



# ELECTION CARETAKER POLICY

COUNCIL POLICY	
Effective Date:	16/10/2001
Last Review:	June 2012
Current Review::	March 2016
Adopted by Council:	12 April 2016
Next Review Date:	Four yearly, in line with Council Elections
Responsible Officer/s:	Chief Executive Officer

## 1. POLICY STATEMENT

The purpose of this policy is to ensure that elections for the 2016 Strathbogie Shire Council are conducted in a manner that is fair, equitable and is publicly perceived as such. It is intended to assure the community that Council will not use public resources in election campaigning or make major decisions that bind the incoming Council.

## 2. POLICY APPLICATION

### 2.1 Caretaker Period

Council is required to go into 'caretaker' mode during the election period. This period commences on the last day on which nominations for the election can be received, and ends 6:00pm on Election Day.

Therefore the 2016 election period for Strathbogie Shire Council commences at midnight on Tuesday 20 September 2016, the end of the last day for nominations to be received until 6:00pm on Saturday 22 October 2016 on Election Day.

### 2.2 Prohibited Decisions

In accordance with Section 93A of the *Local Government Act 1989* (the *Act*) the following decisions are prohibited during the election period unless a ministerial exemption is provided:

#### a) Chief Executive Officer

Council must not make a decision relating to the employment, remuneration or termination of a Chief Executive Officer (CEO) under section 94 of the *Act*, other than a decision to appoint an Acting CEO;

#### b) Contracts

Council must not enter into a contract the total value of which exceeds whichever is the higher of the following amounts:

- i) 1% of the Council's total revenue from rates and charges (under section 158 of the *Act*) in the preceding financial year. This does not include revenue from special rates or special charges.
- ii) The amount fixed by Order in Council, under section 186 of the *Act* as amended, being the value at which the Council must give public notice to invite tenders or expressions of interest for the contract. These amounts are:
  - \$150,000 for goods and services contracts
  - \$200,000 for works contracts

c) Entrepreneurial Powers

Council must not exercise any entrepreneurial power under section 193 of the *Act* if the amount assessed under section 193(5A) exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year. This does not include revenue from special rates or special charges.

## 2.3 Other Decisions

Council may, at its own discretion, decide not to make certain other decisions during the election period, which may include:

- a) allocating community grants or other forms of direct funding for community organisations;
- b) major planning scheme amendments;
- c) changes to strategic objectives or strategies in the Council Plan.

## 2.4 Information

Councillors must not request or receive information or advice from Council to support election campaigns, and there must be complete transparency in the provision of all information and advice during the election period.

Section 76D of the *Act* prescribes serious penalties for any councillor who inappropriately makes use of their position or information obtained in the role of councillor, to gain an advantage.

All requests for information, either from a sitting councillor or candidate, must be directed to the CEO.

## 2.5 Council Resources and Publications

It is essential that due propriety is observed in the use of all Council resources. In order to ensure the proper use of Council resources during the election period, the following will apply:

- Council resources will be used exclusively for normal Council business and will not be used in connection with election campaigning; and
- Council logos, letterhead, or other Strathbogie Shire Council branding must not be used for, or linked in any way to, a candidate's election campaign.

Council resources must not be used for private purposes, this includes electioneering. Section 76D of the *Act* imposes serious penalties on a councillor who misuses his or her position for private benefit.

Section 55D of the *Act* imposes limitations on Council publications and resources during the election period. This is to ensure that Council does not publish material with public funds that may influence, or be seen to influence voting decisions. The *Act* contains offences for breaches of section 55D. A breach may be prosecuted in Court, and if a person is found guilty, he or she may be convicted and fined.

All relevant Council publications must be certified by the CEO before they are printed, published or distributed during the election period, whether by the Council or anyone acting for the Council. Any publication of information on social media sites, which includes but is not limited to Facebook, Twitter and Youtube under the auspice of Council during the Election Period will require certification by the CEO prior to publication.

The CEO's certification must be in writing and cannot be delegated to someone else.

A CEO must not certify a publication that contains electoral matter, unless that material is only about the election process.

Publications requiring CEO certification must be provided to the CEO in hard copy format for certification at least 5 working days prior to publication. The original certified copy is to be handed to the Executive Assistant to the CEO for filing and registering to the Electronic Document Management System. The certification does not need to be printed on published copies of the document.

Use of council resources may be monitored to ensure compliance with the Act and this Policy.

