

1. Purpose

This Policy provides guidance to Councillors and employees for appropriate standards and their responsibilities during the caretaker period prior to the quadrennial Queensland Local Government Elections.

2. Scope

This Policy applies to all Councillors and employees of Council preparing for and during the caretaker period.

3. Responsibility

The Chief Executive Officer shall inform the Mayor, Councillors and all Council employees of an impending election period and the restrictions that apply, by no later than two months before the commencement of an election period.

4. Definitions

The Act means the *Local Government Act 2009*.

Caretaker Period means the period during an election for a local government that starts on the day when the public notice of the holding of the election is given and ends at the conclusion of the election, as per section 90A of the *Local Government Act 2009*.

Chief Executive Officer (CEO) means a person who holds an appointment under section 194 of the *Local Government Act 2009*.

Civic Event means a public event that Council initiates, manages and has full responsibility.

Council means Hinchinbrook Shire Council.

Councillors means all elected representative who holds (current) office with Council, including the Mayor.

Election Material means anything able to, or intended to, influence an elector about voting at an election or affect the result of an election.

Employee/s or Council Staff means full time, part time, casual, permanent or temporary employees, including those under a contract or labour hire company that carry out work for Council.

Major Policy Decision is defined as, per Schedule 4 of the *Local Government Act 2009*:

- 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:
 - 1. \$200,000; or
 - 2. 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.
- E. Relating to making or preparing an arrangement, list, plan or register in the way provided under a regulation made under this Act that can be used to establish an exception to obtaining quotes or tenders when entering into a contract; or
- F. To make, amend or repeal a local law; or

- G. To make, amend or repeal a local planning instrument under the Planning Act; or
- H. Under the Planning Act, chapter 3, part 3, division 2 on a development application that includes a variation request under that Act if the application proposes to:
 - 1. Vary the category of development or category of assessment of development; or
 - 2. Vary the assessment benchmarks or criteria for accepted development that would apply to development; or
 - 3. Facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan.
- I. Under the Planning Act, chapter 3, part 5, division 2, subdivision 2 on a change application under that Act that includes a change to a variation approval if the application is being assessed under section 82 of that Act and the application proposes to:
 - 1. Further vary the category of development or category of assessment of development; or
 - 2. Further vary the assessment benchmarks or criteria for accepted development that would apply to development; or
 - 3. Facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan.

5. Policy

The Local Government Act 2009 and the *Local Government Electoral Act 2011* apply a number of restrictions to Council, Councillors and Council staff during the Caretaker Period, from when nominations are called for the quadrennial election until the declaration of the polls.

Candidates should take particular care in any campaign activity to ensure that there can be no possible perception of use of Council provided resources and/or facilities for any activity that could be perceived as having electoral benefit.

This policy will assist Council to fulfil its statutory obligations and provide guidance to Councillors and Council Staff to ensure that the ordinary business of Council continues in a responsible and transparent manner during the Caretaker Period.

The Caretaker Period is determined by the Queensland Electoral Commission and will extend:

- On and from the date the Returning Officer for the Council Elections publishes the notice of election, calling for nominations, as defined by Section 25 of the *Local Government Electoral Act 2011*; and
- To and including the date of the conclusion of the election as defined by Section 7 of the *Local Government Electoral Act 2011*. In practice, this means the day upon which the Returning Officer issues the last declaration of the poll result.

Council reaffirms its commitment during the lead up to the election and particularly during the Caretaker Period to:

- The effective and efficient continuation of all Council's activities, functions and services to the community;
- Transparent actions and decision-making in the normal course of business;
- Adherence to all legislative requirements during the Caretaker Period;
- The neutrality of Council staff; and
- The acknowledgement of the principle that the use of public funds for electoral purposes is unacceptable.



Councillors should take particular care in any campaign activity to ensure that use of Council provided resources and/or facilities, including seeking advice or information from staff, cannot be perceived, real or otherwise, as giving them an electoral advantage.

Councillors should also note that the Code of Conduct for Councillors in Queensland continues to apply to them until the declaration of the poll.

a. Legislative Restrictions During the Caretaker Period

Major Policy Decision

During this period, Council is prohibited from making a major policy decision (s90B of the Act).

Should Council reasonably consider that exceptional circumstances, in the public interest, exist on a matter that requires a decision during the Caretaker Period, then Council may apply to the Minister for approval to make this decision. Without Ministerial approval or non-compliance to the conditions of the Minister's approval, any major policy decision made by Council during this period will be invalid (s90C(1) of the Act).

A contract is void if it is subject to an invalid major policy decision. Any person who suffers a loss due to the invalidity of the decision has the right to be compensated and may commence court proceedings for damages (s90C(4)) of the Act).

Council Meetings

It is a legislative requirement under the Local Government Regulation 2012, that Council is to meet at least once every month. Therefore, Council Meetings will continue during this period subject to restrictions relating to major policy decisions, for which Ministerial approval has not been received and any other limitations provided within this policy.

Election Material

During the Caretaker Period Council must not publish or distribute any election material. Election material is defined as anything that is able to or intended to:

- Influence an elector about voting at an election; or
- Affect the result of an election.

Other Conditions

Candidates must ensure they abide by all legislative requirements and directions from the state government and Electoral Commission Queensland. This includes, but not limited to, complying with all mandatory training requirements, disclosures and electoral signage protocols in the lead up to an election.

