

Policy Title: Caretaker Period Policy

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Responsible Officer

Legal and Governance Officer

Responsible Department

Office of the Mayor and CEO

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NOTE: This cover page is not to be included when submitting a report to a Council meeting

1. BACKGROUND AND PRINCIPLES

Prior to an election, *Councillors* and *Council officers* enter into a *caretaker period*, avoiding actions and decision making which could be perceived as influencing voters or having a significant impact on the incoming Council. During this period, Councillors and Council officers must ensure that the ordinary business of Council continues in a responsible, transparent and legally-compliant manner.

2. SCOPE

This policy applies to all Whitsunday Regional Council Councillors and to all Council officers, whether permanent, temporary, casual or part-time employees or contractors. This policy applies to *quadrennial elections* but not *fresh elections* or by-elections.

3. POLICY OBJECTIVES

The objectives of this Policy are:

- to ensure that there are clear boundaries around what action can and cannot occur during the caretaker period;
- to ensure that the business of Council takes place in an accountable and transparent manner;
- to ensure that Council avoids any perception of acting in a politicised manner during the caretaker period;
- to ensure appropriate decision making in accordance with the *Local Government Act 2009* (“the Act”); and
- to ensure that *Council resources* are not diverted for electoral purposes.

4. POLICY STATEMENT

4.1 Council affirms its commitment during the caretaker period to:

- (a) the efficient and transparent continuation of Council’s day to day business for the benefit of residents;
- (b) transparent actions and decision-making;
- (c) actions that do not, or cannot be perceived to, bind an incoming Council in its operational delivery;
- (d) the suspension of *major policy decisions*;
- (e) maintaining the neutrality and independence of Council officers; and
- (f) the principle that the use of public funds for electoral purposes is unacceptable.

- 4.2 Council acknowledges that during the caretaker period, Councillors who are also candidates may make election commitments which they intend to honour if they are re-elected. Councillors making such commitments should make it clear that these commitments are being made in their role as a candidate, rather than any kind of commitment being made on behalf of the Council or which reflects the majority view of Council.
- 4.3 Councillors should take particular care in any campaign activity to ensure that there can be no possible perception of use of Council provided resources for activity that could be perceived as having some electoral flavour.
- 4.4 Council shall continue to meet during the caretaker period for the purpose of making decisions in the public interest. However Council shall defer making any decisions during the caretaker period which:
- (a) could be perceived to unreasonably bind an incoming Council in its operational delivery; or
 - (b) constitute a major policy decision for which Ministerial approval has not been received.
- 4.5 Councillors shall not use information gained during the course of the role as Councillors to disparage or discredit Council. Councillors disparaging or discrediting Council may be in breach of the Councillor Code of Conduct Policy.

Major policy decision

- 4.6 Council shall not make major policy decisions during a caretaker period except with permission of *the Minister*.
- 4.7 If Council considers that, having regard to exceptional circumstances that apply, it is necessary to make a major policy decision in the public interest, Council shall apply to the Minister for approval to make the decision.
- 4.8 If the Minister is satisfied that it is necessary for Council to make the major policy decision in the public interest, Council shall abide by any conditions which the Minister sets in relation to the policy decision.
- 4.9 A major policy decision made by Council during a caretaker period without the approval of the Minister is invalid. A contract is void if it is the subject of a major policy decision that is invalid.
- 4.10 A person who acts in good faith in relation to a major policy decision of Council, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of the invalidity of the decision or because the contract is void, has a right to be compensated by Council for the loss or damage.

Council officers

- 4.11 Council officers shall maintain the normal business activities of Council during the caretaker period.
- 4.12 Council officers shall undertake their duties in an appropriate way and take all steps to avoid any real or perceived partisanship in order to protect the organisation's ability to impartially serve any incoming Council following an election.
- 4.13 Council officers shall not fulfil any request that is or could be perceived to be, an electioneering activity.
- 4.14 Elected member support officers shall continue to provide support for Council endorsed activities and core Council business but not election or politically related matters.

- 4.15 Any Council officer proposing to stand as a candidate for the election must complete an Election Management Plan.
- 4.16 As per section 203 of the *Local Government Electoral Act 2011*, a Council officer who nominates as a candidate is entitled to a leave of absence from their appointment for a period of not more than two (2) months in order to contest the election.

Election material

- 4.17 In accordance with section 90D of *the Act*, Council shall not publish or distribute *election material* intending to influence an elector about voting at an election or affect the result of an election.

