

16 August 2018

**MAYOR
COUNCILLORS
CITY OF MOUNT GAMBIER**

1. **NOTICE** is given that a meeting of the Council of the City of Mount Gambier will be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier **on Tuesday, 21 August 2018 at 6.00 p.m.**
2. **NOTICE** is given that the Standing Committees (Committee Room and Level 1 Conference Room) and Council Assessment Panel (Level 1 Conference Room) will meet at the Civic Centre, 10 Watson Terrace, Mount Gambier on the days and dates as follows:

Strategic Standing Committee	Monday, 10 September 2018
Operational Standing Committee	Tuesday, 11 September 2018
Council Assessment Panel	Thursday, 20 September 2018

An agenda for the meeting is enclosed.



Mark McSHANE
CHIEF EXECUTIVE OFFICER

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AGENDA OF ORDINARY COUNCIL MEETING

Meeting to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday, 21 August 2018 at 6.00 p.m.

PRESENT

Mayor Andrew Lee

Cr Christian Greco
Cr Mark Lovett
Cr Josh Lynagh
Cr Sonya Meziniec
Cr Frank Morello
Cr Des Mutton
Cr Steven Perryman
Cr Hanna Persello
Cr Penny Richardson
Cr Ian Von Stanke

COUNCIL OFFICERS

Chief Executive Officer	-	Mr M McShane
General Manager Community Wellbeing	-	Ms B Cernovskis
General Manager Council Business Services	-	Mrs P Lee
General Manager City Growth	-	Dr J Nagy
General Manager City Infrastructure	-	Mr N Serle
Manager Executive Administration	-	Mr M McCarthy
Manager Business and Strategic Planning	-	Mrs T Tzioutziouklaris
Media and Communications Coordinator	-	Ms S McLean
Administrative Officer Executive Support	-	Mrs F McGregor

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

1. APOLOGY(IES)

Apology(ies) received from Cr

That the apology from Cr _____ be received.

Moved:

Seconded:

2. LEAVE OF ABSENCE

Nil

3. CONFIRMATION OF COUNCIL MINUTES

Ordinary Meeting held on 17 July 2018

That the minutes of the Ordinary Council meeting held on 17 July 2018 as previously circulated be confirmed as an accurate record of the proceedings of that meeting.

Moved:

Seconded:



4. MAYORAL REPORT - Ref. AF11/881

That the Mayoral report made on 21 August 2018 be received.

Moved:

Seconded:

5. REPORTS FROM COUNCILLORS - Ref. AF11/882

Member

.....
.....

That the reports made by Councillors on 21 August 2018 be received.

Moved:

Seconded:

6. QUESTIONS

6.1. With Notice

Nil submitted.

6.2. Without Notice

7. PETITIONS

Nil

8. DEPUTATIONS

Nil

9. NOTICE OF MOTION TO RESCIND

Nil

10. ELECTED MEMBERS WORKSHOPS (INFORMAL GATHERINGS) - Ref. AF15/83

18/07/2018	Mount Gambier Regional Sport and Recreation Centre Community Reference Group Briefing
30/07/2018	Mount Gambier Public Art Strategy
31/07/2018	SEWAL Funding Request and Major and Cultural Events
06/08/2018	Waste Management
07/08/2018	Architectural Meeting with Mount Gambier Regional Sport and Recreation Centre Committee
07/08/2018	Architectural Meeting with Mount Gambier Regional Sport and Recreation Centre Community Reference Group



08/08/2018	Mount Gambier Regional Sport and Recreation Centre General Discussions
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Records of proceedings are attached.

That the Records of Proceedings be received and the contents noted.

Moved:

Seconded:

11. ELECTED MEMBER TRAINING AND DEVELOPMENT - Ref. AF11/903

Nil submitted.

12. COUNCIL ACTION ITEMS - Ref. AF17/225, AF17/228

Items referred to the Council Meeting held 17 July 2018

That the Action Items referred to the Council Meeting held 17 July 2018 be received.

Moved:

Seconded:



13. COMMITTEE MINUTES AND RECOMMENDATIONS

13.1. Minutes of Strategic Standing Committee - 13 August 2018

That the minutes of the Strategic Standing Committee meeting held 13 August 2018 as previously circulated be noted.

Moved: Seconded

13.2. Policy Review - P420 Procurement & Disposal of Land and Assets - Report No. AR18/31419

- (a) That Strategic Standing Committee Report No. AR18/31419 titled '*Policy Review – P420 Procurement & Disposal of Land and Assets*' as presented to the Strategic Standing Committee on 13 August 2018 be noted.
- (b) That the updated Policy - P420 Procurement & Disposal of Land and Assets as attached to Strategic Standing Committee Report No. AR18/31419 be adopted.

Moved: Seconded:

13.3. Internal Review of Council Actions - Report No. AR18/29829

- (a) That Strategic Standing Committee Report No. AR18/29829 titled '*Internal Review of Council Actions*' as presented to the Strategic Standing Committee on 13 August 2018 be noted.
- (b) That the background and discussion material contained in Strategic Standing Committee Report No. AR18/29829 relating only to Section 270 of the Local Government Act 1999 be included in Council's 2017/2018 Annual Report.

Moved: Seconded:

13.4. Community Land Revocation/Transfer - 25 Alexander Street 5GTR-FM - Report No. AR18/30034

- (a) That Strategic Standing Committee Report No. AR18/30034 titled '*Community Land Revocation/Transfer - 25 Alexander Street 5GTR-FM*' as presented to the Strategic Standing Committee on 13 August 2018 be noted.
- (b) That, in accordance with Section 194(3)(b) of the Local Government Act 1999, the Community Land classification of the land identified as 25 Alexander Street, Mount Gambier being Allotment 102 within Deposited Plan 240, Certificate of Title 5180, Folio 718 be revoked.



- (c) That, the classification as community land being revoked, the property at 25 Alexander Street, Mount Gambier being Allotment 102 within Deposited Plan 240, Certificate of Title 5180, Folio 718 be transferred to South East Community Access Radio Incorporated for nil consideration consistent with Council's earlier 2001 and 2011 resolutions.
- (d) The Chief Executive Officer and Mayor be authorised to affix the Common Seal of the Council to any documentation necessary to give effect to resolutions (b) and (c).

Moved:

Seconded:

13.5. Mount Gambier Public Arts Strategy - AR18/30827

- (a) That Strategic Standing Committee Report No. AR18/30827 titled '*Mount Gambier Public Art Strategy*' as presented to the Strategic Standing Committee on 13 August 2018 be noted and endorsed.

Moved:

Seconded:



13.6. Minutes of Operational Standing Committee - 14 August 2018

That the minutes of the Operational Standing Committee meeting held 14 August 2018 as previously circulated be noted.

Moved: Seconded

13.7. Minutes of Heritage Sub-Committee - 25 July 2018

That the minutes of the Heritage Sub-Committee meeting held 25 July 2018 as previously circulated be noted.

Moved: Seconded

13.8. Commemorating 150 years since first burial at the Lake Terrace Cemetery - Report No. AR18/27189

- (a) That Heritage Sub-Committee Report No. AR18/27189 titled *‘Commemorating 150 years since the first burial at the Lake Terrace Cemetery’* as presented to the Heritage Sub-Committee on 25 July 2018 be noted.
- (b) The wording on the plaque be:
- Commemorating 150 years of burials since 1868 A record of our past*
- (c) The locality of the sign (‘Sextons Cottage’) and plaque be located together as per Richard Woods plan/sketch/comments at the entrance to the Old Cemetery off Lake Terrace East.

Moved: Seconded:

13.9. Heritage Adviser Report - June 2018 - Report No. AR18/27880

- (a) That Heritage Sub-Committee Report No. AR18/27880 titled *‘Heritage Adviser Report - June 2018’* as presented to the Heritage Sub-Committee on 25 July 2018 be noted.

