



COFFS HARBOUR

CITY
COUNCIL



Local Government Elections Caretaker Period Policy

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1 Purpose

Council staff and Councillors must observe specific legislative and governance requirements during the period leading up to an election.

The purpose of this policy is to ensure that the:

- Council, community and staff are aware of what can and cannot be done during the election (caretaker) period;
- Council complies with the election period (caretaker) provisions of the Local Government (General) Regulation 2005 (the Reg); and
- Council continues to provide high standards of service to the community.

This Policy also commits Council during the caretaker period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council; and

Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

2 Legislative requirements

Under section 393B of the Reg a Council is precluded from undertaking certain functions during the caretaker period however Council can apply to the Minister for an exemption in extraordinary circumstances.

Whilst not a requirement of the Reg, it is considered good governance to prepare, adopt and maintain a caretaker period policy in relation to procedures to be applied by Council during the caretaker period for a general election.

The Reg states that the following functions of a council must not be exercised by the council during a caretaker period:

- entering a contract or undertaking involving significant expenditure as set out in the Reg; and/or
- determining a controversial development application except in certain circumstances as set out in the Reg; and/or
- the appointment or reappointment of a person as the council's general manager (or the removal of a person from that position), other than in circumstances set out in the Reg.

Once again, whilst not a requirement of the Reg, it is further considered to be good governance for Council to take a position on the following matters as part of this Policy:

- Procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the caretaker period before a general election.
- Limits on public consultation and the scheduling of Council events.
- Procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

This Policy also provides a framework to prevent Council from publishing or distributing material likely to influence voting at the election during the caretaker period. The General Manager must certify publications during this period that they are not electoral material. Certain statutory documents and

normal day to day services such as rate notices, parking fines, food premises registrations etc. are exempt from certification.

Circular No. 16-20 June 2016 is appended to this policy. It gives examples of frequently asked questions regarding 'electoral matter'.

3 The Caretaker Period

The caretaker period as defined by the Regs is the period of 4 weeks preceding the date of an ordinary election. For the 2016 election the caretaker period commences on midnight Friday 12 August and ends on Saturday 10 September.

4 Responsible Officers

The responsible executive officers for this policy include the General Manager and Executive Leadership Team. The responsible policy owner is the Group Leader Governance Services.

5 Policy Statement

During the caretaker period the business of Council continues and ordinary matters of administration still need to be addressed. The policy establishes a series of caretaker period practices which aim to ensure Council meets legislative requirements and upholds good governance principles.

6 Policy scope and topics

1. Decision making
2. Council resources
3. Community consultation
4. Events and meetings
5. Publishing and communications
6. Council information

6.1 Decision Making

As required by section 393B of the Reg, Council is precluded from undertaking certain functions during the caretaker period. In particular the following functions of a council must not be exercised during the caretaker period:

- to enter into a contract or undertaking the total value of which exceeds one per cent of Council's revenue from general purpose rates levied in the 2015-2016 financial year, currently circa \$307,000
- determining a controversial development application, except where:
 - a failure to make such a determination would give rise to a deemed refusal under section 82 of the Environmental Planning and Assessment Act 1979, or
 - such a deemed refusal arose before the commencement of the caretaker period
- the appointment or reappointment of a person as the council's general manager (or the removal of a person from that position), other than:
 - an appointment of a person to act as general manager under section 336(1) of the Act, or
 - a temporary appointment of a person as general manager under section 351(1) of the Act.

Council makes decisions in the following ways:

- Council meeting resolutions

- Officers acting under delegated authority from Council
- Special Committees acting under delegated authority from Council

In the pursuit of good governance, this Policy establishes the following procedures to ensure that Council does not make inappropriate decisions during the caretaker period.

6.1.1 Council meeting or officers acting under delegated authority

Council meetings will be held during the caretaker period however the following decisions will not be made during the caretaker period by Council or an officer acting under delegation:

- Acquisition of land
- Adoption or amendment of the Coffs Harbour LEP 2013
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption or amendment of the Community Strategic Plan or Council's Delivery Plan
- Adoption of a revised budget
- Allocation of grants or awards to individuals or organisations
- Appointing representatives to Council committees
- Endorsing submissions to government or public bodies
- Entering into a contract or entrepreneurial agreements exceeding \$307,000
- Entering into agreements (excluding the Coffs Harbour City Council Enterprise Agreement), deeds or leases
- Hearing of submissions or deputations from the community
- Naming or re-naming of roads, reserves or features
- Reviewing of programs or service provision
- Any other decision that the General Manager considers may affect voting at the election or is a decision that can be made outside of the caretaker period.

Decisions made prior to the caretaker period by Council or by an officer under delegation can be implemented during the caretaker period.

6.1.2 Ordinary Council meeting procedures

To assist Council comply with its legislative and Policy requirements, it is critical that the agenda for any Council meeting to be held during the caretaker period will (as per normal practice) be signed off by the General Manager to ensure that no reports are presented to Council that may give rise to a decision that may affect voting or that could have been made outside of the caretaker period.

