

Election Caretaker Period

Policy Objective

To ensure the Shire of Broome's (Shire) activities, as well as those of Elected Members who are candidates in local government elections, are conducted with a high standard of integrity during local government election periods.

The primary objectives of this Policy is to:

- Prevent the Shire Council making major decisions, prior to an election that would bind the incoming Council;
- Safeguard against the use of public resources that could be perceived as advantageous to, or promoting, the sitting Elected Members seeking re-election, or new candidates; and
- Ensure the Shire Administration remains impartial in its dealings with candidates during the election period.

Policy Scope

This Policy applies during a 'Caretaker Period' (see below for definition) and covers the following areas:

- a) Decisions that are made by the Shire Council;
- b) Decisions made under delegated authority;
- c) Decisions made administratively;
- d) Materials published by the Shire;
- e) Discretionary community consultation;
- f) Attendance and participation in functions and events;
- g) Use of the Shire's resources; and
- h) Access to Shire information.

Policy Statement

1.1 Application

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

1.2 Scheduling Consideration of Significant Local Government Decisions

So far as reasonably practicable, the Chief Executive Officer (CEO) 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 CEO may submit a major policy decision to the Council as per Section 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.

2. Implementation of Caretaker Practices

2.1 Role of the CEO in Implementing Caretaker Practices

The role of the CEO in implementing the caretaker practices outlined in this policy is as follows:

- The CEO 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.
- The CEO 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.
- The CEO will endeavour to make sure all announcements regarding decisions made by the Council, before the Caretaker Period, are publicised before the Caretaker Period.

3. Extraordinary Circumstances Requiring Exemption

3.1 Extraordinary Circumstances

1. The CEO may, where extraordinary circumstances prevail, permit a matter defined as a 'significant Local Government decision' to be submitted to the Council. The CEO 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.
2. An Electoral Caretaker Period Policy Statement, which details why Extraordinary Circumstances apply.

3.2 Appointment or Removal of the CEO

Whilst the definitions of this policy establishes that a CEO may not be appointed or dismissed during a Caretaker Period, in the case of an emergency, the Council may act to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of

their contract), pending the election, after which date a permanent decision can be made.

3.3 Delegated Authority Decision Making in Extraordinary Circumstances

During a Caretaker Period, Employees who have Delegated Authority are required to consider if a proposed delegated authority decision may relate, or be subsider, to a Significant Local Government Decision or election campaign issue and if so, refer the matter to the CEO for review and consideration in accordance with clause 1.2 above.

4. Caretaker Statement

4.1 Caretaker Period

The caretaker period commences at the close of nominations for the election and ends once the election results are declared.

4.2 Prohibited Decisions

During the caretaker period, Council and the CEO will not:

1. Enter into any major contracts or undertakings exceeding the CEO's financial delegation.
2. Approve major policy decisions unrelated to ordinary business.
3. Commit the Shire to significant actions impacting the incoming Council's term.

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*)."

4.3 Permitted Decisions

Council may make decisions essential for operational continuity or legal obligations, provided they do not unfairly influence the election.

5. Communications During the Caretaker Period

5.1 Elected Members and Candidates:

Elected Members will avoid using Shire resources to support election campaigns. All election-related queries will be referred to the Returning Officer (RO).

5.2 Shire Resources:

Staff will maintain impartiality and ensure Shire facilities, equipment, and materials are not used for election purposes.

5.3 Social Media and Publications:

No promotional materials featuring current Elected Members will be published by the Shire during this period.

6. Shire of Broome Publications

6.1 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.

6.2 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.

6.3 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 crest or logo is prohibited as is the use of any of the Shire's photographs or images.

6.4 Election Announcements

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

6.5 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 CEO 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'.

6.6 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.

7. Public Consultation during the Caretaker Period

7.1 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

or relates to a Significant Local Government Decision unless the consultation is a mandatory statutory process or prior approval is given by the CEO.

8. Attendance and Participation at Events/Functions/Meetings

8.1 Public Events Hosted by External Bodies

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

8.2 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.