Moved: Seconded:

13.10. Roundhouse Update - Report No. AR18/26576

- (a) That Heritage Sub-Committee Report No. AR18/26576 titled *‘Roundhouse Update’* as presented to the Heritage Sub-Committee on 25 July 2018 be noted.

Moved: Seconded:



13.11. Rook Walk Centenary Event - Heritage Trust of South Australia - Report No. AR18/28098

- (a) That Heritage Sub-Committee Report No. AR18/28098 titled '*Rook Walk Centenary Event – Heritage Trust of South Australia Grant*' as presented to the Heritage Sub-Committee on 25 July 2018 be noted.
- (b) The Heritage Sub-Committee endorse the preparation and submission of the Rook Walk Centenary Event – Heritage Trust of South Australia Grant by the due date of 10th August 2018.
- (c) That the time capsule and plaque be positioned as recommended at ground level below the existing plaque.

Moved:

Seconded:

13.12. Local Heritage Restoration Fund Guidelines Review - Report No. AR18/28266

- (a) That Heritage Sub-Committee Report No. AR18/28266 titled '*Local Heritage Restoration Fund Guidelines Review*' as presented to the Heritage Sub-Committee on 25 July 2018 be noted.
- (b) The Heritage Sub-Committee consider the current Local Heritage Restoration Fund Guidelines and present any recommended changes to Council for consideration.

Moved:

Seconded:

13.13. Community Plan - Quarterly Summary KPI Report - June 2018 - Report No. AR18/29771

- (a) That Operational Standing Committee Report No. AR18/29771 titled '*Community Plan Summary KPI Report - June 2018*' as presented to the Operational Standing Committee on 14 August 2018 be noted.
- (b) The June 2018 Quarterly Summary KPI report be received and endorsed by Council.

Moved:

Seconded:

13.14. Joint Boundary Roads Advisory Group - Five Year Work Plan - Report No. AR18/29888

- (a) That Operational Standing Committee Report No. AR18/29888 titled '*Joint Boundary Roads Advisory Group - Five Year Work Plan*' as presented to the Operational Standing Committee on 14 August 2018 be noted.



(b) That Council adopt the five year works program and proceed, with the concurrence of the District Council of Grant, with the following projects in 2018/2019 to be funded out of carry over funds and budgeted 2018/2019 boundary roads contributions of \$30,000 from each of District Council of Grant and City of Mount Gambier;

- Tollner Road (reseal)	\$18,000
- Hawkins Road (reseal)	\$10,000
- McCormick Road (reseal)	\$39,000
- Pinehall Avenue (reseal)	\$11,000
- Kennedy Avenue / Bishop Road staggered T junction (surveying, land acquisition, fencing)	\$50,000

Moved:

Seconded:

13.15. Hastings Cunningham Reserve - Blue Lake Obedience Dog Club - Additions to an existing building - Report No. AR18/30290

- (a) That Operational Standing Committee Report No. AR18/30290 titled '*Hastings Cunningham Reserve - Blue Lake Obedience Dog Club - Additions to an existing building*' as presented to the Operational Standing Committee on 14 August 2018 be noted.
- (b) Council not oppose the proposed extension/addition to the existing shed currently occupied by the Blue Lake Obedience Dog Club.
- (c) Council grant pre-approval for the addition to the existing building as exceptional circumstances for the additions have been identified.
- (d) The Blue Lake Obedience Dog Club be advised of (b) and (c) as above.

Moved:

Seconded:

13.16. Reserves Proposal by Mr Vince Versace - Report No. AR18/30646

- (a) That Operational Standing Committee Report No. AR18/30646 titled '*Reserves Proposal by Mr Vince Versace*' as presented to the Operational Standing Committee on 14 August 2018 be noted.
- (b) Council support and agree in principal to the transfer of land associated with the two reserves as proposed by Cameron Lock Surveying on behalf of Mr Vince Versace with all costs associated with the processing of such a request be borne by the Applicant.



- (c) Council's support and agreement to the transfer of the land is subject to further negotiations in relation to the value of the land to be transferred and the cost to Council of undertaking the transfer of land, with suitable compensation being paid to Council.
- (d) The revocation of Community Land classification process commence at the conclusion of the 2018 Local Government Election process after caretaker mode.

Moved:

Seconded:

13.17. Works in Progress – City Infrastructure - Report No. AR18/30161

- (a) That Operational Standing Committee Report No. AR18/30161 titled '*Works in Progress - City Infrastructure*' as presented to the Operational Standing Committee on 14 August 2018 be noted.

Moved:

Seconded:

13.18. 2018 Christmas Parade - Street Closures - Report No. AR18/31124

- (a) That Operational Standing Committee Report No. AR18/31124 titled '*2018 Christmas Parade - Street Closures*' as presented to the Operational Standing Committee on 14 August 2018 be noted.
- (b) That Council, being of the opinion that the 2018 Christmas Parade is an event to which Section 33 of the Road Traffic Act applies to, pass the following order in relation to road closures for the purpose of the 2018 Christmas Parade on Saturday, 17 November 2018.

ORDER

Council, pursuant to Section 33 of the Road Traffic Act 1961 and instrument of Delegation from the Minister of Transport makes the following order to close the following roads on Saturday, 17 November 2018:

- (a) **COMMERCIAL STREET EAST** - between East side of Davison Street and Bay Road/Penola Road

Between the hours of 7.00am and 1:00pm.

With the exception of the Ferrers Street/Mitchell Street intersection, north/south traffic will be permitted to cross Commercial Street East until 8.30am.

The portion of Commercial Street East between Crouch Street and East side of Davison Street may remain open to 10:30am.



- (b) COMMERCIAL STREET WEST - between Bay Road/Penola Road and Wehl Street.

Between the hours of 8.30am and 1:00pm.

North/South bound vehicles will be permitted to access Commercial Street West intersection until 10:55am.

- (c) CROUCH STREET SOUTH - between Commercial Street East and Sturt Street
WEHL STREET NORTH - between Commercial Street West and Wyatt Street/Eglington Terrace.

COMMERCIAL STREET WEST - between Wehl Street and Bertha Street

Between the hours of 10:50am and 1.00pm.

- (d) WATSON TERRACE - north south leg adjacent to Jens Hotel/Cave Garden

Between the hours of 6:30am and 5:00pm.

Notice is hereby given pursuant to Section 59 of the Summary Offences Act 1953 that the following portion of street will be closed to all vehicular traffic on Saturday 17th November, 2018 between approximately 7.00am and 1.00pm, as follows:

- (a) VICTORIA TERRACE – being the section of road between Park Street and Jubilee Highway West.

Between the hours of 7.00am to 1.00pm

The temporary road closure is to allow for the safety of float vehicles exiting the Vansittart Park grounds at the completion of the 2018 Christmas Parade.

The parking of vehicles in this portion of street during the temporary street closure is prohibited.