The standard agenda for Council meetings contains topics that may give rise to the discussion of election issues. Therefore the standard agenda for any Council meeting held during the caretaker period will be modified so that the following agenda items will not be considered by Council:

- Petitions, joint letters and deputations
- Public Forum
- Questions on Notice
- Notices of Motion
- Mayoral Minute
- Reports by Councillor delegates

- Matters of an Urgent Nature.

6.1.3 Councillor briefings

Regular Councillor Briefings scheduled the Monday before a Council meeting are a forum for information sharing, not decision making. Councillor briefings will be held during the caretaker period however Councillor briefing material will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

The General Manager will have the final approval of topics presented at Councillor Briefings during the caretaker period.

6.2 Council Resources

In the pursuit of good governance, this Policy establishes that Council resources, including offices, support staff, hospitality services, equipment and stationery should be used exclusively for normal Council business during the caretaker period and should not be used in connection with an election.

- Councillors can only make operational requests through the Request Management system covering issues such as but not limited to roads, footpaths, trees, waste management and general amenity. Such requests will be administered as community requests.
- Photocopying for election campaigning purposes by Councillors or staff on office machines is not permitted.
- Data-bases and mailing lists held by the organisation remain the property of the Council and are subject to the requirements of the Privacy legislation, and are therefore not available to members of the public, candidates or to Councillors.
- The organisation will not prepare or produce any materials associated with a Councillor's individual election campaign.
- No Council logos, letterheads, or other Council branding should be used for, or linked in any way to, a candidate's election campaign.
- Councillors will not use Council issued mobile phones and email addresses for election campaigning purposes.
- The use of Council's internet or intranet sites for any activity to do with election campaigning is prohibited. There will be no links from the Council's website to a candidate's private website.
- The organisation will continue to provide support to Councillors with respect to their normal day to day council business. Out-of-pocket expenses paid by Councillors during the caretaker period for necessary costs incurred in the performance of their duties, which do not relate to any election campaign, will be reimbursed as normal.
- No election campaigning material is to be distributed from or displayed in or on Council land, facilities, libraries or community noticeboards.
- Council facilities booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the caretaker period will be let at the same rate to all hirers.

6.3 Community Consultation and/or Engagement

In accordance with good governance principles, the following are procedures to ensure that Council limits public consultation and/or engagement during the caretaker period.

Community consultation and/or engagement involves inviting stakeholders (individuals, groups, organisations or the public generally) to a public consultation/engagement process to receive feedback on a project, issue or policy. Some of the topics of community consultation/engagement may have the potential to be an election issue. For this reason no community consultation and/or engagement will take place during the caretaker period involving election issues, major developments or policy issues. This exclusion does not apply to consultation required by the Local Government Act 1993 or the Environmental Planning and Assessment Act 1979.

As previously stated in this policy Technical Liaison Committee meetings (Planning matters) can be held during the caretaker period. Therefore regular statutory planning consultations/engagement involving Council staff, Councillors and interested persons can also be held. Discussions at these planning meetings are not to involve election issues or significant community consultation on major developments, strategy or policy issues.

6.3.1 Community Reference Panel

Council currently has a database (Panel) containing some 800 email addresses which has been collated on a random basis during the conduct of the past two random telephone community surveys. This Panel is irregularly utilised to participate in surveys on particular issues from time to time. This Panel survey process could potentially be asked to comment on potential election issues so consequently this Panel will not be engaged during the caretaker period.

6.4 Events and Meetings

In accordance with good governance principles, the following are procedures to ensure that Council limits the scheduling of Council events during the caretaker period.

6.4.1 Council events and meetings

Events and meetings that are held during the caretaker period can raise election issues that then can involve Councillors in the discussion. Therefore no internally run public Council events should be held during the caretaker period. However events such as statewide events/festivals or the like (normally coordinated on an annual basis) that must be held over a specific time period which coincides with the caretaker period can be attended by Councillors. For these events Councillors must not use this opportunity for electioneering. There will be no Council officer support for administering attendance, preparing briefing notes or speeches.

6.4.2 External events

In addition Councillors from time to time will be invited to externally organised events such as business breakfasts, Annual General Meetings, launches, openings and exhibitions. Councillors can attend these externally organised events however officers will not provide Councillors with administering attendance, briefing notes or speech writing for external events.

6.5 Publishing and Communications

In accordance with good governance principles, the following are procedures to ensure that Council does not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the caretaker period unless the advertisement, handbill, pamphlet or notice has been certified in writing by the General Manager.

The General Manager must have final sign-off on all publications produced and distributed by the Council during the caretaker period. The General Manager must certify that the publication does not contain electoral matter, i.e. any matter that is "intended or likely to affect voting in an election".

