

ELECTION CARETAKER PERIOD POLICY

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1. OBJECTIVE

The primary objective of this policy is to avoid ~~the~~ Council making major decisions prior to an election, that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, sitting Councillors who are seeking re-election, or new candidates, and ensuring the City of Karratha administration acts impartially in relation to candidates.

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

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

2. PRINCIPLES

2.1 PART 1 – INTRODUCTION

2.1.1 Application

This Caretaker Policy applies to Councillors, candidates and employees of the City of Karratha.

~~Whilst candidates~~ Candidates that are not sitting Councillors cannot be compelled to comply with a policy of the Council. ~~such~~ Candidates will be made aware of the Caretaker Policy and encouraged to cooperate with its implementation.

2.1.2 Definitions

'Caretaker Period' means the period of time when the caretaker practices are in place prior to the ordinary election. The caretaker practices will apply from the Close of Nominations being 44 days prior to the Election Day ~~in accordance with Section 4.49(a) of the Local Government Act 1995,~~ until when the results of the election are declared, 6pm on Election Day. The Caretaker Period does not apply to extraordinary elections.

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

'Electoral Material' means any electronic communications, advertisement, 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 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*.
- (c) Any materials produced by the City 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 City and its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions.

‘Extraordinary Circumstances’ means a situation that requires a Major Policy Decision of the Council because:

- (a) in the CEO’s opinion, the urgency of the situation is such that it cannot wait until after the election;
- (b) of the possibility of legal and/or financial repercussions if a decision is deferred; or
- (c) in the CEO’s opinion, it is in the best interests of the Council and/or the City of Karratha for the decision to be made as soon as possible.

‘Significant Act’ is defined by the Act to mean any of the following:

- (a) Making a local law (includes amending or repealing a local law)
- (b) Entering into, renewing or terminating, the contract of the CEO or a senior employee,
- (c) Entering into a major land transaction
- (d) Entering into a land transaction that is preparatory to entry into a major land transaction,
- (e) Commencing a major trading undertaking
- (f) Entering into a contract, agreement or arrangement if either or both apply:
 - a. Council is expected to provide or receive consideration of \$250,000 or more; and
 - b. Council is expected to acquire or dispose of property where the market value is \$250,000 or more
- (g) Inviting tenders if:
 - a. Council is, or would be, required to publicly invite tenders where the value is expected to be \$250,000 or more
- (h) Deciding to do anything referred to in (a) – (g) above
- (i) An act done under a written law or otherwise that is a prescribed act:
 - a. Establishing or changes to a regional local government or regional subsidiary
 - b. Commencing the adoption, amendment or repeal of a local planning strategy, scheme or policy; and
 - c. Commencing procurement of a panel of prequalified suppliers.

‘Major Policy Decision’ means any:

- ~~(a) Decisions relating to the employment, termination or remuneration of the Chief Executive Officer or any other designated senior officer.~~
- ~~(b)(a)~~ Decisions relating to the City entering into a sponsorship arrangement unless that sponsorship arrangement has previously been granted “in principle” support by Council and sufficient funds have been included in the Council’s annual budget.
- ~~(c) Decisions relating to the City entering into a commercial enterprise as defined by section 3.59 of the Local Government Act 1995.~~
- ~~(d)(b)~~ Irrevocable decisions that commit the City to substantial expenditure or significant actions, such as that which might be brought about through a Notice of Motion by a Councillor.
- ~~(e)(c)~~ Irrevocable decisions that will have a significant impact on the City of Karratha or the community.
- ~~(f)(d)~~ Reports requested or initiated by a Councillor, candidate or member of the public that, in the Chief Executive Officer’s opinion, may be perceived by 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 but does not include consultation required to be undertaken in order to comply with a written law.

2.1.3 Scheduling Consideration of Significant Acts or Major Policy Decisions

So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling Significant Acts or Major Policy Decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:

- (a) Considered by the Council prior to the Caretaker Period; or

- (b) Scheduled for determination by the incoming Council.

Where Extraordinary Circumstances prevail, the Chief Executive Officer may submit a Significant Act or Major Policy Decision to the Council in accordance with section 2.3 of this policy.

2.1.4 Decisions Made During Prior to a Caretaker Period

This Policy only applies to actual decisions made during a Caretaker Period. Where a decision is made before the Caretaker Period to undertake a Significant Act and this is actioned during the Caretaker Period, Council is required to give local public notice of its intention to do the Significant Act and provide notice to the CEO of the Department of Local Government. , not the announcement of decisions made prior to the Caretaker Period.

Whilst announcements of earlier decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins or after it has concluded.

No agenda item is to be included that could potentially influence voters' intentions at the election or could encourage Mayor or Councillor candidates to use the item as part of their electioneering.

Elected Members are to refrain from moving motions or raising matters at a meeting that could potentially be considered an electoral matter.

2.2 PART 2 - EXTRAORDINARY CIRCUMSTANCES REQUIRING EXEMPTION

The Chief Executive Officer may, where Extraordinary Circumstances prevail, permit a matter defined as a Significant Act or 'Major Policy Decision' to be submitted to the Council where:

- (a) it is required to comply with a written law;
- (b) it is an order of a court or tribunal; or
- (c) it is a contractual obligation of the City under a contract entered into prior to the Caretaker Period.

If the above is not applicable, an application to undertake a significant act will require approval from the CEO (Director General) of the Department of Local Government where they will need to be satisfied that the Significant Act is:

- (a) because of an emergency, or
- (b) to ensure the proper operation of the local government.

The Chief Executive Officer is to have regard to a number 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 City.

