

Election Caretaker

Policy Objective

To ensure the Shire's activities and those of Elected Members who are candidates in local government elections, are undertaken in a manner that supports a high standard of integrity during local government election periods.

The primary objectives of this Policy are to:

- avoid the Council of the Shire of Broome making major decisions, before an election that would bind an incoming Council;
- prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting Elected Members who are seeking re-election, or new candidates; and
- ensuring the Shire of Broome Administration acts impartially in relation to candidates.

Policy Scope

This Policy applies during a 'Caretaker Period' (see below for definition) to cover:

- a) Decisions that are made by the Council;
- b) Materials published by the Shire;
- c) Attendance and participation in functions and events;
- d) Use of the Shire's resources; and
- e) Access to Shire information.

Policy Statement

1.1 Application

This Caretaker Policy applies to Elected Members, electoral candidates and employees of the Shire of Broome.

1.2 Scheduling Consideration of Major Policy Decisions

So far as reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that decisions are either:

Considered by the Council before the Caretaker Period; or
Scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the Chief Executive Officer may submit a major policy decision to the Council per Part 3 of this policy.

1.3 Decisions Made Prior to a Caretaker Period

This Policy only applies to actual decisions made during a Caretaker Period, not the announcement of decisions made before the Caretaker Period. While the announcement of earlier decisions may be made during the Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins.

Part 2: Implementation of Caretaker Practices

2.1 Role of the Chief Executive Officer in Implementing Caretaker Practices

The role of the Chief Executive Officer in implementing the caretaker practices outlined in this policy is as follows:

- a) The Chief Executive Officer will ensure as far as possible, that all Elected Members and Shire officers are aware of the Caretaker Policy and practices 30 days before the start of the Caretaker Period.
- b) The Chief Executive Officer will ensure, as far as possible, that any major policy or significant decisions required by the Council are scheduled for Council resolution before the Caretaker Period or deferred if appropriate for determination by the incoming Council.
- c) The Chief Executive Officer will endeavour to make sure all announcements regarding decisions made by the Council, before the Caretaker Period, are publicised before the Caretaker Period.

Part 3: Extraordinary Circumstances Requiring Exemption

3.1 Extraordinary Circumstances

The Chief Executive Officer may, where extraordinary circumstances prevail, permit a matter defined as a 'major policy decision' to be submitted to the Council. The Chief Executive Officer is to have regard to a range of circumstances, including but not limited to:

- a) Whether the decision is 'significant';
- b) The urgency of the issue (that is – can it wait until after the election);
- c) The possibility of legal and/or financial repercussions if it is deferred;
- d) Whether the decision is likely to be controversial; and
- e) The best interests of the Shire of Broome.

3.2 Appointment or Removal of the Chief Executive Officer

Whilst the definitions of this policy establishes that a Chief Executive Officer may not be appointed or dismissed during a Caretaker Period, in the case of an emergency, the Council may act to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election, after which date a permanent decision can be made.

Part 4: Caretaker Statement

To ensure the Council complies with the commitment to appropriate decision making during the Caretaker Period, a Caretaker Statement will be included in every report submitted to the Council for a decision. The Caretaker Statement will specify one of the following:

- a) "The recommended decision is not a 'Major Policy Decision' within the context of Council Policy 'Elections - Caretaker Policy'."
- b) "The recommended decision is a 'Major Policy Decision' within the context of Council Policy 'Elections Caretaker Policy' however; an exemption should be made due to extraordinary circumstances (insert the circumstances for making the exemption)'."

Part 5: Shire of Broome Publications

5.1 Prohibition on Publishing Local Government Electoral Material

The Shire shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the Shire any advertisement, handbill, pamphlet or notice that contains 'electoral material' during the Caretaker Period.

5.2 Electoral Material Relevant to Prohibition

Without limiting the generality of the definition of 'electoral material', the material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:

- a) The election; or
- b) A candidate in the election; or
- c) An issue is submitted to, or otherwise before, the voters in connection with the election.