	<b>Publications</b>	<b>Resources</b>
	<i>Council advertisements, handbills, pamphlets and notices must be certified by the CEO during an election period. Penalties apply to the certification, printing, publishing or distribution of such documents containing electoral matter.</i>	<i>Council must ensure that council resources, including staff, are not used for electoral campaigning purposes during elections. In some cases misuse of Council resources may be a criminal offence that can be prosecuted in Court.</i>
<b>Annual Report</b>	<p>The annual report is required by law and would not normally be considered an advertisement, handbill, pamphlet or notice. It should not require CEO certification.</p> <p>However, councillor submissions may constitute 'electoral matter' and thereby offend s55D of the Act and therefore will not be included in the 2015/16 Annual Report.</p> <p>If Council prints or distributes a greater number of copies than usual, it may be regarded as a pamphlet and is subject to CEO certification.</p>	<p>Section 131(6) of the Act requires the Council to submit its annual report to the Minister no later than 30 September each year.</p> <p>This is a proper use of Council resources.</p>
<b>Annual Report Summary</b>	Any publication of an extract or summary of the annual report is likely to be regarded as a pamphlet and is subject to the certification process.	Council resources should not be used to produce or distribute any summary of an annual report during the election that would be regarded as electoral material.

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<b>Council Meetings</b>	<p>Agenda papers and minutes of meetings would not normally be considered advertisements, handbills, pamphlets or notices and should not require CEO certification.</p> <p>However, if Council meeting papers are printed or published for a wider distribution than normal, they should be treated as pamphlets and are subject to the CEO certification process.</p>	The conduct of Council meetings, as well as the preparation of agenda papers and minutes, is part of normal Council business. It is expected that they would continue to be resourced by the Council administration during the election period.
<b>Advertisements and Notices</b>	<p>All Council advertisements and notices are subject to the certification process during an election period. This includes job advertisements and various notices, such as, Council meetings and road closures.</p> <p>Newspaper notices of meetings are not regarded as electoral matter under section 3(1) of the <i>Act</i> and can be certified.</p>	
<b>Website – New Material</b>	<p>Any new material published on Council's website during the election period that may be considered an advertisement, handbill, pamphlet or notice is subject to the CEO certification process.</p> <p>As noted above, Council agendas, minutes of meetings and full annual reports do not require CEO certification if published in the usual way.</p>	Council's website should not be used to convey information that could be regarded as electoral material unless it is only about the election process.

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<b>Website – Existing Material</b>	<p>It is not necessary to certify material that was published on Council's website well before the election period.</p> <p>However, the website should be checked at the start of the election period:</p> <ul style="list-style-type: none"> <li>• Profiles of councillors who are candidates should be removed from the website, but not contact details.</li> <li>• Information prominently displayed on the website that may be regarded as likely to influence how people vote should be removed.</li> </ul>	Council's website should not be used to convey information that could be regarded as electoral material unless it is only about the election process.
<b>Social Media</b>	<p>Any publication on Council's social media sites like Facebook or Twitter will be suspended during the election period.</p> <p>Similar requirements apply to Council blog sites or articles written by councillors.</p> <p>Social media sites of S86 appointed committees and Committees of Management appointed by Council are regarded as auspiced by Council. Any publication of information on social media sites under the auspice of Council during the election period will require certification by the CEO prior to publication.</p>	Council auspiced social media must not be used for election campaigning.
<b>Email</b>	<p>Emails that are part of the normal conduct of Council business should not require CEO certification.</p> <p>However, any emails with multiple addressees, used for broad communication with the community, are subject to the CEO certification process.</p>	<p>Council email services must not be used for electioneering purposes.</p> <p>Councillors are advised to use one of the free email providers for private email addresses.</p>
<b>Correspondence</b>	Mass mail outs or identical letters sent to a large number of people by or on behalf of Council are subject to the CEO certification process.	Council staff should not prepare councillors' private mail or electoral correspondence and such material must not be printed on Council stationery or using Council

