



# Caretaker Period Council Policy

## 1. PURPOSE

The purpose of this policy is to ensure that:

- there are clear boundaries around what action can and cannot occur during the caretaker period;
- the business of Council takes place in an accountable and transparent manner;
- Council avoids any perception of acting in a politicised manner during the caretaker period;
- appropriate decision making continues in accordance with the Local Government Act 2009 (“the Act”); and
- Council resources are not diverted for electoral purposes.

## 2. SCOPE & AUTHORITY

This policy is applicable to all Councillors and to Council employees or contractors. This policy applies to quadrennial elections but not fresh elections or by-elections.

This is a discretionary policy, resolved by Council under its powers in accordance with the Queensland Local Government Act (2009) Chapter 2, Section 9 which states:

### **9 Powers of local governments generally**

- (1) *A local government has the power to do anything that is necessary or convenient for the good rule and local government of its local government area.*

Whilst it is not mandatory for Councils to have a discrete policy on Caretaker Period arrangements, significant regulatory direction is provided by the Local Government Act (Qld) 2009, particularly Part 5, sections 90A to 90D and these are expanded upon in the following Council Policy.

## 3. POLICY STATEMENT

### 3.1 General Principles

- (a) Council affirms its commitment during the caretaker period to:
- i. the efficient and transparent continuation of Council’s day to day business for the benefit of residents;
  - ii. transparent actions and decision-making;
  - iii. the suspension of major policy decisions;
  - iv. maintaining the neutrality and independence of Council employees; and
  - v. the principle that the use of public funds for electoral purposes is unacceptable.
- (b) Council acknowledges that during the caretaker period, Councillors who are also candidates may make election commitments which they intend to honour if they are re-elected. Councillors making such commitments must make it clear that these commitments are being made in their role as a candidate, rather than any kind of commitment being made on behalf of the Council or which reflects the majority view of Council.
- (c) Councillors must take particular care in any campaign activity to ensure that there can be no possible perception of use of Council provided resources for activity that could be perceived as being in relation to the Councillor’s campaign.
- (d) Council will continue to meet during the caretaker period for the purpose of making appropriate and compliant decisions in the public interest.
- (e) Councillors must not use information gained during the course of their role as Councillors to disparage or discredit Council or Councillors. Such disparaging or discrediting may be a breach of the Code of Conduct for Councillors.

### 3.2 Major policy decision

- (a) Council shall not make major policy decisions during a caretaker period except with permission of the Minister.
- (b) If Council considers that, having regard to exceptional circumstances that apply, it is necessary to make a major policy decision in the public interest, Council shall apply to the Minister for approval to make the decision.



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- (c) If the Minister is satisfied that it is necessary for Council to make the major policy decision in the public interest, Council shall abide by any conditions which the Minister sets in relation to the policy decision.
- (d) A major policy decision made by Council during a caretaker period without the approval of the Minister is invalid. A contract is void if it is the subject of a major policy decision that is invalid.
- (e) A person who acts in good faith in relation to a major policy decision of Council, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of the invalidity of the decision or because the contract is void, has a right to be compensated by Council for the loss or damage.

## 3.3 Council employees

- (a) Council employees shall maintain the normal business activities of Council during the caretaker period.
- (b) Council employees shall execute their official duties and responsibilities as a Council employee in accordance with the Local Government Act 2009, Council's Code of Conduct for Employees and Council's corporate values and take all reasonable steps to avoid any real or perceived partisanship when acting in an official capacity in order to protect the organisation's integrity and ability to impartially serve any incoming Council following an election.
- (c) Council employees may in a personal or private capacity provide support or assistance to a Councillor or a candidate in their own time, providing that any support or assistance provided does not breach legislation or Council's Code of Conduct for Employees, and the Council employee takes all reasonable steps to ensure that in providing any support or assistance they are acting as a private citizen and not perceived as acting in an official capacity as a Council employee.
- (d) Councillor support staff shall continue to provide support for Council endorsed activities and core Council business but not election or politically related matters.
- (e) Any Council employee proposing to stand as a candidate for the election must complete an Election Management Plan in collaboration with the CEO, so as to ensure compliance with s203 of the Local Government Electoral Act 2011 and prevent any perceived or actual conflict of interest.
- (f) As per section 203 of the Local Government Electoral Act 2011, a Council employee who nominates as a candidate is entitled to a leave of absence from their appointment for a period of not more than two (2) months in order to contest the election.

