

## Council Policy – Election Caretaker

<b>Responsible Directorate</b>	Corporate Services
<b>Responsible Business Unit/s</b>	Governance
<b>Responsible Officer</b>	Manger Governance
<b>Affected Business Unit/s</b>	All

### Objective

The objective of this policy is to:

- prevent the making of major decisions that would bind an incoming Council prior to an ordinary election,
- prevent the use of public resources in ways that are, or are perceived to be, advantageous to or promoting the sitting elected members that are seeking re-election, or new candidates, and
- ensure the Shire of Ashburton (the Shire) administration acts impartially in relation to all candidates.

### Scope

This policy applies to all elected members and employees of the Shire, and candidates in local government elections.

### Policy Statement

#### Caretaker period

The ordinary election of the Council is the most significant decision made by the community and sets the direction of the Shire into the future. It is important that the Shire allows for a free and open election without interference from the Shire and the decisions it needs to make. To achieve this, prior to an ordinary election of Council, a caretaker period shall apply during which:

- no major decisions should be made except in extraordinary circumstances,
- no community engagement should occur except where required by law, and
- no media engagement should occur that promotes or could be seen to promote elected members who are seeking re-election.

#### Major decisions

So far as reasonably practicable, the Chief Executive Officer (CEO) should avoid major decisions for consideration during a caretaker period, and instead ensure that decisions are either:

- considered by the Council prior to the commencement of the caretaker period, or
- scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the CEO may submit a major decision to Council however, the report must include information detailing that the decision could be a major decision and the reason an exemption to the policy should be made.

### Community engagement

The CEO should:

- ensure that all community engagement is finished prior to the caretaker period or scheduled to begin after the election,
- where community engagement needs to be conducted, ensure the community engagement could not be perceived to be about an election issue or otherwise influence the outcome of the election, and
- where a proposed decision could result in a need for community engagement, include information in that report detailing the decision could result in the need for community engagement and that either an exemption to the policy should be made or that the engagement will commence after election day.


This policy does not prevent any mandatory public consultation required by the *Local Government Act 1995* (the Act), *Planning and Development Act 2005* or any other relevant law, the Shire must undertake to fulfil its statutory functions.

### Media

The CEO should ensure that:

- any reference to elected members in Shire media distributed during the caretaker period must not include promotional text relating to elected members. Any of the Shire's media that are potentially affected by this policy will be reviewed by the CEO to ensure it complies with this policy,
- the Shire's website doesn't contain any material which is precluded by this policy during the caretaker period. Any references to the election will only relate to the election process. Information about elected members will be restricted to names and contact details, and
- the Shire does 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.

Candidates and/or elected members are permitted to publish campaign material on their own behalf but must not claim that the material originates from or is authorised by the Shire.



The use of photographs or articles featuring elected members whose terms of office expire at the next ordinary election shall not be used in any media funded by the Shire in the period commencing 1 August to election day, in the year of the ordinary election, with the exception of their portraits on display at the various Shire venues, the Shire website and in each edition of the Shire's newsletter during that period.

No media advice will be provided to elected members in relation to election issues or in regards to publicity that involves elected members seeking re-election.

### **Promotion of an election**

This policy does not prevent publications by the Shire which merely announce the holding of the election or relate only to the election process itself or are required to be published by the Shire pursuant to the Act and *Local Government (Elections) Regulations 1997*.

For any election, inclusive of local, State and Federal elections, the Shire should:

- encourage the community to ensure their enrolment is up to date,
- promote the call for candidates to nominate for local government elections, and
- encourage all electors to vote.

### **Use of Shire resources**

In accordance with the Code of Conduct for Council Members, Committee Members and Candidates, Shire resources are only to be used for Council business. Shire resources must not be used for electoral purposes. The Shire's resources include employees, information, equipment, and stationery. This prohibition applies to any local, State or Federal election.

Elected members must not use or access Shire resources to gain media attention in support for their, or any other candidate's, election campaign, for any local, State or Federal elections.

### **Elected member access to information**

During the caretaker period, elected members can access Council information relevant to their role as an elected member. Any Council information accessed must not be used for electoral purposes.

### **Events and functions**

Elected members may continue to attend events and functions hosted by external organisations during the caretaker period.

Elected members that are also candidates are not be permitted to make speeches or addresses at events, functions or community engagement activities organised or sponsored by the Shire, during the caretaker period.

## Definitions

**Caretaker period** means, for local government elections, from the date of the opening of nominations being 44 days prior to election day in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on election day.

**Community engagement** means the process of providing stakeholders with opportunities to be informed, consulted and engaged in relation to a proposed decision of the Shire.

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

**Electoral material** means any digital communications, advertisements, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- any materials produced by the Shire 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** mean 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 its stakeholders, and may take the form of launches, promotional activities and social occasions such as dinners and receptions.

**Extraordinary circumstances** mean a situation that requires a major decision of the Council because, in the CEO's opinion:

- the urgency of the issue is such that it cannot wait until after the election,
- legal and/or financial repercussions are possible if a decision is deferred, and/or
- it is in the best interests of the Shire, community or impacted stakeholders for the decision to be made as soon as possible.

**Major decision** means any decisions:

- relating to the employment, termination or remuneration of the CEO or any other designated senior officer, other than a decision to appoint an Acting CEO, or to suspend the current CEO (in accordance with the terms of their contract), pending the election,

- relating to the Shire entering a sponsorship arrangement unless that sponsorship arrangement has previously been granted “in principle” support by the Council and sufficient funds have been included in the Council’s annual budget to support the sponsorship arrangement,
- relating to the Shire entering into a major trading undertaking or major land transaction as defined by section 3.59 of the *Local Government Act 1995*,
- that would commit the Shire to substantial unbudgeted expenditure,
- that result in actions which the CEO considers significant and unplanned, such as that which might be brought about through a Notice of Motion by an elected member,
- that, in the CEO’s opinion, will have significant impact on the Shire or the community,
- relating to the adoption, repeal or substantial amendment of a policy, including local planning policy, a local law or local planning scheme,
- reports requested or initiated by an elected member, candidate or member of the public that, in the CEO’s opinion, could be perceived within the general community as an electoral issue and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

**Media** includes any form of multimedia content including publications, advertising, news articles, social media, the website and videos.

**Substantial unbudgeted expenditure** means expenditure not included in the annual budget that exceeds 0.5% of the Town’s annual budgeted revenue (inclusive of GST) in the relevant financial year.

## Relevant policies/documents

Code of Conduct for Council Members, Committee Members and Candidates  
Council Policy – Election Signs

## Relevant legislation/local laws

*Local Government Act 1995*

*Local Government (Elections) Regulations 1997*

Office use only				
<b>Relevant delegations</b>	Nil			
<b>Council adoption</b>	<b>Date</b>	14 February 2023	<b>Resolution #</b>	019/2023
<b>Reviewed/modified</b>	<b>Date</b>		<b>Resolution #</b>	
<b>Next review due</b>	<b>Date</b>		<b>Resolution #</b>	