

<b>Title</b>	<b>Elections – Caretaker Period</b>
<b>Policy Number</b> (Governance Purpose)	



## Policy Type

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Council

## Policy Purpose

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During an election campaign period there can be additional public scrutiny and added political considerations as matters are brought before Council.

The community has a right to expect that Council decisions reflect their wishes; that the City conducts its business in a transparent and accountable manner and that elections are conducted in an ethical, fair and equitable way.

The policy will provide guidance in the lead up to Election Day, ensuring that major decisions which would bind an incoming Council are avoided where possible, preventing the use of public resources in ways that can be seen to be advantageous to, or promoting candidates and also ensuring staff act impartially in relation to candidates.

This Policy has implications for major decision making, public consultation, publications, publishing of information, the use of City of Cockburn resources and access to information and advice.

This policy is to be applied in conjunction with all other relevant legislation, local laws, delegations, policies, procedures and processes of the City, providing guidance to ensure the continuation of ordinary business.

## Policy Statement

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The Caretaker Period for Local Government Elections will take effect at the period of time from the close of nominations being 37 days prior to the Council Election Day (4pm) in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day.

### (1) Scope

1. This Policy applies to Elected Members and employees of the City of Cockburn during the Caretaker Period and covers:
  - (a) Notices of Motions and Matters for Investigation submitted by Elected Members and specific decisions that are made by the Council;
  - (b) Information and material published by the City;
  - (c) Attendance and participation at functions and events;
  - (d) Use of the City's resources;
  - (e) Access to information held by the City;
  - (f) Staff engagement with candidates and/or Elected Members.

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2. The Chief Executive Officer will ensure as far as possible that all Elected Members and employees are aware of the Caretaker Period Policy and practices, at least 30 (thirty) days prior to the start of the Caretaker Period.
3. It is prohibited under this policy, except where the process has substantially commenced and/or approvals are in place, for public consultation to be commenced during the Caretaker Period on an issue which is contentious, unless the consultation is a mandatory statutory process or required under existing policy.
4. This Policy only applies to decisions made during the Caretaker Period and not the announcement of decisions made prior to the Caretaker Period, however, as far as practicable any such announcements should be made before the Caretaker Period begins.

(1) Scheduling consideration of major policy decisions or Council commitments during Local Government Caretaker Period.

1. As far as reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions, major consultations or major commitments for consideration during a Caretaker Period and instead should ensure that such decisions are either:
  - (a) Considered by the Council prior to the local government Caretaker Period; or
  - (b) Scheduled for determination by the incoming Council.

(2) Prevailing Circumstances

1. Council Reports;
2. In some circumstances, the CEO may permit a matter defined as a major policy decision, major consultation or major commitment to be submitted to the Council during the Caretaker Period. The CEO 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
  - (c) whether the process has substantially commenced and/or approvals are in place
  - (d) the possibility of legal and/or financial repercussions if it is deferred
  - (e) unless the consultation is a mandatory statutory process or required under existing policy
  - (f) whether the decision is likely to be controversial or contentious, and;
  - (g) the best interests of the City of Cockburn
  - (h) 2 Council Forums, Workshops or Briefings
  - (i) Where during the Caretaker Period, the CEO determines that Prevailing Circumstances apply, the CEO may include matters relating to a Major Policy Decision for elected member discussion at Council Forums, Workshops or Briefings

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The CEO is required to provide Council with advice as to why Prevailing Circumstances apply and how potential electoral impacts will be managed or mitigated. Details of this advice is to be retained, with the Forum, Workshop or Briefing notes, as a Local Government record

(4) Elected Member interactions

During the caretaker period, Elected Members should take particular care when:

1. Considering planning matters before the Council in its role as a responsible authority, under the *Planning and Development Act 2005*. It should be noted that items considered by the Joint Development Assessment Panel are done so under a separate process and this policy does not apply;
2. Undertaking a consultation or advocacy role on behalf of members of the community;
3. Representing the Council's communications with State or Federal Government entities; and:
4. Information received in the role of an Elected Member, is not to be used for campaigning purposes. This includes claiming personal credit of previous council decisions in their marketing material.