Council further orders that persons attending and taking part in the event are exempted from the following Road Rules when on roads (or section of road) closed pursuant to this Order:

1. Rule 221 Using hazard warning lights
2. Rule 230 Crossing a road – general
3. Rule 231 Crossing a road at pedestrian lights
4. Rule 232 Crossing a road at traffic lights
5. Rule 234 Crossing a road on or near a crossing for pedestrians
6. Rule 237 Getting on or into a moving vehicle
7. Rule 238 Pedestrians travelling along a road (except in or on a wheeled recreational device or toy)



8. Rule 250 Riding on a footpath or shared path
9. Rule 264 Wearing of seat belts by drivers
10. Rule 265 Wearing of seat belts by passengers 16 years old or older
11. Rule 266 Wearing of seat belts by passengers under 16 years old
12. Rule 268 How persons must travel in or on a motor vehicle
13. Rule 269 Opening doors and getting out of a vehicle etc.
14. Rule 298 Driving with a person in a trailer

Conditions on Exemptions from Australian Road Rules

1. Rule 237 Getting on or into a moving vehicle – provided the speed of the vehicle does not exceed 5km/h
2. Rule 264 Wearing of seat belts by drivers – provided the speed of the vehicle does not exceed 25km/h
3. Rule 265 Wearing of seat belts by passengers 16 years old or older – provided the speed of the vehicle does not exceed 25km/h
4. Rule 266 Wearing of seat belts by passengers under 16 years old – provided the speed of the vehicle does not exceed 25km/h
5. Rule 268 How persons must travel in or on a motor vehicle – provided the speed of the vehicle does not exceed 25km/h
6. Rule 269 Opening doors and getting out of a vehicle etc. – provided the speed of the vehicle does not exceed 5km/h
7. Rule 298 Driving with a person in a trailer – provided the speed of the vehicle does not exceed 25km/h

Moved:

Seconded:

13.19. CBD Footpath Sweeping Options - Report No. AR18/31449

- (a) That Operational Standing Committee Report No. AR18/31449 titled '*CBD Footpath Sweeping Options*' as presented to the Operational Standing Committee on 14 August 2018 be noted.
- (b) Extend footpath sweeping to Commercial Street from Ferrers Street to Krummel St twice per week and the footpath sweeping program be monitored subject to review in 6 months.

Moved:

Seconded:

13.20. 2019 Mount Gambier Fringe Festival - Report No. AR18/30818

- (a) That Operational Standing Committee Report No. AR18/30818 titled '*2019 Mount Gambier Fringe Festival*' as presented to the Operational Standing Committee on 14 August 2018 be noted.
- (b) That Council write to the relevant State Government Minister seeking a \$20,000 funding commitment as a matter of urgency to support the Mount Gambier Fringe Festival in 2019.

Moved:

Seconded:



13.21. Minutes of Regional Sport and Recreation Centre Committee - 7 August 2018

That the minutes of the Regional Sport and Recreation Centre Committee meeting held 7 August 2018 be noted.

Moved: Seconded:

13.22. SA Aquatic and Leisure Centre Site Visit - Report No. AR18/30168

(b) That Regional Sport and Recreation Centre Committee Report No. AR18/30168 titled '*SA Aquatic and Leisure Centre Site Visit*' as presented to the Regional Sport and Recreation Centre Committee on 7 August 2018 be noted.

Moved: Seconded:

13.23. Peak Sporting Body Engagement - Report No. AR18/30409

(a) That Regional Sport and Recreation Centre Committee Report No. AR18/30409 titled '*Peak Sporting Body Engagement*' as presented to the Regional Sport and Recreation Centre Committee on 7 August 2018 be noted.

Moved: Seconded:

13.24. Architect Preliminary Project Program - Report No. AR18/30392

(a) That Regional Sport and Recreation Centre Committee Report No. AR18/30392 titled '*Architect Preliminary Project Program*' as presented to the Regional Sport and Recreation Centre Committee on 7 August 2018 be noted.

Moved: Seconded:

13.25. Minutes of Council Assessment Panel - 19 July 2018

That the minutes of the Council Assessment Panel meeting held 17 July 2018 as previously circulated be noted.

Moved: Seconded:

13.26. Minutes of Community Engagement and Social Inclusion Sub-Committee - 16 August 2018

That the minutes of the Community Engagement and Social Inclusion Sub-Committee meeting held 16 August 2018 be noted.

Moved: Seconded:



13.27. Governance - Community Engagement and Social Inclusion Sub-Committee - Resignation - Dr Sue Mutton - Ref. AF17/432

- (a) the report be received;
- (b) Dr Mutton's resignation be received and she be thanked for her services to the Community Engagement and Social Inclusion Sub-Committee.

Moved:

Seconded:

13.28. Yerkalapata - Leading the Way: City of Mount Gambier Reconciliation Action Plan Update - Report No. AR18/31482

- (a) That Community Engagement and Social Inclusion Sub-Committee Report No. AR18/31482 titled '*Yerkalapata – Leading the Way: City of Mount Gambier Reconciliation Action Plan*' as presented to the Community Engagement and Social Inclusion Sub-Committee meeting on 16 August 2018 be noted.

Moved:

Seconded:

13.29. Vulnerable Families - Youth Engagement - Ref. AR18/32038

- (a) That Community Engagement and Social Inclusion Sub-Committee Report No. AR18/32038 titled '*Vulnerable Families - Youth Engagement*' as presented to the Community Engagement and Social Inclusion Sub-Committee on 19 July 2017 be noted.

Moved:

Seconded:

13.30. Mount Gambier Changing Places Location Engagement - Ref. AR18/31991

- (a) That Community Engagement and Social Inclusion Sub-Committee Report No. AR18/31991 titled '*Mount Gambier Changing Places Location Engagement*' as presented to the Community Engagement and Social Inclusion Sub-Committee on 16 August 2018 be noted.
- (b) That Council endorse finalising contractual arrangements with Department of Communities and Social Inclusion to progress the installation of a Changing Places facility for the community of Mount Gambier at the James Street location.

Moved:

Seconded:

14. COUNCIL REPORTS

Council Reports commence on the following page.



14.1. Election Caretaker Period - Report No. AR18/32748

COMMITTEE	Council
MEETING DATE:	21 August 2018
REPORT NO.	AR18/32748
RM8 REFERENCE	AF18/112
AUTHOR	Michael McCarthy
SUMMARY	This report provides information regarding prohibited and restricted activities during the election caretaker period in accordance with Council's Caretaker Policy C305
COMMUNITY PLAN REFERENCE	Goal 3: Our Diverse Economy

REPORT RECOMMENDATION

- (a) That Council Report No. AR18/32748 titled '*Election Caretaker Period*' as presented to the Council on 21 August 2018 be noted.
- (b) That all Elected Members attend a Caretaker Awareness Session as scheduled for 27th and 28th August 2018.
- (c) That the restrictions on certain activities being undertaken during the election period from 4 September to 16 November 2018 as set out in Council's Caretaker Policy C305 be noted.
- (d) That certain practices with regard to Council's social media activities as set out in Council Report No. AR18/32748 be put in place for the duration of the election period including the referral of followers to Have Your Say for the provision of comments/feedback and the deferral of any reporting to Council on feedback received using these medium during the period until after the election .

Moved:

Seconded:



Background

At the Council meeting held on 19 June 2018 Council re-adopted its Caretaker Policy C305 as attached to this report.

The Caretaker Policy is a statutory policy required by section 91A of the Local Government (Elections) Act 1999 and in accordance with the provisions of that Act is taken to form part of the Code of Conduct for Council Members and Council Employees.

The Caretaker Policy must as a minimum prohibit the making of 'designated decisions' during the election period. In addition, the Caretaker Policy also prohibits significant (major policy) decisions and restricts other activities that use Council resources that, if they occurred, significantly affect the Council area or community, inappropriately bind the incoming Council, be (or be perceived as being) for the advantage of a particular candidate or group of candidates, or influence the election.

For the purpose of the Caretaker Policy the election period commences on the day candidate nominations open for the 2018 Local Government Elections, being Tuesday 4th September 2018.

Discussion

The prohibition on the making of 'designated decisions' during the election period is set out in the Local Government (Elections) Act and includes decisions:

- relating to the employment, remuneration and termination of the Chief Executive Officer.
- to enter into a contract the total value of which exceeds the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year.
- Allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates for election).