2.3 PART 3 - CARETAKER STATEMENT

To ensure the Council complies with this Policy and its legislative obligations its commitment to appropriate decision-making during the Caretaker Period where a Council report will requires a 'Significant Act' or 'Major Policy Decision' to be made during the Caretaker Period. The following statement will be included in the report:

"The recommended decision is a 'Significant Act' or 'Major Policy Decision' within the context of Council Policy CG-14 'Caretaker Policy' however; an exemption should be made due to Extraordinary Circumstances (insert the circumstances for making the exemption)".

2.4 PART 4 - CITY OF KARRATHA PUBLICATIONS

2.4.1 Prohibition on Publishing Electoral Material

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

2.4.2 Electoral Material Relevant to Prohibition

Without limiting the generality of the definition of 'Electoral Material', 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) ~~t~~The election; or
- (b) ~~A~~a candidate in the election; or
- (c) ~~An~~an issue submitted to, or otherwise before, the voters in connection with the election.

2.4.3 Candidate and/or Councillor Publications

Candidates and/or Councillors are permitted to publish compliant campaign material on their own behalf but cannot claim for that material to be originating from or authorised by the City.

2.4.4 Election Announcements

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

2.4.5 City of Karratha Publications

Any reference to Councillors in the City's publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the City's publication's that are potentially affected by this policy will be reviewed 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'.

2.4.6 City of Karratha Website

During the Caretaker Period the City'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 Councillors 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 City's website will be restricted to their candidate profiles and any relevant information as permitted under r.29A of the *Local Government (Elections) Regulations 1997* and section 4.52 of the *Local Government Act 1995*.

2.4.7 City of Karratha Councillor Business Cards

During the Caretaker Period, Councillors shall ensure that their allocated business cards are used only for purposes associated with the normal role of a Councillor in servicing their electorate. Councillor Business Cards shall not be used in a manner that could be perceived as an electoral purpose. It should be noted that this prohibition on the use of the City's resources for electoral purposes is not restricted to the Caretaker Period.

2.5 PART 5 - PUBLIC CONSULTATION DURING THE CARETAKER PERIOD

Public Consultation will not 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.

Council should not commission or approve any Public Consultation where it is likely that such consultation will continue into the Caretaker Period.

Where Public Consultation is approved to occur during the Caretaker Period, the results of that consultation will not be reported to Council until after the Caretaker Period, except where otherwise approved by the CEO or necessary for the performance of the City's functions as prescribed in the ~~Act Local Government Act 1995~~ or any other relevant legislation.

2.6 PART 6 - ATTENDANCE AND PARTICIPATION AT EVENTS AND FUNCTIONS

2.6.1 Public Events Hosted by External Bodies

Councillors may continue to attend Events and Functions hosted by external bodies during the Caretaker Period.

2.6.2 City of Karratha Organised Civic Events/Functions

Civic events/functions organised by the City and held during the Caretaker Period will be reduced to only those essential to the operation of the City, 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 City during the Caretaker Period, however, only sitting Councillors will be formally acknowledged at such events/functions.

2.6.3 Addresses by Councillors

Excluding the Mayor fulfilling their functions under the Act as prescribed by sections 2.7 and 2.8 of the Local Government Act 1995, Councillors who are also candidates should not, where possible, be permitted to make speeches or addresses at events/functions organised or sponsored by the City during the Caretaker Period. Councillors may make short welcome speeches at Events and Functions organised or sponsored by the City during the Caretaker Period subject to prior approval of the Chief Executive Officer.

2.6.4 Delegates to Community and Advisory Groups

Councillors appointed to community groups, advisory groups and other external organisations as representatives of the City 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.

2.7 PART 7 - THE USE OF CITY OF KARRATHA'S RESOURCES

The City's 'Code of Conduct for Council Members, Committee Members and Candidates' and the Local Government (Rules of Conduct) Regulations 2007 provide that the City'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. It should be noted that the prohibition on the use of the City's resources for electoral purposes is not restricted to the Caretaker Period.

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

2.8 PART 8 - ACCESS TO COUNCIL INFORMATION AND ASSISTANCE

2.8.1 Councillor Access to Information

During a Caretaker Period, Councillors are able to access Council information relevant to the performance of their functions as a Councillor. 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.

2.8.2 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 City administration. Information, briefing material and advice prepared or secured by staff for a Councillor must be necessary to the carrying out of the Councillor's role and must not be related to election issues that might be perceived to be of an electoral nature (refer to section 2.7 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 electoral roll data and interpretation of legislative requirements, amongst other matters.

2.8.3 Media Advice

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

2.8.4 Publicity Campaigns

During the Caretaker Period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. In any event, the City's publicity during the Caretaker Period will be restricted to communicating normal City activities and initiatives.

2.8.5 Media Attention

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

2.8.6 City of Karratha Employees

During the Caretaker Period no City employee may make any public statement that relates to an election issue unless the statements have been approved by the Chief Executive Officer.

2.8.7 Election Process Enquiries

All election process enquiries from candidates, whether current Councillors or not, will be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the Manager Governance & Organisational Strategy.

3. CONSEQUENCES

~~This policy represents the formal policy and expected standards of the Council. Appropriate approvals need to be obtained prior to any deviation from the policy. Elected members and employees are reminded of their obligations under the Council's Code of Conduct to give full effect to the lawful policies, decisions and practices of the Council.~~

4. ROLES AND RESPONSIBILITIES

~~Roles and responsibilities have been described throughout the policy document.~~

~~This Policy applies to all Councillors, candidates, Chief Executive Officer and staff at the City of Karratha.~~

5.3. REFERENCES TO RELATED DOCUMENTS

- City of Karratha Code of Conduct
- *Local Government Act 1995*, Part 4
- *Local Government (Elections) Regulations 1996*

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Responsible Officer:	Manager Governance & Organisational Strategy

This policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.