## 3.4 Election material

- (a) In accordance with section 90D of the Act, Council shall not publish or distribute election material intending to influence an elector about voting at an election or affect the result of an election.

## 3.5 Use of Council resources during caretaker period

- (a) Councillors are entitled to use Council resources and facilities as outlined in the Councillor Expenses Reimbursement Council Policy for routine activities in the fulfilment of their roles and responsibilities at Councillors, until their term of office comes to an end.
- (b) Councillors and Council employees shall not use Council equipment or resources for election purposes.
- (c) Where a Councillor is provided use of a Council vehicle, the Councillor may continue to use that vehicle until their term of office comes to an end provided that they do not affix or allow to be affixed or remain affixed any sticker, poster, decal or other magnetic or adhesive device that promotes the Councillor as an actual or potential candidate for any election.

## 3.6 Requests for information by Councillors

- (a) All requests for information or advice from Councillors shall continue to be responded to in accordance with the Councillors Acceptable Requests Policy.
- (b) During the caretaker period, Councillors shall limit information requests to those essential to continue Council's operations.
- (c) Requests for reports on substantive matters shall not be processed during the caretaker period unless they involve a matter of public safety or are requested by a resolution of the full Council.
- (d) To increase transparency during the caretaker period, any information request from a Councillor must be made by email.

## 3.7 Provision of information to candidates

- (a) To increase transparency during the caretaker period, requests for information by candidates during the caretaker period must be made by email.



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- (b) Requests from a candidate shall be dealt with as per the process for a member of the public. The process for providing and refusing information shall be the same as for a member of the public.

## 3.8 Councillor correspondence

- (a) Councillors may continue to correspond with constituents on matters related to Council business during the caretaker period.
- (b) In responding to such correspondence, the Councillors shall not purport to make policy commitments binding the incoming Council.

## 3.9 Media

- (a) The CEO shall be the official spokesperson of Council during the caretaker period.
- (b) Media releases by the organisation during the caretaker period must be of public interest, relate to routine Council business, rather than new policy or major projects and must not be reasonably construed as being for political purposes.
- (c) During the caretaker period, Council shall respond to media enquiries that relate to routine operational matters only.
- (d) Media releases shall not be attributed to individual Councillors during the caretaker period.
- (e) Media events may continue to be held during the caretaker period provided the media event relates to routine Council business and is not used for political purposes.
- (f) If a Councillor is at a media event and is asked a political question, the Councillor, if seeking re-election, shall respond in their capacity as a candidate or, if not seeking re-election, shall respond as an individual. Councillors should ensure to distinguish their individual opinion from the majority view of the elected Council. Under no circumstances should a response be attributed to Council.
- (g) Councillors shall not seek media notes from Council employees for the purpose of assisting them with their campaign.
- (h) Council employees shall not provide media advice to Councillors who have nominated as candidates regarding public comment on elections.

## 3.10 Council's website and social media platforms

- (a) Updates of Council's website shall be limited to the following:
  - i. uploading of essential operational media releases, restricted to administrative or operational information of public interest and of a time-sensitive nature;
  - ii. road work updates or road closures;
  - iii. health or emergency warnings;
  - iv. material that is purely factual regarding Council's decisions or operations;
  - v. updates to existing forms;
  - vi. aesthetic changes;
  - vii. fixing broken links or repairing web issues; and
  - viii. compliance with legislative requirements.
- (b) Social media hosted or published by Council shall carry a notice to exclude political comment. No response shall be made to any political comments posted and any such comments shall be removed.

## 3.11 Advertising

- (a) In accordance with Council's Advertising Spending Policy advertising shall be limited in the three month period immediately before a quadrennial election.
- (b) During the election advertising period, and, in particular, during the caretaker period, Council shall restrict its advertising to that required to maintain the necessary, customary and routine operations of Council and day to day Council business.
- (c) Individual Councillors shall not be featured in any paid advertising during the caretaker period.
- (d) Care will be taken during the election advertising period to ensure that advertising is not construed to be of a political nature.