(excluding decisions of a kind excluded from the definition of 'designated decision' by Regulation)

The prohibition of significant (major policy) decisions during the election period is by operation of Council's Caretaker Policy C305 and includes any decision:

- to spend unbudgeted monies;
- to conduct unplanned public consultation;
- to endorse a new policy;
- to dispose of Council land;
- to approve community grants;
- to progress any matter which has been identified as an election issue; and
- any other issue that is considered a major policy decision by the Chief Executive Officer,
that is not a 'designated decision'.

The prohibition and restriction of other activities during the election period is, amongst other things, to place appropriate standards of behaviour on a democratically elected body (and Administration) as custodians during an election period and to avoid the misuse of Council resources for the advantage of a particular candidate or group of candidates or in a manner that could (or be perceived to) influence the outcome of an election.



These policy prohibitions and restrictions do not affect non-discretionary and 'business as usual' activities, but discretionary activities that are more appropriately conducted prior/after the election.

The other types of activities that are prohibited and/or restricted by the operation of Council's Caretaker Policy C305 include:

- Council publications (containing content regarding Council Members or which might be construed as 'electoral material' - including on Council website)
- Events and Functions (attendance and addresses by Council Members)
- Elected Member/Candidate access to Council information and briefing material
- Media Service/Publicity Campaigns (beyond communicating normal Council activities and initiatives without any variation in form or size)
- Public Consultation (discretionary on an issue which is contentious)
- Community meetings

It should be noted that consultation is only one aspect of community engagement. The Caretaker Policy provisions do not prevent Council from publicising, communicating, and informing the community on normal Council activities and initiatives provided these occur without any variation in form or size and do not breach any other legislative or policy provisions relating to electoral material and use of Council resources for election campaign purposes.

By way of example, the use of certain aspects of 'Have Your Say' to inform the community and allow (but not actively seek) feedback during the election period would not be considered to breach Caretaker Policy provisions. Whereas discretionary two-way engagement that actively seeks feedback or the holding of public information sessions would constitute 'public consultation' and 'community meetings' in breach of caretaker policy provisions.

The policy provisions do enable certain activities (e.g. public consultation on contentious issues) to occur if specifically resolved by Council. Reliance on such provisions should not be considered lightly and should be supported by sound compelling reasons included in the resolution(s) determining the activity.

Council should also give due consideration and weighting to the policy and legislative intent, communities expectations, the precedent that Council would be setting as custodian during the election period, and noting that the policy provides that any review, amendment or alteration (other than minor) to the policy or a substitution of a new policy be subject to public consultation in accordance with Councils Public Consultation Policy.

Importantly for all election candidates, Council's Caretaker Policy also provides as follows:

Clause 7.4.4 - Council Members will not use their position as an elected representative or their access to Council employees and other Council resources to gain media attention in support of an election campaign.

Clause 7.5.2(c) - In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, the incident must be reported to and advice sought from the Chief Executive Officer.

Clause 7.6.1 - Any assistance and advice provided to candidates as part of the conduct of the Council elections will be provided equally to all candidates.

Clause 7.6.4 - No Council logos, letterheads, or other Council branding or Council resources or facilities may be used for, or linked in any way with, a candidate's election campaign.



Clause 7.6.6 - Equipment and facilities provided to Council Members for the purpose of conducting normal Council business must not be used for campaigning purposes.

These provisions, consistent with the legislative prohibition on allowing the use of Council resources for the advantage of a particular candidate or group of candidates, impose a code of conduct obligation to not allow Council resources to be used or linked in any way with a candidates election campaign.

The practical application of these provisions in an active social media environment is that election candidates may (deliberately or unconsciously) share, link, like, comment or otherwise engage with Council's social media posts as part of their election campaigns and in breach of these provisions.

These activities place the Council in a position where it must determine whether to respond or otherwise engage, remove or ignore candidate interactions, which result in the use of Council resources being used or linked to a candidate's election campaign.

Whilst Council cannot control the manner in which candidates might misuse or engage with Council information (any breach of 'electoral material' requirements being between the candidate and Electoral Commission) Council can put in place certain practices during the election period to minimise this type of activity, as follows:

- incorporating a 'Pinned Post' to notify the community that the Council is operating in an election caretaker period and that its social media presence has been altered accordingly.
- restricting unauthorised public posts on Council's Social media platforms (this is a normal practice outside of election period).
- all Council publications being authorised by the Chief Executive Officer (for the avoidance of doubt with regard to appropriate authorisation of published material during election period).
- a filter be applied to all election candidate names, where able, restricting engagement with Council's social media content.
- deferring the presentation of any feedback/results until after the election period in accordance with clause 7.7.2 of Caretaker Policy C305.
- reporting of any identified breaches of the Caretaker Policy/election material authorisations by election candidates to the Chief Executive Officer and/or Electoral Commissioner

Lastly, Elected Member's attention has been drawn by memorandum circulated in the Friday Edition and a news item on the Elected Member Extranet to caretaker awareness training sessions to be held on Monday 27th August and Tuesday 28th August 2018. Attendance at one of these sessions is highly recommended to enable questions and answers to any election caretaker period and policy issues to be addressed by a legal practitioner conversant with the operation of caretaker provisions.

Conclusion

Having presented a summary of election period prohibitions and restrictions as set out in the Local Government (Elections) Act and Council's adopted Caretaker Policy C305, this report recommends that Elected Members attend one of the two (2) caretaker awareness sessions to be held on 27th/28th August 2018 and that certain practices as set out in the report be put in place for Council's social media activities during the election period.



Attachments

[Attachment 1 \(AR11/4214\[v4\]\): Caretaker Policy C305](#)



Michael McCARTHY
MANAGER EXECUTIVE ADMINISTRATION



Mark McSHANE
CHIEF EXECUTIVE OFFICER

13 August 2018
MMcC



14.2. Mount Gambier Regional Sport and Recreation Centre - Report No. AR18/32703

COMMITTEE	Council
MEETING DATE:	21 August 2018
REPORT NO.	AR18/32703
RM8 REFERENCE	AF18/112
AUTHOR	Mark McShane
SUMMARY	An update and future actions to progress the Stronger Regions Fund Grant Application.
COMMUNITY PLAN REFERENCE	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy

REPORT RECOMMENDATION

- (a) That Council Report No. AR18/32703 titled '*Mount Gambier Regional Sport and Recreation Centre*' as presented to the Council on 21 August 2018 be noted.
- (b) Council notes that the Election Caretaker Period which commences on 4 September 2018 and continues throughout the election period is governed by the Local Government Elections Act. Council's Caretaker Policy C305 provides direction regarding certain activities that should not occur during caretaker period unless otherwise formally resolved by Council due to particular circumstances.
- (c) Council Administration will continue to develop the concept plans for the Mount Gambier Regional Sport and Recreation Centre including documentation, financial analysis and cost estimation required to progress community consultation, preparation of a community survey and preparation of a full grant application to the Regional Growth Fund should Council's EO1 be accepted by the Federal Government.
- (d) The CEO be authorised to prepare a community survey including the engagement of external specialist support as necessary to enable the survey for the Mount Gambier Regional Sport and Recreation Centre to be conducted as soon as practicable following the November 2018 Council elections.



- (e) To meet the requirements of a comprehensive survey seeking feedback from the Mount Gambier community an estimated budget of \$65,000 is required and the CEO is authorised to expend up to this amount with adjustments in the 2018/19 budget being made from the operating surplus at Budget Review Number 3.
- (f) The wording and content of the community survey question/s not be finalised until such time as the Council is satisfied that sufficient information has been obtained to construct an appropriate survey and the community has been informed, as much as practicable, of the Centre proposal.
- (g) Proceeding with the full grant funding submission to both Federal and State Government agencies will be dependent on Council's confirmation of the project's readiness, business case, and appropriate level of community support as determined by the community survey. Alternatively Council may consider applying for any subsequent rounds of Federal (and State) funding.
- (h) Council acknowledges the ongoing support of the Community Reference Group (CRG) and members of the community who have provided input into the proposed Mount Gambier Regional Sport and Recreation Centre. The CRG be placed in recess for the duration of the election period.
- (i) That the Mayor and CEO be authorised to provide a closed briefing session to the District Council of Grant to discuss the issue of capital funding support for this regional facility.

