. In the case of a Mayor and Deputy Mayor both standing as candidates, the Mayor from the previous mayoral term will undertake Mayoral responsibilities during the election period.

A Councillor candidate must, if elected in a state or federal election, resign immediately upon being declared elected.

19.3. Members of Council staff standing as candidates in a state or federal election

As soon as practicable after becoming a candidate in a state or federal election, a member of Council staff must advise the Chief Executive Officer in writing.

Members of Council staff standing as candidates in state or federal elections are encouraged to take a leave of absence from the formal nomination date until election day.

Members of Council staff standing as candidates in a state or federal election must seek advice from the Manager Corporate Integrity and Legal Counsel to manage any possible real or perceived conflicts of interest.

19.4. Photographs and images

Photos of and references to Councillors standing as candidates will only feature in Council's publications where it is related to usual Council business, functions or events.

19.5. Advocacy by Council

It is recognised that the community expects that Council will advocate prior to a state or federal election for actions and projects for the benefit of the Hobsons Bay community.

In undertaking advocacy Council will avoid "party political" positions and will instead advocate in an apolitical manner, for the benefit of the Hobsons Bay community.

20. Notification and distribution of policy

A copy of the Election Period Policy must:

(a) Be given to each Councillor as soon as possible after it is adopted

(b) Be available for inspection by the public at the Hobsons Bay Civic Centre

(c) Be published on Council's website

Additionally, prior to the commencement of the election period, the Chief Executive Officer will ensure that all staff are informed of the requirements of this policy at least 30 days prior to the start of the election period.

21. Roles and Responsibilities

21.1. Chief Executive Officer

In addition to their statutory responsibilities, the Chief Executive Officer will:

- schedule decisions prior to the election period or for determination by the incoming Council
- ensure an election period statement in the form specified in section 8.8 of this policy is included for each item listed on a Council meeting agenda during the election period
- vet agendas for Council and delegated committee meetings to ensure no item is included that could potentially influence voters at the election or encourage Councillor candidates to use the item as part of their electioneering
- with the Director Corporate Services, Manager Corporate Integrity and Legal Counsel, and Coordinator Governance and Information Management, provide advice on whether proposed decisions which cannot be scheduled prior to or after the election period are prohibited or significant
- with the Director Corporate Services and Manager Corporate Integrity and Legal Counsel, review publications potentially affected by this policy for electoral matter
- Where required, provide approval for:
    - any significant decisions required to be made during the election period, such as major planning scheme amendments, irrevocable decisions that significantly affect the municipality and other decisions that would bind the incoming Council
    - a Council resolution to be sought to seek ministerial exemption in the case that a prohibited decision is required to be made during the election period
    - publications for distribution after they have been vetted for electoral matter by the Governance unit, in accordance with the controls provided in section 9.2 of this policy
    - any increase required for the publication or distribution of a Council publication during an election period
    - any public consultation required to be undertaken during an election period
    - Council events or functions to be held during an election period
    - partial reimbursement of Councillor claims that cover a combination of Council and electoral business to cover Council activities
    - publicity campaigns deemed necessary for a Council activity during the election period
    - where required, approve public statements relating to election issue

- determine the status and protocols regarding use of Council's social media channels during the election period
- provide information to Councillors, Council staff and contractors prior to the election period to preclude unauthorised distribution of materials via the Council email system during an election period
- with the Director Corporate Services and Manager Corporate Integrity and Legal Counsel, provide advice on whether a proposed use of Council resources could be construed as being related to a candidate's election campaign
- sign correspondence in respect to significant, sensitive or controversial matters or policy matters during the election period
- receive any requests for media advise or assistance from Councillors during the election period
- where a spokesperson needs to be identified for a media release during the election period, determine the appropriate spokesperson in relation to the issue
- receive election campaign donation returns, to be submitted in the prescribed form by candidates within 40 days after election day
- notify all Councillors in writing as soon as practicable upon being informed that a Councillor has become a candidate in a state or federal election
- ensure that all staff are informed of the requirements of this policy at least 30 days prior to the start of the election period

21.2.Director Corporate Services

The Director Corporate Services will:

- where a spokesperson needs to be identified for a media release during the election period, determine the appropriate spokesperson in relation to the issue
- where required, approve public statements relating to election issues

21.3.Directors

Directors will

- wherever possible, avoid scheduling decisions during the election period
- provide initial approval for any publications to be issued during the election period, and forward to the Governance unit to be vetted for electoral matter

21.4.Manager Corporate Integrity and Legal Counsel

The Manager Corporate Integrity and Legal Counsel will:

- along with the Chief Executive Officer, Director Corporate Services and Coordinator Governance and Information Management, provide advice on whether proposed decisions which cannot be scheduled prior to or after the election period are prohibited or significant

- provide advice to Council staff on the appropriate management of any possible real or perceived conflicts of interest in relation to their support of a candidate in another municipality, or for state or federal election
- with the Chief Executive Officer and Director Corporate Services, review any Council publications potentially affected by this policy for electoral matter
- with the Chief Executive Officer and Director Corporate Services, provide advice on whether a proposed use of Council resources could be construed as being related to a candidate's election campaign
- maintain the Information Request Register from the date on which nominations open

21.5. Coordinator Governance and Information Management

The Coordinator Governance and Information Management will:

- along with the Chief Executive Officer, Director Corporate Services and Manager Corporate Integrity and Legal Counsel, provide advice on whether proposed decisions which cannot be scheduled prior to or after the election period are prohibited or significant
- receive enquiries and provide further information about this policy
- ensure this policy is reviewed and updated in accordance with the requirements of the Hobsons Bay Governance Rules

21.6. Governance unit

The Governance unit will:

- support the Manager Corporate Integrity and Legal Counsel in maintaining the Information Request Register
- upon receiving initial approval for any publications to be issued during the election period, vet the publications for electoral matter and submit to the Chief Executive Officer for final approval.

22. Related documents

Councillor and Staff Interaction Protocol

Councillor Code of Conduct

Employee Code of Conduct

Hobsons Bay Planning Scheme

23. Related legislation

Hobsons Bay Community Local Law 2015

Local Government Act 2020

Local Government Act 1989

Planning and Environment Act 1987

24. Review date

This policy will be reviewed at least once in a Council term, and no later than 12 months prior to the commencement of a general council election in accordance with rule 16.2 of the Hobsons Bay Governance Rules, unless it is required to be updated sooner.

25. Further information

For further information concerning this policy please contact the Coordinator Governance and Information Management on 1300 179 944 or **governance@hobsonsbay.vic.gov.au**.

26. Document control

Policy Name	Hobsons Bay Election Period Policy 2023
Object ID	A
Agility Document Number	
Responsible Directorate	Corporate Services
Policy Owner	Coordinator Governance and Information Management
Policy Type	Council endorsed policy
Date Adopted by Council	
Review Date	

27. Version history

Version Number	Date	Authorised by
	24 April 2014	Adopted by Council (Caretaker Policy)
1.0	8 March 2016	Adopted by Council (A2333080)
1.1	27 April 2018	Transfer to new Policy document format
2.0	12 November 2019	Adopted by Council (A3196088)
3.0	25 August 2020	Adopted by Council (A)
4.0		