

ELECTION CARETAKER PROVISIONS

Intent To guide the conduct of Councillors and Council Officers during the lead up to local government elections based on the democratic principle that outgoing elected bodies should not use public resources for election campaigning, nor make decisions which may be unreasonable, inappropriate or unnecessarily bind an incoming Council.

Scope To provide information regarding decisions making during an election period with respect to:

- Appropriate decision making;
- Equity and transparency between existing Councillors and new candidate regarding access to Council resources;
- Effective day to day management of Council activities; and
- Council resources are not diverted for electoral purposes.

This policy will commence at the time of close of nominations for each election and continue until the conclusion of the election. The policy is applicable to all elected representatives and staff during the election period. The term "election period" is defined in the *Local Government Act 2009*.

This policy has been written in accordance with the *Local Government Act 2009* and *Local Government Electoral Act 2011*

PROVISIONS

During the election period Councillors and Council Officers will assume a "caretaker mode", avoiding actions and decision which could be perceived as influencing voters or having a significant impact on the incoming Council.

MAJOR POLICY DECISIONS

The areas of Council's operations that will be impacted during the election period by the caretaker provisions are:

- major policy decisions;
- use of Council resources; and
- significant public events and consultation (including media announcements; public consultations and publications).

In particular Schedule 4 of the *Local Government Act* defines major policy decisions and what constitutes a prohibited decision during this period as meaning:

- About the appointment of a chief executive officer of the local government; or
- About the remuneration of the chief executive officer of the local government; or
- To terminate the employment of the chief executive officer of the local government; or
- To enter into a contract the total value of which is more than the greater of the following –
 - (i) \$200,000;
 - (ii) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report.

It is noted that Section 90B does allow for the Local Government to make application to the Minister for approval to make a major policy decision under exceptional circumstances. However, if Council has approved the budget expenditure prior to the commencement of the caretaker period and the decision is purely to award a contract or to implement the policy then Council will seek confirmation from the Department in each instance on a project basis that this is not prohibited under section 90B.

In addition, Council will not consider any new major policies, significant changes to policy and or major projects that significantly affect the Council. When defining a major policy and/or project, the following will be taken into consideration:

- What is the influence of the policy/project on the financial sustainability of the Council?
- Will the project/policy divert Council resources?
- Does the project/policy have the potential to be controversial? and
- Does the project/policy have the potential to require significant community engagement?

Note: Significant decisions required by legislation are exempt from this provision unless the legislation makes provision for caretaker periods.

Section 90D also prohibits Council from publishing or distributing of election matter for the election during the caretaker period.

USE OF COUNCIL RESOURCES

The use of Council resources by all Councillors will continue during the election period for official duties and responsibilities in accordance with the General Policy Remuneration, Expenses Reimbursement and provision of facilities and support for Elected Representatives. The use of Council resources and equipment (laptops, printers, photocopiers or stationary) for the production of election material is strictly prohibited.

MAJOR EVENTS / COMMUNITY INTERACTION

The following Council organised events and ceremonies will have the following variations and or restrictions during the election period:

- Citizenship ceremonies – formal citizenship ceremonies will continue and all public events will be advertised
- Community awards and recognition and civic receptions – there will be no formal awards, recognitions or civic receptions during the election period.

Should the circumstances warrant a civic / major event activity, then the official duties and formalities will be undertaken by the Chief Executive Officer excluding Australia Day ceremonies.

MEDIA

Media releases will be limited to operational issues rather than policy and/or major projects. Council will not make comment on individual election campaigns except if harmful, inaccurate comments are made by a candidate. In these circumstances, the Chief Executive Officer reserves the right to correct the inaccuracy.

Council staff (including Marketing and Communications) will not provide media advice to Councillors who have nominated as candidates regarding public comment on the elections. These matters will be referred to the Chief Executive Officer for comment and action whenever possible.

PUBLICATIONS

Part 5 Section 90D of the *Local Government Act 2009* states that a local government must not, during a caretaker period for the local government, publish or distribute election matter. Election material is anything able to, or intended to - :

- influence an elector about voting at an election;
 - affect the result of an election:
- any advertisement, handbill, pamphlet or notice that contains "election material" during the election period. Electoral material means any material which is calculated (i.e. intended or likely) to affect voting in an election.

All election material must accord with existing Planning Schemes, Local Laws and Subordinate Local Laws.

PUBLIC CONSULTATION

No discretionary public consultation will take place during the election period on an issue which is contentious unless prior approval is given by the Chief Executive Officer.

For the purpose of this policy, 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 2009*, *Sustainable Planning Act 2009* 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 this Policy.

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 otherwise approved by the Chief Executive Officer or is necessary for the performance of functions of Council.

REQUESTS FOR INFORMATION AND RELATED PLANNING DECISIONS

To increase transparency during the election period any information request from a Councillor or a candidate must be made by email and a copy provided to the relevant General Manager for monitoring and review as required.

During the caretaker period all planning matters which qualify to be handled under existing delegated authority shall be dealt with at officer level and only those planning matters that do not qualify under delegated authority provision matters are to be determined at a Council meeting.

COUNCILLOR TRAINING AND DEVELOPMENT

During the election period Council will not fund or conduct any training or professional development activities for Councillors.

CONTACT WITH STAFF

Current Councillors

The Chief Executive Officer is committed to ensuring Councillors are provided with appropriate support to continue to fulfil their official duties and responsibilities during the election period. During the election period Councillors may still contact officers in accordance with Council's General Policy Councillor Staff Interaction Protocol and the provisions of the *Local Government Act 2009*.

Nominated Candidates

Any approach to an officer from a candidate for information shall also be referred to their General Manager in the first instance.

CONDUCT OF STAFF

Prior to the election period commencing, the Chief Executive Officer will ensure that all staff are advised of the application of this Policy and ensure that:

- Council staff will not undertake any activity that may affect voting in the election.
- Council staff will not authorise, use or allocate a Council resource for any purpose which may influence voting in the election.
- Council staff will not assist Councillors or a candidate in a way that is or could create a perception that they are being used for electoral purposes.
- Should any member of staff wish to provide support or assistance to a Councillor or a candidate in their own time as a private citizen including on the day of the election they must in no way be seen to be acting as a representative of Council and in these actions they are acting as a private citizen.

GRIEVANCES

Council confirms that all candidates for the Council election will be treated equally. Any complaints or grievances in relation to this Policy should be referred to the Chief Executive Officer.

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This policy is to remain in force until otherwise determined by Council.

General Manager Responsible for Review:

**Human Resources & Organisational
Change**

ORIGINALLY ADOPTED: 17/08/2011

CURRENT ADOPTION: 19/08/2015

DUE FOR REVISION: 19/08/2019

REVOKED/SUPERSEDED:



John Andrejic
ACTING CHIEF EXECUTIVE OFFICER