Moved:

Seconded:



Background

Council resolved on 24 April 2018 to submit an EOI for the Federal Government's Stronger Regions Fund to provide the bulk of the funding to construct an indoor recreation and sport facility and amongst other things authorized the Administration to continue developing a full business case and to engage with a broad range of stakeholders.

Discussion

Member for Barker Mr Tony Pasin MP has informed Council that Expressions of Interest for the Stronger Regions Fund will be delayed at the Federal Government level for at least two months. Council's Expression of Interest was submitted late April and the guidelines noted a 12 week notification period. It is now anticipated that we will be informed of the EOI outcome in October.

Council elections are imminent with nominations opening on 4 September and closing on 18 September 2018. Voting papers will be available mid October with close of voting Friday 9 November.

Council enters its election "Caretaker" period on 4 September that extends until the election results are finalised. The Local Government Election Act restricts some Council activities during this time around specific "designated decisions". Council's Caretaker Policy provides direction regarding certain activities that should not occur during caretaker period unless otherwise formally resolved by Council due to particular circumstances.

The work to develop design, costings and financial analysis for the proposed Regional Sport and Recreation Centre continues. These activities are critical to the project and must be completed with the utmost thoroughness and to the satisfaction of Council, to enable detailed and comprehensive community information and consultation. It is anticipated that draft design, cost estimation and financial analysis will be completed by mid October.



Mark McSHANE
CHIEF EXECUTIVE OFFICER

16 August 2018
LD



15. MOTION(S) - With Notice

Nil submitted.

16. MOTION(S) - Without Notice



17. CONFIDENTIAL ITEMS

17.1. Consideration for Exclusion of the Public

Item 17.2

The following Agenda Item be received, discussed and considered in confidence by excluding the public pursuant to Section 90(2) of the Local Government Act 1999, and an order be made that the public (with the exception of Mayor A Lee, Councillors - C Greco, M Lovett, J Lynagh, S Mezinac, F Morello, D Mutton, S Perryman, H Persello, P Richardson and I Von Stanke and Council Officers - M McShane, B Cernovskis, P Lee, J Nagy, N Serle, M McCarthy, S McLean and F McGregor) be excluded from the meeting in order for the Agenda Item 17.2 Mount Gambier Aquatic Centre 2018-19 Business Plan to be considered in confidence.

The Council is satisfied that, pursuant to section 90(3)(g) of the Act the information to be received, discussed or considered in relation to the Agenda Item is information the disclosure of which are:

- matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

The Management Agreement between the City of Mount Gambier and Innovative Leisure Management states that documents that include information such that is contained in the Business Plan are confidential and cannot be released without prior consent.

Item No.	Subject Matter	S90(3) Grounds
17.2	Mount Gambier Aquatic Centre 2018-19 Business Plan - Report No. AR18/30233	(g)

Moved:

Seconded:



17.3. Consideration for keeping Items Confidential

That an order be made pursuant to Section 91(7) and recorded in the publicly released version of the minutes in accordance with Section 91(9) of the Local Government Act, 1999 that the document in relation to Item 16.2 which has been considered by the Council on a confidential basis pursuant to Section 90(3)(g) be kept confidential.

Item No.	Subject Matter	S90(3) Grounds	Element To Be Kept Confidential	Duration
9.2	Mount Gambier Aquatic Centre 2018-19 Business Plan - Report No. AR18/30233	(g)	All details	Until permission is obtained from Innovative Leisure Management as per 18.2 of the Management Agreement.

Moved:

Seconded:

Meeting closed at p.m.

AR18/31969



18. REPORT ATTACHMENTS

Report attachments commence on the next page.



**DESIGNATED INFORMAL GATHERING
MOUNT GAMBIER REGIONAL SPORT AND RECREATION CENTRE
COMMUNITY REFERENCE GROUP BRIEFING
5:30 PM WEDNESDAY 18TH JULY 2018**

RECORD OF PROCEEDINGS
5:30 pm Wednesday 18th July 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

MEMBERS PRESENT:-

Cr Von Stanke
Cr Persello
Cr Morello
Mayor Andrew Lee
Cr Mezinec

STAFF PRESENT:-

General Manager Community Wellbeing
General Manager City Growth
Media and Communications Coordinator
Project Officer
Community Development and Engagement Officer

COMMUNITY REFERENCE GROUP ATTENDEES:-

Graham Dowie
Scott Martin
Tom Kosch
Phil Lowe
Hazel Grant
Yvette Holmes

Jamie MacDonald
James Stephenson
Matthew Charlton
Nathan Stratford
Matt Sutton

MEMBERS APOLOGIES:-

Cr Mutton
Cr Lovett

LEAVE OF ABSENCE:-

Cr Greco

DISCUSSION:

Discussions regarding the Mount Gambier Regional Sport and Recreation Centre Community Reference Group Briefing.

Discussion closed at 7:00 p.m.

**DESIGNATED INFORMAL GATHERING
PUBLIC ART STRATEGY
5:30 PM MONDAY 30TH JULY 2018**

RECORD OF PROCEEDINGS
5:30 pm Monday 30th July 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

GUESTS:-

Ross Gibson - University of Canberra, Centenary Professor of Creative & Cultural Research

MEMBERS PRESENT:-

Cr Von Stanke
Cr Morello
Cr Lovett

STAFF PRESENT:-

General Manager Community Wellbeing
General Manager City Growth
General Manager City Infrastructure
General Manager Council Business Services
Gallery Director - Manager Arts & Cultural Development

MEMBERS APOLOGIES:-

Cr Mutton
Cr Mezinec
Mayor Lee
Cr Richardson
Cr Persello

LEAVE OF ABSENCE:-

Cr Greco

DISCUSSION:

Discussions regarding the Public Art Strategy staged implementation possibilities.

Discussion closed at 6:40 p.m.

**DESIGNATED INFORMAL GATHERING
SEAWL FUNDING REQUEST AND MAJOR EVENTS
AND CULTURAL SPONSORSHIP / FUNDING
5:30 PM WEDNESDAY 31ST JULY 2018**

RECORD OF PROCEEDINGS
5:30 pm Wednesday 31st July 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

MEMBERS PRESENT:-

Cr Mezinec
Cr Von Stanke
Mayor Lee
Cr Morello
Cr Lynagh
Cr Perryman (arrived at 5:45 pm)
Cr Lovett

STAFF PRESENT:-

General Manager Community Wellbeing
General Manager City Growth
General Manager City Infrastructure
General Manager Council Business Services
Team Leader - General Inspectorate
General Inspector

MEMBERS APOLOGIES:-

Cr Richardson
Cr Mutton

LEAVE OF ABSENCE:-

Cr Greco

DISCUSSION:

Discussions regarding SEAWL funding request and Major Events and Cultural Sponsorship / Funding.

Discussion closed at 7:00 p.m.

**DESIGNATED INFORMAL GATHERING
WASTE MANAGEMENT
5:30 PM DAY 6TH AUGUST 2018**

RECORD OF PROCEEDINGS
5:30 pm Monday 6th August 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

MEMBERS PRESENT:-

Mayor Lee
Cr Greco
Cr Von Stanke
Cr Morello
Cr Mezinec
Cr Lynagh

STAFF PRESENT:-

Chief Executive Officer
General Manager City Infrastructure
General Manager Community Wellbeing
General Manager City Growth
Environmental Sustainability Officer
ReUse Market Coordinator

MEMBERS APOLOGIES:-

Cr Mutton
Cr Richardson
Cr Persello

LEAVE OF ABSENCE:-

DISCUSSION:

Discussions regarding waste management.