This should be broadly interpreted to refer to documents that are produced for the purpose of communicating with the community including:

- Council newsletters
- Advertisements and notices
- Media releases and responses to media enquiries
- Leaflets, brochures, stickers etc.
- Mail outs to multiple addresses
- Social media content

Documents exempted from General Manager certification are:

- Publications that were published prior to the commencement of the caretaker period.
- Publications that are required to be published in accordance with any Act or Regulation.

Apart from hard copy publications this Policy also applies to publication of such material on the Internet.

6.5.1 General Manager certification process of publications

The Group Leader Governance Services is the designated staff member to vet all Council publications before they are recommended to be certified by the General Manager as suitable for printing, publishing or distributing during the caretaker period.

General Manager wording when certifying material:

“I certify that the attached material is suitable for printing, publishing or distributing on behalf of Coffs Harbour City Council in accordance with Council’s Caretaker Period Policy”.

Once a determination has been made by the General Manager staff will be advised of the outcome of the request for certification process and a record of all certified publications will kept via Council’s document management system.

6.5.2 “Coffs Harbour City Council News” newsletter

The “Coffs Harbour City Council News” newsletter will not be published or distributed during the caretaker period.

6.5.3 Annual Report and Financial Statements

The Local Government Act 1993 requires the annual report and financial statements to be submitted to the Minister by 30 November annually. The Act also requires the Council to consider the annual report at a Council meeting prior to the submission to the Minister. The annual report may be made publicly available during the caretaker period and the information within the report will be restricted to what is required by the legislation. The annual report does not require certification by the General Manager.

6.5.4 Coffs Harbour City Council websites

During the caretaker period, Coffs Harbour City websites will continue to provide information to the community about accessing and the provision of Council services.

Councillor profile pages will be limited to names, contact details, date elected and membership of committees. There will be no photographs, biographies or policy statements.

Any reference to the election on the website will be restricted to process only.

New pages or new content can only be added to the website, or content updated, if the content does not refer to election candidates, including current Councillors, or issues before the voters in an election.

Old pages predating the caretaker period will not be deleted but will not be featured through links to the home page during the caretaker period.

6.5.5 Media

The General Manager has final sign-off and certification on all media releases and media responses.

Where it is necessary to identify a spokesperson in relation to an issue the General Manager will determine the appropriate person.

Media releases and media responses may be issued to inform Council's services and activities, but not if the service is likely to be an election issue. Media releases must not refer to Councillors or any candidate. It is expected that fewer media releases than usual will be published during the caretaker period.

Media enquiries will be channelled through the General Manager (or delegate to the General Manager) who will determine who the appropriate spokesperson will be. The General Manager will take on the role as spokesperson of the Council where the issue relates to electoral matters including issues before the voters if necessary.

During the caretaker period, public comment on behalf of the organisation will be provided by the General Manager or a Council officer nominated by the General Manager. Councillors must not use their position as elected representatives to gain media attention specifically in support of their election campaign.

6.5.6 Social Media

Council has a number of social media sites including several Twitter feeds, Facebook pages, Instagram accounts, YouTube, Vimeo and Pinterest. Council's Communications Officers monitor social media sites between the hours of 8.30 am and 4.30 pm on weekdays (excluding public holidays). Pages and accounts managed by other directorates are similarly monitored during business hours.

During the caretaker period Council managed social media sites must not be used for election campaigning. Any publication of comments or new content on social media sites (that are auspiced by Council) will generally require certification by the General Manager during the caretaker period.

The ability for members of the public to post comments on Council's social media sites will continue during the caretaker period. The Communications Officers and Governance Services will monitor and have editing access to remove any comments that reference election candidates or the 2016 election.

Where it is necessary to identify a spokesperson in relation to any issue and deemed necessary for comment on Council's social media channels, the General Manager will determine the spokesperson and certify commentary.

6.6 Council Information

The following are procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the caretaker period.

Councillors will continue to receive information necessary to fulfil their existing roles as a Councillor during the caretaker period.

Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns.

Council staff when carrying out their duties, should not offer comment to members of the public about any Councillors or candidates, except to provide contact details for current Councillors.

No other information other than what would normally be made available to any member of the general public on request will be provided to a Councillor or a candidate.

Information Requests – process, record and access

All candidate requests for information relating to electoral matters and non-routine requests will be processed by the Governance Services Group. A record of requests will be maintained by the Governance Services Group. A copy of the request and the officer response will be made available to all candidates via an email database.

Enquiries from Councillors, candidates and the public about the election process will be referred to the Returning Officer for the election so that a consistent response is maintained.

7 Policy review

The Local Government Elections Caretaker Period Policy will be reviewed in the lead up to each Ordinary election of Council

8 Definitions

N/A

9 Key Responsibilities

See Section 4.

10 References

N/A

11 Details of Approval and revision

- **Approval date: 23/03/2017**
- **Responsible Section: N/A**
- **Superseded policies/procedures: No**
- **Next review date: 23/03/2021**

Table of amendments

Amendment	Authoriser	Approval ref	Date
Reviewed, no change			