Use of Council resources during caretaker period

- 4.18 Councillors are entitled to use Council resources and facilities as outlined in Council's Reimbursement of Expenses and Provision of Facilities for Councillors Policy for routine activities in the fulfilment of their roles and responsibilities at Councillors, until their *term of office* comes to an end.
- 4.19 Councillors and Council officers shall not use Council equipment or resources for election purposes.
- 4.20 Where a Councillor has a Council vehicle for which private usage is approved, the Councillor may continue to use that vehicle until their term of office comes to an end provided that they do not affix or allow to be affixed or remain affixed any sticker, poster, decal or other magnetic or adhesive device that promotes the Councillor as an actual or potential candidate for any election.

Requests for information by Councillors

- 4.21 All requests for information or advice from Councillors shall continue to be responded to in accordance with the Acceptable Requests Guidelines.
- 4.22 During the caretaker period, Councillors shall limit information requests to those essential to continue Council's operations.
- 4.23 Requests for reports on substantive matters shall not be processed during the caretaker period unless they involve a matter of public safety or are requested by a resolution of the full Council.
- 4.24 To increase transparency during the caretaker period, any information request from a Councillor must be made by email.

Provision of information to candidates

- 4.25 To increase transparency during the caretaker period, requests for information by candidates during the caretaker period should be made by email.
- 4.26 Requests from a candidate shall be dealt with as per the process for a member of the public. The process for providing and refusing information shall be the same as for a member of the public.

Councillor correspondence

- 4.27 Councillors may continue to correspond with constituents on matters related to Council business during the caretaker period. In responding to such correspondence, the Councillors shall not purport to make policy commitments binding the incoming Council.

Media

- 4.28 The *CEO* shall be the official spokesperson of Council during the caretaker period.

- 4.29 Media releases released by the organisation during the caretaker period must be of public interest, relate to day-to-day Council business, rather than policy and/or major projects and must not be reasonably construed as being for political purposes.
- 4.30 During the caretaker period, Council shall respond to media enquiries that relate to operational matters only.
- 4.31 Media releases shall not be attributed to individual Councillors during the caretaker period.
- 4.32 Media events may continue to be held during the caretaker period provided the media event relates to core Council business and is not used for political purposes.
- 4.33 If a Councillor is at a media event and is asked a political question, the Councillor, if seeking re-election, shall respond in their capacity as a candidate or, if not seeking re-election, shall respond as an individual. Councillors should ensure to distinguish their individual opinion from the majority view of the elected Council. Under no circumstances should a response be attributed to Council.
- 4.34 Councillors shall not seek media notes from Council officers for the purpose of assisting them with their campaign.
- 4.35 Council officers (including Communications officers) shall not provide media advice to Councillors who have nominated as candidates regarding public comment on elections.

Council's website and social media platforms

- 4.36 Updates of Council's website shall be limited to the following:
- (a) uploading of essential operational media releases, restricted to administrative or operational information of public interest and of a time-sensitive nature;
 - (b) road work updates or road closures;
 - (c) health or emergency warnings;
 - (d) material that is purely factual regarding Council's decisions or operations;
 - (e) updates to existing forms;
 - (f) aesthetic changes;
 - (g) fixing broken links or repairing web issues; and
 - (h) compliance with legislative requirements.
- 4.37 Facebook, twitter, blogs and other social media hosted or published by Council shall carry a notice to exclude political comment. No response shall be made to any political comments posted and any such comments shall be removed.

Advertising

- 4.38 In accordance with Council's Advertising Spending Policy *advertising* shall be limited in the three month period immediately before a quadrennial election.
- 4.39 During the *election advertising period*, and, in particular, during the caretaker period, Council shall restrict its advertising to that required to maintain the necessary, customary and routine operations of Council and day to day Council business.
- 4.40 Individual Councillors shall not be featured in any paid advertising during the caretaker period.

4.41 Care will be taken during the election advertising period to ensure that advertising is not construed to be of a political nature.

Civic and community events

4.42 Councillors may continue to represent Council at *civic events* and *community events* during the caretaker period, provided the event meets one or more of the following criteria:

- (a) it is a planned event endorsed by the full Council;
- (b) it is, or plans to be, routinely held at the same time each year;
- (c) it is a commemorative or anniversary event held on or near the anniversary date;
- (d) it is an event to be hosted by or on behalf of the Mayor in fulfilling his or her statutory responsibilities for ceremonial and civic functions, for example citizenship ceremonies or hosting VIP guests to the Whitsunday region.

4.43 There shall be no community awards, recognition and civic receptions during the caretaker period with the exception of citizenship ceremonies, which shall continue as normal.

Community engagement

4.44 Community engagement activities, including but not limited to surveys, polls – either formal or informal and invitations to put forward submissions, should be avoided during the caretaker period except where the community engagement is part of an ongoing project that requires the engagement as part of a program approved prior to the caretaker period or is a legislative requirement.