## 3.12 Civic and community events

- (a) Councillors may continue to represent Council at civic events and community events during the caretaker period, provided the event meets one or more of the following criteria:
  - i. it is a planned event endorsed by the full Council;
  - ii. it is, or plans to be, routinely held at the same time each year;





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- iii. it is a commemorative or anniversary event held on or near the anniversary date;
  - iv. it is an event to be hosted by or on behalf of the Mayor in fulfilling their statutory responsibilities for ceremonial and civic functions, for example citizenship ceremonies or hosting VIP guests to the region.
- (b) There shall be no community awards, recognition and civic receptions during the caretaker period with the exception of citizenship ceremonies, which shall continue as normal.

## 3.13 Community engagement

- (a) Community engagement activities, including but not limited to surveys, polls – either formal or informal and invitations to put forward submissions, should be avoided during the caretaker period except where the community engagement is part of an ongoing project that requires the engagement as part of a program approved prior to the caretaker period or is a legislative requirement.
- (b) Where community engagement has occurred prior to the caretaker period but the results have not yet been presented to Council – either formally or informally, results of the engagement shall not be provided to Council until the caretaker period has concluded.

## 3.14 Community grants

- (a) Activities approved under Council's Community Grants Policy prior to the commencement of the caretaker period may continue during a caretaker period in accordance the policy.
- (b) Any funding round for community grants that is open during the caretaker period shall remain open, but applications received during this time shall not be determined until after the election.
- (c) Council shall not approve community grants, either in or out of round, during the caretaker period.

## 3.15 Sponsorship

- (a) No new sponsorship shall be approved or entered into during the caretaker period. This includes sponsorship where Council gives sponsorship, including in-kind sponsorship, or seeks sponsorship from external entities.
- (b) Any sponsorship approved prior to the commencement of the caretaker period may continue in accordance with Council's Community Grants and Assistance Policy.
- (c) Sponsorship applications may continue to be received during the caretaker period however no decisions on sponsorships shall be made until after the election.

## 3.16 Councillor conduct complaints

- (a) Complaints about Councillor conduct made during the caretaker period shall continue to be assessed and where appropriate forwarded for assessment to the relevant authority.
- (b) If the Councillor about whom the complaint was made is seeking re-election and is not successful, the complaint shall continue to be heard in accordance with legislative requirements.

## 3.17 Councillor training and development

- (a) During the caretaker period, Council will not fund or conduct any training or professional development activities for Councillors.

## 4. RESPONSIBILITIES

### 4.1 All Councillors and Council employees

- Must comply with the provisions of this policy and refer any enquiries related to Caretaker Period protocols to the Director Finance and Corporate Services or Chief Executive Officer
- Council employees must particularly comply with the provisions of clause 3.3

### 4.2 Director Finance and Corporate Services

- Shall be the custodian of this policy
- Shall ensure processes are in place for awareness and implementation of the requirements of this policy

### 4.3 Chief Executive Officer



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- Shall consider and determine the sufficiency of any Election Management Plans prepared by employees intending to stand for election, so as to ensure compliance with s203 of the Local Government Electoral Act 2011 and prevent any perceived or actual conflict of interest, as per clause 3.3(e) of this policy.
- Shall be the official spokesperson of Council during the caretaker period as per clause 3.9 of this policy.

## 5. RISK

This policy addresses the risk that prior to a local government election, during the defined “caretaker period”, actions and decisions could be made by Councillors or Council employees which could be perceived as influencing voters or having a significant impact on the incoming Council. This policy contains provisions that mitigate this risk whilst allowing Councillors and Council employees to continue the ordinary business of Council in a responsible, transparent and legally-compliant manner.