Discussion closed at 7:00 p.m.

**DESIGNATED INFORMAL GATHERING
ARCHITECTURAL MEETING WITH THE MOUNT GAMBIER
REGIONAL SPORT AND RECREATION CENTRE COMMITTEE
5:45 PM TUESDAY 7TH AUGUST 2018**

RECORD OF PROCEEDINGS
5:45 pm Tuesday 7th August 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

GUESTS:-

Ben Luppino - Design In Adelaide Co-op Studio
Richard Stafford - Design In Adelaide Co-op Studio
Nick Cihi - Design In Adelaide Co-op Studio

MEMBERS PRESENT:-

Mayor Lee
Cr Mezinec
Cr Von Stanke
Cr Morello
Cr Greco
Cr Perryman

STAFF PRESENT:-

Chief Executive Officer
General Manager Community Wellbeing
General Manager City Growth
Project Officer
Community Development and Engagement Officer

MEMBERS APOLOGIES:-

Cr Mutton
Cr Persello

LEAVE OF ABSENCE:-

DISCUSSION:

Discussions regarding the Mount Gambier Regional Sport and Recreation Centre.

Discussion closed at 6:30 p.m.

**DESIGNATED INFORMAL GATHERING
ARCHITECTURAL MEETING WITH THE COMMUNITY REFERENCE GROUP
6:30 PM TUESDAY 7TH AUGUST 2018**

RECORD OF PROCEEDINGS
6:30 pm Tuesday 7th August 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

GUESTS:-

Ben Luppino - Design In Adelaide Co-op Studio
Richard Stafford - Design In Adelaide Co-op Studio
Nick Cihi - Design In Adelaide Co-op Studio

MEMBERS PRESENT:-

Mayor Lee
Cr Mezinec
Cr Von Stanke
Cr Morello
Cr Perryman

STAFF PRESENT:-

Chief Executive Officer
General Manager Community Wellbeing
General Manager City Growth
Media and Communications Coordinator
Project Officer
Community Development and Engagement Officer

COMMUNITY REFERENCE GROUP MEMBERS:-

Julie Moran
Scott Martin
Tom Kosch
Phil Lowe
Hazel Grant
Lisa Thomas

Jamie MacDonald
Yvette Holmes
Nick Watson
Matthew Charlton
Peter Collins
Nathan Stratford

MEMBERS APOLOGIES:-

Cr Mutton
Cr Persello

LEAVE OF ABSENCE:-

DISCUSSION:

Discussions regarding the Mount Gambier Regional Sport and Recreation Centre.

Discussion closed at 8:45 p.m.

**DESIGNATED INFORMAL GATHERING
MOUNT GAMBIER REGIONAL SPORT AND
RECREATION CENTRE – GENERAL DISCUSSIONS
5:00 PM WEDNESDAY 8TH AUGUST 2018**

RECORD OF PROCEEDINGS
5:00 pm Wednesday 8th August 2018
Committee Room, Level 4
Civic Centre
10 Watson Terrace, Mount Gambier

GUESTS:-

Troy Bell - Member for Mount Gambier
Tony Pasin - Member for Barker (via phone)
Kate Hill - Research Officer, Office of Troy Bell

MEMBERS PRESENT:-

Mayor Lee
Cr Greco
Cr Von Stanke
Cr Morello
Cr Mezinec
Cr Lovett

STAFF PRESENT:-

Chief Executive Officer
General Manager City Infrastructure
General Manager Community Wellbeing
General Manager City Growth
General Manager Council Business Services

MEMBERS APOLOGIES:-

Cr Persello
Cr Lynagh
Cr Richardson
Cr Mutton

LEAVE OF ABSENCE:-

DISCUSSION:

Discussions regarding the Mount Gambier Regional Sport and Recreation Centre.

Discussion closed at 7:00 p.m.

 <p>City of Mount Gambier</p>	<p>COUNCIL POLICY C305 COUNCIL AND COMMITTEE – CARETAKER POLICY</p>	Version No:	4
		Issued:	June, 2018
		Next Review:	June, 2022

1. POLICY STATEMENT

It is a long established democratic principle that outgoing elected bodies should not use public resources for election campaigning, nor make decisions which may unreasonably, inappropriately, or unnecessarily bind an incoming Council.

This Caretaker Policy affirms Council's commitment to fair and democratic elections, and adherence to this principle. This Policy includes a commitment to comply with the requirements of Section 91A of the *Local Government (Elections) Act 1999*.

2. APPLICATION OF POLICY

This Policy applies to:

- each periodic election of Members of the Council under the *Local Government (Elections) Act 1999*; and
- each general election¹. of Members of the Council held pursuant to a proclamation or notice under the *Local Government Act 1999*.

This Policy does not apply to:

- supplementary elections.

In this Policy:

- All references to 'Council Members' should be read as including the Mayor and the Deputy Mayor; and
- All references to the Chief Executive Officer should be read as including an Acting Chief Executive Officer and his/her delegate.

3. OUTLINE

This Policy applies during an '*election period*' of Council to cover:

- (a) designated decisions as defined in the *Local Government (Elections) Act 1999* that are made by Council; and
- (b) use of Council resources, including:
 - materials published by Council;
 - attendance and participation at functions and events;
 - access to Council information;
 - media services issues; and
 - responsibilities of Council employees;

This Policy applies to both the elected Council (Council Members) and to employees and captures all 'designated decisions' of Council, a committee of Council, or a delegate of the Council – refer to Clause 6.2.

¹ Section 91A (1) of the *Local Government (Elections) Act 1999* states that the caretaker policy applies during the 'election period' for a 'general election'. General elections are defined in the *Local Government Act 1999* to mean a periodic election held under section 5 of the *Local Government (Elections) Act 1999*, or an election pursuant to a proclamation or notice under the *Local Government Act 1999*. [In the case of an election pursuant to a notice under section 56 of the *Local Government Act 1999*, the specific provisions of section 57 will apply.]

The Policy does not apply to supplementary elections.

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This Policy forms part of (and is to be read in conjunction with) the prescribed Code of Conduct for Council Members and Code of Conduct for Employees in accordance with section 91A(7) of the *Local Government (Elections) Act 1999*.

4. 'ELECTION PERIOD'

During an 'election period', Council must assume a 'Caretaker mode', which means that it:

- must avoid designated decisions which are prohibited by section 91A of the *Local Government (Elections) Act 1999* (refer clause 6.2);

An '**election period**':

- commences** on the day that nominations open for the election so that the Caretaker Policy applies to all Council Members whilst they consider nominating for re-election; and
- terminates** at the 'conclusion of the election' (as defined at Section 4(2) of the *Local Government Act 1999*) for the relevant periodic or general election being the time at which the last result of the election is certified by the returning officer.

5. PURPOSE

During a Local Government 'election period', Council will assume a 'Caretaker mode', and will avoid actions and decisions which could be perceived as intended to affect the results of an election or otherwise to have a significant impact on or unnecessarily bind the incoming Council.

The purpose of this Policy is to clearly set the parameters that Council will operate within during a Caretaker period. Caretaker provisions are required pursuant to section 91A of the *Local Government (Elections) Act 1999* and are generally regarded as necessary for the promotion of transparent and accountable government during an 'election period'.

6. SIGNIFICANT DECISIONS

6.1 Scope

This clause applies to decisions of Council, a committee of Council, or a delegate of Council, including the Chief Executive Officer.