5.3 Candidate and/or Elected Member Publications

Candidates and/or Elected Members are permitted to publish campaign material on their own behalf but cannot claim for that material to be originating from or authorised by the Shire. For example, use of the Shire of Broome crest or logo is prohibited as is the use of any of the Shire's photographs or images.

5.4 Election Announcements

The policy does not prevent publications by the Shire which merely announces the holding of the election or relate only to the election process itself.

5.5 Shire of Broome Publications

Any reference to Elected Members in the Shire's publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the Shire's publications that are potentially affected by this policy will be reviewed by the Chief Executive Officer to ensure that any circulated, displayed or otherwise publicly available material during the Caretaker Period does not contain material that may be construed as 'electoral material'.

5.6 Shire of Broome Website

During the Caretaker Period, the Shire's website will not contain any material which is precluded by this policy. Any references to the election will only relate to the election process. Information about Elected Members will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed to by the Council. Information about candidates on the Shire's website will be restricted to their candidate profiles only.

Part 6: Public Consultation during the Caretaker Period

6.1 Prohibition

It is prohibited under this policy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing) on an issue which is contentious unless the consultation is a mandatory statutory process or prior approval is given by the Chief Executive Officer.

Part 7: Attendance and Participation at Events/Functions/Meetings

7.1 Public Events Hosted by External Bodies

Elected Members may continue to attend events and functions hosted by external bodies during the Caretaker Period.

7.2 Shire of Broome Organised Civic Events/Functions

Civic events/functions organised by the Shire and held during the Caretaker Period will be limited to those essential to the operation of the Shire and should not in any way be associated with any issues considered topical and relevant to the election. All known candidates are to be invited to civic events/functions organised by the Shire during the Caretaker Period, however, only sitting Elected Members will be formally acknowledged at such events/functions.

7.3 Addresses by Elected Members

Elected Members that are also candidates should not, where possible, be permitted to make speeches or addresses at events/functions organised or sponsored by the Shire during the Caretaker Period. Elected Members may make short welcome speeches at events/functions organised or sponsored by the Shire during the Caretaker Period subject to prior approval of the Chief Executive Officer.

7.4 Delegates to Community and Advisory Groups

Elected Members appointed to community groups, advisory groups and other external organisations as representatives of the Shire shall not use their attendance at meetings of such groups to either recruit assistance with electoral campaigning or to promote their personal or other candidates' electoral campaigns.

7.5 Questions and Statements at Council or Committee Meetings

All candidates, whether current Elected Members or not, are required to declare that they are a candidate for the upcoming election before asking questions or making a statement at Council or Committee Meetings during the Caretaker Period.

Part 8: The Use of the Shire of Broome's Resources

The Shire of Broome Code of Conduct and the Local Government (Rules of Conduct) Regulations 2007 provide that the Shire's resources are only to be utilised for authorised activities (for example – prohibits the use of employees for personal tasks and prohibits the use of equipment, stationery, or hospitality for non-Council business). This includes the use of resources for electoral purposes. (for example – this would extend to the use of a Shire provided email address). It should be noted that the prohibition on the use of the Shire's resources for electoral purposes is not restricted to the Caretaker Period.

The Shire's staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting Elected Members in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Shire resources might be construed as being related to a candidate's election campaign, advice is to be sought from the Chief Executive Officer.

Part 9: Access to Council Information and Assistance

9.1 Elected Members Access to Information

During a Caretaker Period, Elected Members can access Council information relevant to the performance of their function as an Elected Member.

However, this access to information should be exercised with caution and limited to matters that the Council is dealing with within the objectives and intent of this policy. Any Council information so accessed must not be used for election purposes.

9.2 Electoral Information and Assistance

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls) and information relevant to their election campaigns from the Shire administration. Information, briefing material and advice prepared or secured by Shire officers for an Elected Member must be necessary to the carrying out of the Elected Member's role and must not be related to election issues that might be perceived to be of an electoral nature. (refer to Part 8 of this policy).

Any assistance and advice provided to candidates as part of the conduct of the local government election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to candidates in advance. Types of assistance may include advice on the manipulation of electoral roll data and interpretation of legislative requirements, amongst other matters.