8.3 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 CEO.

8.4 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.

8.5 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.

9. The Use of the Shire of Broome's Resources

The Shire 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 CEO.

10. Access to Council Information and Assistance

10.1 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.

10.2 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 Section 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 elections.

10.3 Information Request Register

The CEO 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 CEO for inclusion in the Register.

10.4 Media Advice

Any requests media advice or assistance from Elected Members during the Caretaker Period will be referred to the CEO. 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 CEO may authorise the provision of a response to such a request.

10.5 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 CEO. In any event,

the Shire's publicity during the Caretaker Period will be restricted to communicating normal Shire activities and initiatives.

10.6 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.

10.7 Shire of Broome Employees

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

10.8 Local Government Election Enquiries

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

11. Breaches of Policy

Any breach of this policy may result in disciplinary action in accordance with relevant legislation and Shire protocols.

Definitions

'Caretaker Period' means the period of time prior to an Election Day, specifically being the period from the closing of nominations being 37 days prior to the Election Day in accordance with Section 4.49(a) of the *Local Government Act 1995* until 6.00 pm on Election Day.

'CEO' means the Chief Executive Officer of the Shire of Broome.

'Election' means election as defined in Part 4, Section 4.1 of the *Local Government Act 1995*.

'Election Day' means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election. For the purposes of this Policy, 'Election Day' meaning generally excludes an Extraordinary Election Day unless otherwise specified in this Policy.

'Electoral Material' means any advertisements, article, digital communications, email, handbill, letter, notice or pamphlet, 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 in accordance with Section 4.87(3) of the *Local Government Act 1995*;
- b) Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
- c) Any materials produced by the Shire of Broome 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.

'Extraordinary Circumstances' including a circumstance that requires the Council to make or announce a Significant Local Government Decision during the Caretaker Period because, in the CEO's opinion, delaying the decision or announcement to occur after the Caretaker Period has reasonable potential to:

- (a) incur or increase legal, financial and/ or reputational risk; or
- (b) cause detriment to the strategic objectives to the Shire of Broome.

'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 which may be perceived as or is actually an electoral/campaign issue, but does not include statutory consultation/submission periods prescribed in a written law.

'Significant Local Government Decision' includes any decisions:

- a) Relating to the employment, remuneration or termination of the Chief Executive Officer or any other designated Senior Employee in accordance with section 5.37 of *Local Government Act 1995*, other than a decision to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of their Contract of Employment), pending the Election Day result;
- b) Relating to the Shire of Broome entering into a sponsorship agreement with a total Shire of Broome contribution that would constitute Significant Expenditure, unless the Council resolved "in principle" support for the sponsorship prior to the Caretaker Period taking effect and sufficient funds are allocated in the Annual Budget;
- c) That initiates or adopts a new Local Planning Scheme, amendment to a Local Planning Scheme or Planning Policy;
- d) Relating to changes to the documents within the Integrated Planning and Reporting Framework or its informing strategies;
- e) Relating to entering into a major trading undertaking or major land transaction as defined by section 3.59 of the *Local Government Act 1995*;
- f) That, in the CEO's opinion, will have significant expenditure or actions that, are significant to the Shire of Broome operations, strategic objectives and or will have significant impact on the community, or be publicly perceived as an election campaign issue;
- g) To prepare a report, initiated by Administration, an Elected Member, candidate or member of the public that, in the CEO's opinion, may be perceived as or is actually an election campaign issue;
- h) Initiated through a Notice of Motion by an Elected Member, where the effect of that motion will change the status quo or, in the CEO's opinion, may be relevant to the circumstances described in sub-clauses a) to g) above;
- i) Significant Local Government Decision does NOT include any decision necessary in response to an Emergency, either declared by the State or Federal Government or by the Shire of Broome in accordance with s.6.8(1)(c) of the *Local Government Act 1995*.

'Significant Expenditure' means expenditure that exceeds 0.5% of the Shire's annual budgeted operating revenue (exclusive of GST) in the relevant financial year or **\$250,000**, whichever is the greater value.

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