(5) Marketing

1. Publishing Electoral Material

The City will not print, publish or distribute, or authorise others to print, publish or distribute on behalf of the City anything that contains 'electoral material' during the Caretaker Period, other than announcing the election, encouraging residents to ensure they are enrolled on the Electoral Roll and encouraging them to vote. The City will also publish the electoral related biographies of all candidates on its website.

Information on the City's website about current Elected Members who are standing for re-election will be restricted to current names and contact details together with a link to their electoral biography.

2. Candidate and/or Elected Member Publications

Candidates and/or Elected Members are permitted to publish campaign material on their own behalf but cannot claim for that material to be originating from or authorised by the City. They must not use the City of Cockburn logo or crest or anything resembling them in their campaign material.

3. City of Cockburn Publications

There will be no interviews with Councillors or images of any

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Councillors in the City`s printed material during the Caretaker Period.  
This clause does not apply to information published prior to the Caretaker Period.

#### 4. Media

- (a) Elected Members 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 candidate`s election campaign.
- (b) During the Caretaker Period there will be no proactive publicity shots used by the City in any form involving any Elected Member, except the Mayor.
- (c) The Mayor will still be quoted in media responses during the Caretaker Period when providing information as spokesperson on behalf of the City.
- (d) Proactive statements in the media realm will be monitored by the CEO during the Caretaker Period to ensure compliance with these provisions.
- (e) Proactive media during the Caretaker Period will be restricted to operational matters or issues already resolved by Council.
- (f) Candidates may not use the City`s social media accounts to profile themselves, their campaign or provide any responses or comments to questions or statements on the City`s social media pages.

#### (6) Attendance and Participation at Events/Functions

##### 1. Public Events Hosted by External Bodies

Elected Members may continue to attend events and functions hosted by external bodies during the Caretaker Period and may appear on externally managed social media pages.

##### 2. City of Cockburn organised Civic Events/Functions/Official Openings

Events and/or functions organised by the City and held during the Caretaker Period will be limited to only those that the Chief Executive Officer, in conjunction with the Mayor, considers essential to the operation of the City.

Elected Members nominating as a candidate for local, state or federal government elections should not, where practicable, have any formal role at events/functions organised or sponsored by the City during the Caretaker Period, other than the provision of a short welcome, when appropriate. Any determination of whether it is otherwise appropriate for a councillor to officiate at a City arranged event / function will be at the discretion of the Chief Executive Officer, in conjunction with the Mayor.

Elected Members must not distribute any campaign material or promote their campaign at any City of Cockburn organised Civic

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Events/Functions/Official Openings, or similar.

3. Delegates to Community and Advisory Groups

Elected Members appointed to community groups and other external organisations as representatives of the City shall not use their attendance at meetings of these groups to either recruit assistance with electoral campaigning or to promote their personal or other candidate's electoral campaigns.

(7) The Use of City of Cockburn Resources

1. The Council's Code of Conduct (Elected Members) and the *Local Government (Rules of Conduct) Regulations 2007* provide that the City's resources are only to be utilised for authorised activities and prohibits the use of equipment, stationery or hospitality for non-Council related business. Note that prohibiting the use of resources for electoral purposes is not restricted to the Caretaker Period.
2. The City's employees must not be asked to undertake any tasks connected directly or indirectly with an election campaign, unless it is undertaken in conjunction with a function related to the election.
3. 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 through the Chief Executive Officer.
4. Community groups who wish to hire City owned premises to interview or record (audio visual) election candidates in a public forum may do so, subject to the relevant venue hire charge being paid in accordance with the City's normal practices.

(8) Access to Council Information

1. Candidate Access to Information

All candidates will have equal rights to access publicly available information from the City's administration.

2. Use of information accessed from the City

Information, briefing material and advice prepared or secured by staff for an Elected Member must be necessary to the carrying out of the Elected Member's role. Any Council information accessed must not be used for election purposes.

