

	Policy Title:	Election Period Policy
	Policy Number.	
	Version Number/Date.	Version 2 – March 2016

Purpose

The purpose of this policy is to specify procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election; the limits on public consultation and the scheduling of Council events; and procedures to ensure that access to information held by the Council is made equally available to candidates during the election as required by section 93B(3) of the Local Government Act 1989.

Scope

This policy applies to the Council, a special committee established by the Council, and the Chief Executive Officer.

Policy Statement

Background

This policy has been prepared in accordance with section 93B(1), (2) and (3) of the Local Government Act 1989 (the Act) which requires a council to prepare, adopt and maintain an election period policy in relation to procedures to be applied by a council during the election period for a general election by 31 March 2016 and, following the general election on 22 October 2016, continue to maintain the election period policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period.

Introduction

Councils must comply with special arrangements during the election period in the lead up to a general election. Although not referred to in the Act, this period is commonly known as the “caretaker period” and is observed by all three tiers of government, although in relation to local government the conventions were codified in 2008.

The provisions in the Act are intended to ensure that councils do not interfere with the integrity or probity of the election process and also ensure that the authority of an incoming council is not fettered by decisions made in respect of which it may find itself unreasonably bound and unable to change. The latter can especially be an issue in relation to significant contractual matters.

The Act, therefore, regulates council activity in two ways: first, it prohibits councils from making certain types of decisions; and second, it requires that materials produced by councils must not contain matter that will affect voting at the election.

The election (or “caretaker”) period commences 32 days before an election. The business of the council continues throughout this period. This policy seeks to ensure that the Council does not take action that will bind a future council.

Definitions

Act	Local Government Act 1989
Council	Central Goldfields Shire Council
Election period	in relation to a general election means the period that starts on the last day on which nominations for that election can be received and ends at 6pm on election day.
Major policy decision	Means any decision - <ul style="list-style-type: none">a) Relating to the employment or remuneration of the Chief Executive Officer under section 94 of the Act, other than a decision to appoint an acting Chief Executive Officer;b) To terminate the appointment of the Chief Executive Officer under section 94 of the Act;c) To enter into a contract the total value of which exceeds whichever is the greater of –<ul style="list-style-type: none">i. \$100,000 or such higher amount as may be fixed by Order in Council under section 186(1) of the Act; orii. 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial yeard) To exercise any power under section 193 of the Act if the sum assessed under section 193(5A) of the Act 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 in the preceding financial year.
Inappropriate decisions	Means decisions made by Council during an election period including any of the following – <ul style="list-style-type: none">a) Decisions that would affect voting in an election; andb) Decisions that could reasonably be made after the election

Procedure

Council Activities

The Council, a special committee of the Council, or a person acting under delegation given by the Council, must not make a major policy decision during the election period for a general election.

A major policy decision made during the election period in contravention of this statutory prohibition is invalid.

If the Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption from the application of this prohibition to the major decision specified in the application.

During the election period, reports for the consideration of Council will be referred to the Chief Executive Officer for approval before inclusion on the meeting agenda.

Communications

During the election period before a general election, Council must not print, publish or distribute any advertisement, handbill, pamphlet or notice, including electronic media, unless it has been certified, in writing, by the Chief Executive Officer.

The certification from the Chief Executive Officer cannot be delegated to another person.

The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless such information is confined to the electoral process itself.

During the election period, a councillor or Shire employee must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice on behalf of, or in the name of, the Council or on behalf of, or in the name of, a councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer.

Council must not at any time print, publish or distribute an advertisement, handbill, pamphlet or notice containing "electoral matter" unless the name and address of the person who authorised it appears at its end.

For the above purposes, "electoral matter" is defined as matter which is intended or likely to affect voting in an election by containing an express or implicit reference to, or comment on –

- The election
- A candidate in the election
- An issue submitted to or otherwise before voters in connection with the election

Material is considered electoral matter if, for example, it –

- Publicises the strengths or weaknesses of a candidate
- Advocates the policies of the Council or a candidate
- Responds to the claims made by a candidate; and
- Publicises the achievement of the Council

The type of material subject to the certification process – "advertisement, handbill, pamphlet or notice" – is interpreted broadly for the purposes of this policy as documents produced for communicating with people in the community, including:

- Newsletters, including e-newsletters
- Websites
- Advertisements and notices
- Media releases
- Leaflets and brochures
- Mail-outs to multiple addresses
- Social media postings

Shire websites may retain material placed on the website before the commencement of the election period.

At the commencement of the election period, the Council should review the material published or distributed on bulletin boards, the internet and email systems to ensure that it could not be seen as promoting candidate-related content or singularise the achievement or views of an individual councillor standing for re-election.

This policy affirms the application of the Councillor Code of Conduct in relation to the use of media, including social media, during the election period.

Public consultation and scheduling of council events

Unless the subject of public consultation or a Council event relates to a matter constituting a major policy decision, public consultation and Council events, including ordinary council meetings of the Council, will be scheduled during the election period.

Access to information

All candidates should have equal access to support and information during the election period. Sitting councillors, therefore, who stand for re-election cannot use their current position to gain access to information or resources that would not be available to a non-sitting candidate. To do so would constitute a misuse of position.

Review

This policy must be reviewed and, if required, amended not later than 12 months before the commencement of each general election period after the 2016 general election.

Legislation and other references

Legislation

- Local Government Act 1989

Documents

- Councillor Code of Conduct 2013

Human Rights Consideration

The implications of this Policy have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.

Information Privacy

This Policy has been developed in accordance with the Privacy and Data Protection Act 2014 and the Information Privacy Principles within;

- The public has a legal right of access to information.
- Local governments are required to publish information concerning the documents they hold.
- People may request that inaccurate, incomplete, out-of-date or misleading information in their personal records be amended.
- People may appeal against a decision not to give access to the information or not to amend a personal record.

Risk Assessment Reference

This Policy aligns to the core Risk Management Standards as outlined in the Central Goldfields Shire Council Risk Management Strategy and Action Plan.

Control Information

Policy Category:	Governance
Author	Marita Turner
Responsible Officer	Executive Management Group
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