Candidates may obtain advice or assistance from the Western Australian Electoral Commission (WAEC) as they are responsible for managing the Shire of Broome elections.

9.3 Information Request Register

The Chief Executive Officer will maintain an Information Request Register during the Caretaker Period. This register will be a public document that records all requests for information made by Elected Members and candidates, and the response given to those requests, during the Caretaker Period. Shire officers will be required to provide details of requests to the Chief Executive Officer for inclusion in the Register.

9.4 Media Advice

Any requests media advice or assistance from Elected Members during the Caretaker Period will be referred to the Chief Executive Officer. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Elected Members. If satisfied that, sought by an Elected Member during the Caretaker Period does not relate to the election or publicity involving any specific Elected Member(s), the Chief Executive Officer may authorise the provision of a response to such a request.

9.5 Publicity Campaigns

During the Caretaker Period, publicity campaigns, other than endeavour (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Shire activity, it must be approved by the Chief Executive Officer. In any event, the Shire's publicity during the Caretaker Period will be restricted to communicating normal Shire activities and initiatives.

9.6 Media Attention

Elected Members will not use their position as an elected representative or their access to Shire staff or resources to gain media attention in support of their or any other candidate's election campaign.

9.7 Shire of Broome Employees

During the Caretaker Period, no Shire employee may make any public statement that relates to an election issue unless the Chief Executive Officer has approved the statements.

9.8 Election Process Enquiries

All election process enquiries from candidates, whether current Elected Members or not, will be directed to the Returning Officer. Where the matter is outside of the responsibilities of the Returning Officer, the matter will be referred to the Western Australian Electoral Commission.

Definitions

'Caretaker Period' means the period of time when the caretaker practices are in place before the election. The caretaker practices will apply from the close of nominations being 37 days before the Election Day per Section 4.49(a) of the Local Government Act 1995 until 6 pm on Election Day.

'Election Day' means the day fixed under the Local Government Act 1995 for the holding of any poll needed for an election.

'Electoral Material' means any digital communications, advertisements, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- a) An advertisement in a newspaper announcing the holding of a meeting per Section 4.87(3) of the Local Government Act 1995.
- b) Any materials exempted under Regulation 78 of the Local Government (Elections) Regulations 1997.

- c) Any materials produced by the Shire 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.

‘Events and Functions’ means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Shire and stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions.

‘Local Government Election’ means all ordinary and extraordinary Elected Member elections.

‘Major Policy Decision’ means any:

- Decisions relating to the employment, termination or remuneration of the Chief Executive Officer or any other designated senior officer, other than a decision to appoint an Acting or Deputy Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election.
- Decisions relating to the Shire entering into a sponsorship arrangement with a total Shire contribution value exceeding \$10,000 (excluding GST).
- Irrevocable decisions that commit the Shire to substantial expenditure or significant actions, such as that which might be brought about through a Notice of Motion by an Elected Member.
- Irrevocable decisions that will have a significant impact on the Shire of Broome or the community.
- Reports requested or initiated by an Elected Member, candidate or member of the public that, in the Chief Executive Officer’s opinion, may be perceived within the general community as an electoral issue that reflects upon the Council’s decision-making process, and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

‘Public Consultation’ means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

Document Control Box							
Document Responsibilities:							
Owner:	Director Corporate Services			Owner Business Unit:	Governance		
Reviewer:	Manager Governance, Strategy & Risk			Decision Maker:	Council		
Compliance Requirements:							
Legislation:	Local Government Act 1995 - Part 4 Elections and other polls Local Government (Elections) Regulations 1997						
Industry:							
Organisational:							
Document Management:							
Risk Rating:	Low	Review Frequency:	Triennial	Next Due:	12/2022	Records Ref:	
Version #	Decision Reference:	Synopsis:					
1.	25 July 2019	Initial Adoption OMC Item 9.4.1					
2.	12 December 2019	Review and converted to new Policy Template					
3.	15 December 2020	Desktop review and minor edit to correct Policy reference no.					