3. Information Request Register

An Information Request Register will be maintained by the Chief Executive Officer, or delegate, during the Caretaker Period. The Register will be a public document that records all requests for information made by

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candidates for local, state or federal elections, and the response given to those requests during the Caretaker Period. Staff will be required to provide details of requests to the Chief Executive Officer, or delegate, for inclusion in the Register.

#### 4. Media Advice

Any requests for media advice or assistance from Elected Members during the Caretaker Period will be referred to the Chief Executive Officer. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Elected Members participating in the relevant election. If satisfied that advice sought by an Elected Member during the Caretaker Period does not relate to the election or publicity involving any specific Elected Member, the Chief Executive Officer may authorise the provision of a response to such a request. Any media opportunities for Elected Members will not be arranged by the City during the Caretaker Period.

#### 5. City of Cockburn Employees

- (a) During the Caretaker Period no City employee may make any public statement that relates to an election issue.
- (b) Employees must avoid assisting Elected Members in ways that could create a perception of being used for electoral purposes.
- (c) Employees must not accept employment (voluntary or paid) related to local elections for any candidate.
- (d) Employees must not interact with Elected Members or candidates on their social media pages during the Caretaker Period.

#### (9) Local Government Election Process Enquiries

All election process enquiries from candidates, whether current Elected Members or not, will initially be directed to the Returning Officer, or, where the matter is outside the responsibility of the Returning Officer, to the Chief Executive Officer or delegate

#### (10) Electoral Signs

1. Electoral signage is not permitted within road reserves (this includes Council verges outside private properties). This is based on a requirement for:
  - (a) Pedestrian safety;
  - (b) Risk aversion and exposed liability to the City for injuries or damage; and
  - (c) Vehicle safety for manoeuvrability and sightlines.
2. Electoral signage is not permitted on City Reserves or City infrastructure.



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3. The installation of signage on private property requires permission from the owner.

(11) Implementation of Caretaker Practices during State and Federal Government Elections

1. Elected Members who nominate, or are pre-selected by a political party to contest a state or federal election, should avoid any appearance that their position on Council is being used as a platform for their state or federal election campaign during the election period.
2. An Elected Member may choose to take leave of absence from the Council for such period as they see fit and should, as soon as practicable after nominating or being pre-selected, notify the Chief Executive Officer in writing, who in turn will advise the other Elected Members
3. For state or federal elections, the Caretaker Period commences from the date of the election writ issued by the Governor or Governor General, as is relevant.

(12) Definitions

**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 advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result of an election, but does not include:

1. An advertisement in a newspaper announcing the holding of a meeting in accordance with section 4.87(3) of the *Local Government Act 1995*.
2. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*.
3. 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 purpose of conducting an election.

**Events and Functions** means gatherings of internal or 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 dinner and receptions.

**Local Government Caretaker Period** means for local government elections, the period of time from the close of nominations being 37 days prior to the Council Election Day in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day; and

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**Major Policy Decision** means any:

1. Decisions relating to the employment, termination or remuneration of the Chief Executive Officer or any other designated senior officer, other than a decision to appoint an Acting Chief Executive Officer, if relevant.
2. Decisions relating to the City entering into a sponsorship arrangement with City of Cockburn residents or community organisations.
3. Irrevocable decisions that commit the City to substantial expenditure or significant unforeseen action.
4. Irrevocable decisions that will have unforeseen significant impact on the City of Cockburn or the community.
5. Reports requested or initiated by an Elected Member, Candidate or member of the public that, in the Chief Executive Officer's opinion, may be perceived within the general community as an issue that adversely 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.

(13) References

- Legislative Requirements: *Local Government Act 1995 Local Government (Election) Regulations 1996*
- *Local Government (Rules of Conduct) Regulations 2007*
- *Local Law- Standing Orders*
- Code of Conduct – Elected Members

Strategic Link:	Strategic Community Plan
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