Election signs must meet the requirements of the Electoral Commission of Queensland and the *Electoral Act 1992*. Regulations apply to the display of election signage next to local and state-controlled roads. Candidates should check these requirements prior to displaying any signage near roads. Information on election signage and state-controlled roads can be obtained from the Department of Transport and Main Roads.

b. Other Requirements During the Caretaker Period

Care must be taken to ensure that there can be no perception that Council resources have been utilised to assist Councillors in the election campaign. Although there are some statutory restrictions placed on Council during the Caretaker Period, it is imperative that the ordinary business of Council is also maintained during this period.



It is important that Councillors differentiate their roles as Councillor or Candidate during this period to ensure that their actions cannot be perceived, either real or otherwise, as obtaining an unfair electoral advantage due to their role as Councillor.

Use of Council Resources

Councillors have access to and can continue to utilise, Council facilities and resources to undertake their duties as an incumbent Councillor as outlined in the Councillor Expenses Reimbursement Policy. The administration will continue to provide support to enable Councillors undertake routine activities to fulfil their roles until their term of office ends.

Council equipment and resources are forbidden to be used for election purposes, including vehicles.

Councillors are to ensure that there is a clear separation between Council business and electioneering when seeking help, advice or support from Council staff. This includes requests for information that are received through Council's Acceptable Requests Guidelines.

However, any requests received that are or could be perceived for electioneering purposes and that will provide Councillors with an unfair election advantage, will not be supported. Council staff are encouraged to escalate any concerns for support to their Director or the Chief Executive Officer.

Council Activities

Community engagement may continue if it is part of an ongoing project that requires the engagement as part of approved programs. In order to ensure results cannot be used in connection with any election activity, in instances where community engagement has occurred, but the associated report has not been provided to Council prior to the commencement of the caretaker period, consideration for the appropriate timing of presenting the report will be undertaken by the CEO.

Civic and Community Events

Any civic and community events that are traditionally held during the first three (3) months of the calendar year (January to March) will continue to be held during this period.

Any requests for new civic or community events during this period should seek approval via the normal approval processes, but in doing so recognise the particular political circumstances that prevail during this period. For any new events the following criteria must be met:

- It is a planned event endorsed by Council's current Operational Plan;
- It is, or plans to be, routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or serves an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identity.

Councillor attendance will be as per their role as an elected member and/or portfolio and is not to be used as a platform for their electoral campaign. When participating in these events, Councillors should refrain from any actions and/or comments that could be perceived to be electioneering.

Community Grants

Activities approved under community grants prior to the commencement of the Caretaker Period may continue during a caretaker period in accordance with the approvals granted.

However, any funding round for community grants that is open during the Caretaker Period may remain open, but applications received during this time will not be determined until after the election.

Council shall only consider community grants during the caretaker period that are aligned with the scheduled (annual) program.



Sponsorship

No new sponsorship will be approved or entered into during the Caretaker Period, unless they are aligned with the scheduled (annual) program. This includes providing sponsorship, in-kind sponsorship, or seeking sponsorship from external entities. Any sponsorship approved prior to the commencement of the Caretaker Period may continue in accordance with the approvals granted.

Sponsorship applications may continue to be received during the Caretaker Period however no decisions on sponsorships will be made until after the election.

Media Releases

Media releases or advertisements prepared by Council during the Caretaker Period will be restricted to those required to maintain the necessary and routine operations of Council and must not be reasonably interpreted as being for political purposes.

During the Caretaker Period, Council will respond to media enquiries that relate to operational matters only. Councillors may respond to media questions in their individual capacity as a candidate and should distinguish their individual opinion from that of the elected Council.

Media events may continue to be held during a Caretaker Period provided the media event relates to core Council business or an ongoing project and is not used for political campaign purposes.

If the Mayor and/or a Councillor are at a media event and are asked an election related question, the Mayor and/or a Councillor if seeking re-election shall respond in their capacity as a candidate or if not seeking re-election shall respond as an individual. Under no circumstances, should a response be attributed to Council.

Council's Website and Social Media

Council's website will continue to be maintained and updated during the Caretaker Period to ensure the community is fully informed of Council's normal operational activities and functions.

Any new material published during this period will need to be scrutinised to ensure it does not inadvertently promote an individual or group of Councillors.

No response will be made to any political or electoral comments posted to any of Council's social media sites and any such comments may be removed at the discretion of the CEO.

Council Employees

Council employees shall maintain the normal business activities of Council during the caretaker period. Employees 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.

Employees shall not fulfil any request that is, or could be perceived to be, an electioneering activity.

Any Council employee proposing to stand as a candidate for the election must complete an Election Management Plan. A Council officer who nominates as a candidate is entitled to a leave of absence from their appointment during the election period in accordance with section 203 of the *Local Government Electoral Act 2011*.

Council recognises that employees are individuals in the community and entitled to their personal opinions and private lives. Employees are reminded of the staff Code of Conduct and other relevant policies, and the need to maintain impartiality due to public perceptions.




Non-Compliance

Failure to comply with this Policy, and any policies, guidelines, and procedures referred to or relevant to this Policy, may constitute inappropriate conduct, misconduct, or corrupt conduct and shall be dealt in accordance with legislative protocols and/or for staff may result in disciplinary action being taken in accordance with Council's policies and procedures.

6. Legislation/Literature

- *Local Government Act 2009;*
- *Local Government Regulation 2012;*
- *Local Government Electoral Act 2011; and*
- *Public Sector Ethics Act 1994.*

DOCUMENT HISTORY AND STATUS						
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