	<b>Publications</b> <i>Council advertisements, handbills, pamphlets and notices must be certified by the CEO during an election period. Penalties apply to the certification, printing, publishing or distribution of such documents containing electoral matter.</i>	<b>Resources</b> <i>Council must ensure that council resources, including staff, are not used for electoral campaigning purposes during elections. In some cases misuse of Council resources may be a criminal offence that can be prosecuted in Court.</i>
		equipment.
<b>Mobile Phones</b>		<p>Mobile phone costs associated with electioneering will not be paid by Council. Councillors who are provided with a Council owned mobile phone should:</p> <ul style="list-style-type: none"> <li>• use another mobile phone for electioneering purposes, or</li> <li>• monitor usage and ensure reimbursement of costs associated with electioneering or other private use.</li> </ul>
<b>Council Offices and Libraries:</b> <ul style="list-style-type: none"> <li>• Euroa Library</li> <li>• Violet Town Library</li> <li>• Nagambie Library</li> <li>• Council Offices, Euroa</li> <li>• Nagambie VIC</li> <li>• Mobile Customer Service</li> <li>• Euroa VIC</li> </ul>	<p>Existing documents available to the public at Council offices and libraries do not normally require CEO certification.</p> <p>However, any increase in the availability of a publication is subject to certification.</p> <p>Material in libraries and offices are to be checked randomly to ensure that publications including electoral matter are not prominently displayed.</p>	<p>Electoral matter, including pamphlets, posters, and notices should not be visible or available at any Council premises during the election period.</p> <p>The only exception to this is material issued by the Returning Officer for the purpose of conducting the election.</p>
<b>Media Releases</b>	Media releases are regarded as documents that require CEO certification.	<p>Council staff must not prepare, or assist in the preparation of, media releases that contain electoral matter.</p> <p>Councillors are advised that media releases dealing with their election campaign should only be issued privately.</p>
<b>Events</b>	Material printed or disseminated during the election period to publicise a function or event are subject to the CEO certification process.	<p>Function or events for the purpose of electioneering must not be resourced or publicised by Council.</p> <p>Normal Council events are not prohibited in the election period. However, it is recommended that they be kept to a minimum.</p> <p>Where events do occur, councillors are advised that they are representing the Council and should not use the opportunity for electioneering.</p>

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	<i>Council advertisements, handbills, pamphlets and notices must be certified by the CEO during an election period. Penalties apply to the certification, printing, publishing or distribution of such documents containing electoral matter.</i>	<i>Council must ensure that council resources, including staff, are not used for electoral campaigning purposes during elections. In some cases misuse of Council resources may be a criminal offence that can be prosecuted in Court.</i>
<b>Speeches</b>	Any publication or distribution of councillor's speeches by Council is subject to the CEO certification process.	Council staff and resources are not to be used to prepare or publish speeches that contain electoral matter.
<b>Title of Councillor</b>		Councillors may use the title of 'Councillor' in their election material, as they continue to hold their positions in the period. To avoid confusion, councillors are advised to ensure that any election publication using the title 'Councillor' clearly indicates that it is their own material and does not represent Council.
<b>Returning Officer</b>	The election Returning Officer is a statutory position and does not perform his or her duties on behalf of Council. Therefore, publications by a VEC Returning Officer do not need CEO certification.	

## 2.6 Election Campaign Donations

- a) In accordance with section 62 of the *Act* – within 40 days after Election Day a person who was a candidate in the election must give an election campaign donation return to the CEO.

The CEO must within 14 days after the above specified period submit a written report to the Minister specifying the names of candidates and the names of the persons who submitted a return.

- b) It is unlawful for a councillor, candidate or person acting on behalf of a councillor or candidate to receive during the "donation period" a gift made to or for the benefit of the councillor, being a gift the amount or value of which is equal or exceeds \$500, unless:
- i) the name and address of the person making the gift are known to the recipient of the gift; or
  - ii) at the time when the gift is made, the giver discloses his, her or its name and address, and the recipient has no grounds for thinking that the name and address are untrue.

In this clause "donation period" means the period commencing 30 days after the Election Day in the last election for Council or 30 days after the last Election Day in the current election for that ward.

- c) A person who is a candidate in an election is to be taken to remain a candidate for 30 days after the Election Day in the election.
- d) Two or more gifts made by the same person to or for the benefit of a councillor or candidate are to be taken to be one gift.

### 3. DEFINITIONS

Some of the terms used in this policy are defined in the *Act* and their use in this Policy is consistent with the *Act*.

**Council branding** includes that branding related to:

- Euroa Community Cinema
- Euroa Visitor Information Centre (The Hub)
- Nagambie Visitor Information Centre
- Evolve Youth committee
- Active Evolution youth activity
- Access and Disability Advisory Committee
- Love Strathbogje

**Council resources** include:

- Staff
- Property
- Equipment
- Stationery
- Finances

**Social Media site** refers to:

- Council's Facebook account
- Euroa Community Cinema Facebook account
- Evolve Facebook account

**Auspiced social media site** refers to:

- All social media sites run and managed by Section 86 appointed committees
- All social media sites run and managed by Council volunteers

**Council website** refers to Council's:

- Corporate website at [www.strathbogje.vic.gov.au](http://www.strathbogje.vic.gov.au)

### 4. FURTHER INFORMATION

This policy is intended as a guide for council staff, councillors, and council appointed volunteers. There are a number of matters relevant to elections in the *Act* which have not been addressed in this policy. For further information access the *Local Government Act 1989* via [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

### **Charter of Human Rights and Responsibilities Act 2006 and the Equal Opportunity Act 2010**

The Council acknowledges the legal responsibility to comply with the Charter of Human Rights and Responsibilities Act 2006 and the Equal Opportunity Act 2010. The Charter of Human Rights and Responsibilities Act 2006 is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.