## 6. IMPACTS

**Corporate Plan:** Goal 5. Governance; Program Area – 5.4 High levels of accountability and compliance

**Human Rights Compatibility Statement:** This Policy has been assessed as compatible with the Human Rights protected under the Human Rights Act 2019;

**Engagement:** This policy has been developed in consultation with the Senior Leadership Group.

## 7. RELATED LAWS

- Local Government Act 2009 (Qld), particularly Part 5, sections 90A to 90D.
- Local Government Regulation 2012 (Qld)
- Local Government Electoral (Qld) Act 2011

## 8. RELATED DOCUMENTS

- Advertising Spending Council Policy (Statutory)
- Acceptable Requests Guidelines Council Policy
- Code of Conduct for Qld Councillors 2020
- Community Grants and Assistance Council Policy
- Councillor Expenses Reimbursement Council Policy

## 9. REVISION HISTORY

**Revokes:** Nil

**Previous approved versions:** Nil

**Suggested to review by:** 2 years from date of adoption

## 10. DEFINITIONS

**CEO** means the Chief Executive Officer of the Balonne Shire Council appointed in accordance with the Local Government Act (Qld) 2009. This includes a person acting in this position.

**Council** means Balonne Shire Council, its elected Councillors, its management and its employees.

**Council Employees** means all permanent, casual and temporary employees, contractors, volunteers, apprentices, trainees and work experience students.



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**Advertising** means as defined in s197 in the Local Government Regulation (Qld) 2012 which is promoting, for the payment of a fee, an idea, goods or services to the public.

**Caretaker period** means as defined in s90A of the Local Government Act (Qld) 2009 which is as the period during an election for the Council that starts on the day when the public notice of the holding of the election is given under s25(1) of the Local Government Electoral Act 2011 and ends at the conclusion of the election, which is the day on which the last declaration of a poll conducted in the election is displayed in the office of the returning officer. There is no caretaker period during a by-election or fresh election.

**Civic events** means public events that Council initiates, manages or has full responsibility for.

**Community events** means events including but not limited to media launches, promotional events, community engagement events, workshops, dinners, receptions, Mayoral events, awards, invitations to make submissions and local fairs.

**Community grants** includes but is not limited to direct financial assistance, indirect financial assistance and in-kind support.

**Councillor/s** is a reference to all Councillors, including the Mayor, of the Balonne Shire Council.

**Council resources** include but are not limited to employees, services, information, equipment, printing, photographs, graphic design, public funds, grants, media services, materials published by Council, hospitality, stationery, property, facilities, website, vehicles, administrative tools and telecommunication devices.

**Election advertising period** means the three months immediately before a quadrennial election.

**Election material** includes but is not limited to anything able to, or intended to, influence an elector about voting at an election or affect the result of the election.

**Fresh election** means an election of all the Councillors of Council that is not a quadrennial election.

**Major policy decision** means as defined in the Local Government Act (Qld) 2009 which is a decision:

- (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 –
  - i. \$200,000;
  - ii. 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, or
- (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 –
  - i. vary the category of development or category of assessment of development, or
  - ii. vary the assessment benchmarks or criteria for accepted development that would apply to the development, or
  - iii. facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan; or
- (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 –
  - i. further vary the category of development or category of assessment of development; or
  - ii. further vary the assessment benchmarks or criteria for accepted development that would apply to development; or
  - iii. facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan.

**Quadrennial election** means the election for local governments that is held every fourth year after 2020.



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**Term of office** means as prescribed in s159 and s160 of the Local Government Act (Qld) 2009 which for a Councillor starts on the day after the conclusion of the election (if elected) or the day on which the Councillor is appointed, and ends:

- (a) if election at a quadrennial election or fresh election – at the conclusion of the next quadrennial election;
- (b) if elected at a fresh election and a declaration is made under regulation – at the conclusion of the next quadrennial election;
- (c) if elected or appointed to fill a vacancy in the office of another Councillor – at the end of the other Councillor's term;
- (d) when the Legislative Assembly ratifies the dissolution of the local government under section 123 of the Local Government Act 2009; or
- (e) when the Councillor's office otherwise becomes vacant.

**the Act** means the Local Government Act (Qld) 2009.

**the Minister** means the Minister for Local Government or successor Minister.

## 11. ATTACHMENTS

Nil