6.2 'Designated decisions' prohibited by the Local Government (Elections) Act 1999

The following table outlines those designated decisions which are expressly prohibited by section 91A of the *Local Government (Elections) Act 1999*.

Designated Decisions	
(a)	A decision relating to the employment or remuneration of the Chief Executive Officer, (other than a decision to appoint an acting Chief Executive Officer) other than a decision of a kind excluded from the definition of "designated decision" by Regulation.

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(b)	A decision to terminate the appointment of the Chief Executive Officer
(c)	<p>A decision to enter into a contract, arrangement or understanding (other than a prescribed contract) the total value of which exceeds whichever is the greater of \$100 000 or 1% of the Council's revenue from rates in the preceding financial year, other than a decision of a kind excluded from the definition of "designated decision" by Regulation.</p> <p>A "prescribed contract" means a contract entered into by the Council for the purpose of undertaking road construction or road maintenance or drainage works.</p>
(d)	A decision allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates for election), other than a decision of a kind excluded from the definition of "designated decision" by Regulation.

Council notes that the *Local Government (Elections) Act 1999* stipulates that any designated decision made by Council during the 'election period' without an exemption from the Minister is invalid. Furthermore, it also notes that Council is liable to pay compensation to any person who suffers loss or damage as a result of acting in good faith in reliance on such an invalid designated decision.

Council, if faced with extraordinary circumstances, may apply in writing to the Minister for an exemption. Council further notes that if the Minister chooses to grant an exemption it may be subject to any conditions or limitations that the Minister considers appropriate.

6.3 Exemptions to 'Designated decisions' under the *Local Government (Elections) Regulations 2010*

The *Local Government (Elections) Regulations 2010* were gazetted and came into effect on 27 August 2010. Regulation 12 exempts a number of key decisions from the definition of a 'designated decision' which will assist Councils' on-going operations during the election 'caretaker' period. It provides that for the purposes of section 91A of the *Local Government (Elections) Act 1999*, the following types of decisions are excluded from the definition of 'designated decision', if the decision:

- relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004*, or under section 298 of the *Local Government Act 1999*; or
- is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth Government or State Government or otherwise for the council to be eligible for funding from the Commonwealth Government or State Government; or
- relates to the employment of a particular Council employee (other than the chief executive officer); or

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- is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of Council for the relevant financial year and the negotiations commenced prior to the election period; or
- relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by Council; or
- if the decision is for the suspension of the Chief Executive Officer for serious and wilful misconduct.

6.4 Scheduling consideration of designated decisions

The Chief Executive Officer must ensure that 'designated decisions' are not scheduled for consideration during the 'election period'.

6.5 Decisions made prior to an 'election period'

This Policy applies to actual decisions made during an 'election period', not the announcement of decisions made prior to the 'election period'.

6.6 Other significant decisions which are prohibited by operation of this Policy

Prohibited Decision	Notes
Any major policy or other decisions which will significantly affect the Council area or community or will inappropriately bind the incoming Council	This is an internal requirement of Council

So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling significant decisions (including major policy decisions) for consideration during an 'election period' and, instead, ensure that such decisions:

- (a) are considered by Council prior to the 'election period'; or
- (b) are scheduled for determination by the incoming Council.

In the context of this Policy, a 'major policy' decision includes any decision:

- to spend unbudgeted monies;
- to conduct unplanned public consultation;
- to endorse a new policy;
- to dispose of Council land;
- to approve community grants;
- to progress any matter which has been identified as an election issue; and
- any other issue that is considered a major policy decision by the Chief Executive Officer,

that is not a 'designated decision'.

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6.7 Role of the Chief Executive Officer

The determination as to whether any Policy decision is major or any other decision is significant will be made by the Chief Executive Officer, after consultation with the Mayor.

6.8 Considerations for urgent decisions

Where the Chief Executive Officer has determined that a decision is a major policy decision or is otherwise significant and therefore is covered by 6.6 above, and circumstances arise that require the decision to be made during the election period, Council will consider the matter and determine whether to make the decision.

The report to Council will address the following issues, where relevant:

- (a) Why the matter is considered 'significant';
- (b) Why the matter is considered urgent;
- (c) What are the financial and other consequences of postponing the matter until after the election, both on the current Council and the incoming Council;
- (d) Whether deciding the matter will significantly limit the policy choices of the incoming Council;
- (e) Whether the matter requires the expenditure of unbudgeted funds;
- (f) Whether the matter is the completion of an activity already commenced and previously endorsed by Council;
- (g) Whether the matter requires community engagement;
- (h) Any relevant statutory obligations or timeframes; and
- (i) Whether dealing with the matter in the 'election period' is in the best interests of the Council area and community.

The aim of the report is to assist Council Members assess whether the decision should be deferred as a decision for the incoming Council.

7. USE OF COUNCIL RESOURCES

Council notes that Section 91A(8)(d) of the *Local Government (Elections) Act 1999* requires Council to prohibit the use of Council resources for the advantage of a particular candidate or group of candidates. This includes a candidate or candidates who are currently elected Members of Council.

Council resources cover a wide range of personnel, goods, services, information and opportunities and may include:

- materials published by Council;
- attendance and participation at functions and events;
- access to Council information; and
- media services issues.

Council Members and employees will ensure that due propriety is observed in the use of Council resources and must exercise appropriate judgement in this regard.

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Council resources, including employees, support employees, hospitality services, equipment and stationery must be used exclusively for normal Council business during an 'election period' and, must not be used in connection with an election other than uses strictly relating to the election process.

7.1 Council Publications During an 'Election Period'

7.1.1 Prohibition on publishing certain materials during an 'election period'

Subject to the operation of Section 12(b) of the *Local Government (Elections) Act 1999* Council must not:

- (a) print, publish or distribute; or
- (b) cause, permit or authorise others to print, publish or distribute on behalf of Council,

any advertisement, handbill, pamphlet or notice that contains 'electoral material' during an 'election period'.

For the purposes of this Policy 'electoral material' means material which is calculated (i.e. intended or likely) to affect the result of an election. However, it does not include any materials produced by Council relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the returning officer for the purposes of conducting an election.

This Policy does not prevent publications by Council which merely announce the holding of an election or relate only to the election process itself for the purposes of Section 12(b) of the *Local Government (Elections) Act 1999* or otherwise. Council may provide information, education and publicity designed to promote public participation in the electoral processes for its area, and to inform potential voters about the candidates who are standing for election in its area. It will not publish material that refers to, or comments on, an issue submitted to or is otherwise before voters in connection with the election.

Council Members are, however, permitted to publish campaign material on their own behalf, but cannot assert for that material to be originating from, or authorised by, Council (e.g. by the use of Council logos).

NOTE: 'Publication' means any type of publication, including but not limited to leaflets, newspapers, posters, email, website, radio etc.

7.1.2 Council website

During an 'election period', new material which is prohibited by this Policy will not be placed on the Council website. Any information which refers to the election will only relate to the election process by way of information, education or publicity. Information about Council Members will be restricted to names, contact details, titles, membership of committees and other bodies to which they have been appointed by the Council.

The Council's website will include an express link or reference to the Local Government Association publication of candidate profiles and electoral statements for the purposes of section 19A of the *Local Government (Elections) Act 1999*.

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7.1.3 Other Council publications

Insofar as any Council publications, such as the Annual Report, are required to be published during an 'election period', the content contained within them regarding Council Members will be restricted to that strictly required by the *Local Government Act 1999* and Regulations.

Council publications produced before an 'election period' containing material which might be construed as electoral material will not be circulated or displayed during the 'election period'. However, they may be made available to members of the public on request.

7.2 Attendance at Events and Functions during an 'Election Period'

In this clause, reference to events and functions means gatherings involving external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities, and social occasions such as dinners, receptions and balls.