4.45 Where community engagement has occurred prior to the caretaker period but the results have not yet been presented to Council – either formally or informally, results of the engagement shall not be provided to Council until the caretaker period has concluded.

Community grants

4.46 Activities approved under Council's Community Assistance Grants Policy prior to the commencement of the caretaker period may continue during a caretaker period in accordance the policy.

4.47 Any funding round for *community grants* that is open during the caretaker period shall remain open but applications received during this time shall not be determined until after the election.

4.48 Council shall not approve community grants, either in or out of round, during the caretaker period.

Sponsorship

4.49 No new sponsorship shall be approved or entered into during the caretaker period. This includes sponsorship where Council gives sponsorship, including in-kind sponsorship, or seeks sponsorship from external entities.

4.50 Any sponsorship approved prior to the commencement of the caretaker period may continue in accordance with Council's Community Assistance Grants Policy.

4.51 Sponsorship applications may continue to be received during the caretaker period however no decisions on sponsorships shall be made until after the election.

Councillor conduct complaints

- 4.52 Complaints about Councillor conduct made during the caretaker period shall continue to be assessed and where appropriate forwarded for assessment to the relevant authority.
- 4.53 If the Councillor about whom the complaint was made is seeking re-election and is not successful, the complaint shall continue to be heard in accordance with legislative requirements.

Councillor training and development

- 4.54 During the caretaker period, Council will not fund or conduct any training or professional development activities for Councillors.

5. RELEVANT LEGISLATION

Local Government Act 2009

Local Government Regulations 2012

Local Government Electoral Act 2011

6. DEFINITIONS

Advertising refers to the definition in s197(3) in the *Local Government Regulation 2012* – promoting, for the payment of a fee, an idea, goods or services to the public.

Caretaker period is defined in s90A of the *Local Government Act 2009* the period during an election for the Council that starts on the day when the public notice of the holding of the election is given under s25(1) of the *Local Government Electoral Act 2011* and ends at the conclusion of the election, namely the day on which the last declaration of a poll conducted in the election is displayed in the officer of the returning officer.

CEO refers a person who holds an appointment as Chief Executive Officer of the Whitsunday Regional Council under section 194 of the *Local Government Act 2009*. This includes a person acting in this position.

Civic events means a public event that Council initiates, manages or has full responsibility for.

Community events means events including but not limited to media launches, promotional events, community engagement events, workshops, dinners, receptions, Mayoral events, awards, invitations to make submissions and local fairs.

Community grants includes but is not limited to direct financial assistance, indirect financial assistance and in-kind support.

Councillor/s is a reference to all Councillors, including the Mayor, of the Whitsunday Regional Council.

Council officers means staff employed by Council on a permanent, temporary, casual or part-time basis and includes contractors employed by Council.

Council resources include but are not limited to officers, services, information, equipment, printing, photographs, graphic design, public funds, grants, media services, materials published by Council, hospitality, stationery, property, facilities, website, vehicles, administrative tools and telecommunication devices.

Election advertising period is the three months immediately before a quadrennial election.

Election material includes but is not limited to anything able to, or intended to, influence an elector about voting at an election or affect the result of the election.

Fresh election means an election of all the Councillors of Council that is not a quadrennial election.

Major policy decision means a decision –

- (a) about the appointment of a chief executive officer of the local government; or
- (b) about the remuneration of the chief executive officer of the local government; or
- (c) to terminate the employment of the chief executive officer of the local government; or
- (d) 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.

Quadrennial election means the election for local governments that is held in 2012, and every fourth year after 2012.

Term of office is prescribed in s159 and s160 of the *Local Government Act 2009* and for a Councillor starts on the day after the conclusion of the election (if elected) or the day on which the Council is appointed and ends:

- if election at a quadrennial election or fresh election – at the conclusion of the next quadrennial election;
- if elected at a fresh election and a declaration is made under regulation – at the conclusion of the next quadrennial election;
- if elected or appointed to fill a vacancy in the office of another Councillor – at the end of the other Councillor's term;
- when the Legislative Assembly ratifies the dissolution of the local government under section 123 of the *Local Government Act 2009*; or
- when the Councillor's office otherwise becomes vacant.

the Act refers to the *Local Government Act 2009*.

the Minister refers to the Minister for Local Government or successor Minister.

7. RELATED DOCUMENTS

Advertising Spending Policy

Acceptable Requests Guidelines

Reimbursement of Expenses and Provision of Facilities for Councillors Policy

8. DATE REVIEWED

N/A

9. NEXT REVIEW

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