7.2.1 Events staged by external bodies

Council Members may continue to attend events and functions staged by external bodies during an 'election period'. This includes but is not limited to LGA and regional LGA meetings, including the LGA Annual General Meeting held in October.

7.2.2 Council events and functions

Council organised events and functions held during the 'election period' will be reduced to only those essential to the operation of Council.

7.2.3 Addresses by Council Members

Council Members must not give speeches or keynote addresses at Council organised or sponsored events and functions during an 'election period'.

Council Members may, however, make short welcome speeches at Council organised or sponsored events and functions during an 'election period'.

7.2.4 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 will be consistent with Clause 7.1 of this policy.

7.3 Access to Council Information

Council Members continue during an 'election period' to have a statutory right to access Council information relevant to the performance of their functions as a Council Member. This right should be exercised with caution and limited to matters that Council is dealing with within the objectives and intent of this Policy. Any Council information so accessed that is not publicly available must not be used for election purposes.

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All candidates (including those that are Council Members) have equal rights of access to public information relevant to their election campaigns from the Council administration. Neither Council Members nor candidates will be provided with information or advice from Council employees that might be perceived to support an election campaign, and there shall be transparency in the provision of all information and advice during an 'election period'.

7.3.1 Information and briefing material

Information and briefing material prepared or secured by employees for a Council Member during an 'election period' must be necessary to the carrying out of the Council Member's role and, where appropriate, provided to any candidate seeking the same information. Queries by employees regarding the provision of information will be directed to the Chief Executive Officer in the first instance.

7.4 Media Service

Council's media and communication services are directly managed by or under the supervision of the Chief Executive Officer, are provided solely to promote Council activities or initiatives and must not be used in any manner that might favour a candidate during an 'election period'.

7.4.1 Media advice

Any request for media and communication advice or assistance from Council Members during an 'election period' will be referred to the Chief Executive Officer. No media or communication advice will be provided in relation to election issues or in regard to publicity that involves specific Council Members.

7.4.2 Media releases / spokespersons

Media releases will not refer to specific Council Members. Where it is necessary to identify a spokesperson in relation to an issue, the Chief Executive Officer will generally be the appropriate person.

7.4.3 Publicity campaigns

During the 'election period', publicity campaigns, other than for the purpose of conducting the election in accordance with the requirements of Section 12(b) of the *Local Government (Elections) Act 1999*, 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.

In any event, Council publicity during an 'election period' will be restricted to communicating normal Council activities and initiatives without any variation in form or size.

7.4.4 Council Members

Council Members will not use their position as an elected representative or their access to Council employees and other Council resources to gain media attention in support of an election campaign.

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7.4.5 Council employees

During an 'election period', no Council employee may make any public statement that relates to an election issue unless such statements have been approved by the Chief Executive Officer.

7.5 Council Employees Responsibilities During and Election Period

Prior to any election period, the Chief Executive Officer will ensure that all employees of Council are advised in relation to the application of this Caretaker Policy.

7.5.1 Correspondence

All correspondence addressed to Council Members will be answered by the Chief Executive Officer during the election period.

7.5.2 Activities that may affect voting

- (a) Council employees must not undertake an activity that may affect voting in the election, except where the activity relates to the election process and is authorised by the Chief Executive Officer;
- (b) Council employees must not authorise, use or allocate a Council resource for any purpose which may influence voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer; and
- (c) Council employees must not assist Council Members in ways that are or 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, the incident must be reported to and advice sought from the Chief Executive Officer.

7.6 Equity in Assistance to Candidates

Council confirms that all candidates for the Council election will be treated equally.

7.6.1 Candidate assistance and advice

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

7.6.2 Election process enquiries

All election process enquiries from candidates, whether current Council Members or not, are to be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the Chief Executive Officer (or nominee).

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7.6.3 Expenses incurred by Council Members

Payment or reimbursement of costs relating to Council Members out-of-pocket expenses incurred during an 'election period' will only apply to necessary costs that have been incurred in the performance of normal Council duties. No reimbursements will be provided for campaigning, or for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

7.6.4 Council branding and stationery

No Council logos, letterheads, or other Council branding or Council resources or facilities may be used for, or linked in any way with, a candidate's election campaign.

7.6.5 Support employees to Council Members

Council employees who provide support to Council Members must not be asked to undertake any tasks connected directly or indirectly with an election campaign for a Council Member.

7.6.6 Equipment and facilities

Equipment and facilities provided to Council Members for the purpose of conducting normal Council business must not be used for campaigning purposes.

7.7 Public Consultation during an 'Election Period'

7.7.1 Prohibition

It is prohibited under this Policy for discretionary public consultation to be undertaken during the 'election period' on an issue which is contentious unless Council specifically resolves otherwise.

For the purpose of this provision, discretionary public consultation means consultation which is not legislatively mandated and is a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

This Policy does not prevent any mandatory public consultation required by the *Local Government Act 1999* or any other Act which is required to be undertaken to enable the Council to fulfil its functions in relation to any matter or decisions which are not prohibited by law or by this Policy.

7.7.2 Approval for public consultation

Where public consultation is approved to occur during an 'election period', the results of that consultation will not be reported to Council until after the 'election period', except where it is necessary for the performance of functions as set out at clause 7.7.1 above.

7.7.3 Community meetings

Community meetings will not be held during an 'election period'.

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8. HANDLING CODE OF CONDUCT COMPLAINTS DURING AN ELECTION PERIOD

Any complaint against a Council Member who is also a candidate for re-election made under the Code of Conduct for Council Members during an 'election period' will not be heard or determined by the Council during that period.

The Chief Executive Officer, upon receiving a complaint against a Council Member, who is also a candidate for re-election about conduct specifically in relation to this Policy (considered part of the Code of Conduct for Council Members), will refer the complaint to the independent Local Government Governance Panel established by the Local Government Association for assessment and investigation.

If the complaint is, in the opinion of the Chairperson of the Governance Panel, not so serious as to warrant urgent determination, consideration of the complaint must be deferred until after the 'election period'.

If the Council Member against whom the complaint is made is not returned to office after the election, the complaint will lapse.

An example of a serious complaint which would warrant urgent determination is where a complaint of a deliberate and wilful breach of this Policy is made, and is supported by sufficient evidence for the Chairperson of the Governance Panel to be satisfied that the conduct of the Council Member was not an honest or innocent mistake.

Where a complaint is made against a Council Member for a breach of this Policy and is deferred until after the 'election period', the Chief Executive Officer will remind the Council Member of the content of this Policy and will provide them with a copy of it.

Council recognises that the Electoral Commissioner has the role of investigating any alleged breach of the *Local Government (Election) Act 1999*, including alleged illegal practices.

9. COUNCIL ENDORSEMENT

This Policy was first adopted by resolution of the Council on Tuesday 20th April, 2010.

10. REVIEW & EVALUATION

This Policy is scheduled for review by Council in June 2022.

Any future review, amendment or alteration (other than minor) to this Policy or a substitution of a new Policy will be subject to public consultation in accordance with Councils Public Consultation Policy.

11. AVAILABILITY OF POLICY

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

(Version 4.0 minor alterations 19th June, 2018).

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Applicable Legislation:	Local Government (Elections) Act 1999 Local Government (Elections) Regulations 2010 Local Government Act 1999 <ul style="list-style-type: none"> • Code of Conduct for Council Members • Code of Conduct for Council Employees
Reference: Strategic Plan – Beyond 2015	Goal 5, Strategic Objective 5
Related Policies:	E105 Elections – Supplementary Elections M130 Media – Statements on behalf of Council M265 Members – Complaint Handling
Related Procedures:	
Related Documents:	

DOCUMENT DETAILS

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