

EME024		CARETAKER POLICY - SHIRE ELECTIONS	
POLICY OWNER:	Council		
DEPARTMENT:	Office of the CEO		
CREATION DATE:		REVIEW SCHEDULE:	Annually
RELATED PROCEDURES:			
RELATED FORMS:			
RELATED DELEGATIONS:			
RELATED POLICIES:			
LEGISLATION:	Code of Conduct for Council Members, Committee Members and Candidates Local Government Act 1995 s.4.49(a); s4.87(3) Local Government (Elections) Regulations 1997 Reg. 78 Shire of Carnarvon CEO Standards		
DOCUMENT CONTROL			
DATE REVIEWED:	REVIEWED BY:	CHANGES (IF ANY):	ENDORSED BY COUNCIL:
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EME024 Caretaker Policy - Shire Elections

OBJECTIVES

The primary objective of this Caretaker Policy is to avoid the Shire of Carnarvon 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 Elected Members who are seeking re-election, and recognising the requirement for the Shire of Carnarvon administration to act impartially in relation to all candidates.

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

- Decisions that are made by the Council,
- Materials published by the Shire,
- Attendance and participation in functions and events,
- Use of the Shire's resources; and
- Access to information held by the Shire

This policy applies to Elected Members and employees of the Shire of Carnarvon.

Whilst electoral candidates that are not sitting Elected Members 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.

POLICY STATEMENT/S

Caretaker Period - means the period when the caretaker practices are in place prior to the election.



The caretaker practices will apply from the close of nominations (37 days prior to the election day) – s4.49(a) of the Local Government Act 1995) to declaration of the poll.

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 other than an extraordinary election to elect a new Shire President.

Electoral Material - means any 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 (s4.87(3) of the LGA,
- b. Any materials exempted under Reg 78 of the Local Government (Elections) Regulations 1997,
- c. 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.

Extraordinary Circumstances – means a situation that requires a major policy decision of the Council because:

- a. In the CEO’s opinion the urgent of the issue 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
- b. In the CEO’s opinion it is in the best interests of the Council and/or the Shire of Carnarvon for the decision to be made as soon as possible.

Significant Act – inserted list from the Reform Paper: The Act and Functions and General Regulations set out several matters which constitute a significant act. It is a significant act to both make the decision to undertake a significant act and to undertake that significant act. For example, both the decision of the Council to enter into a major contract and the CEO signing the contract are significant acts.

The list below may assist in understanding the what are the significant acts not permitted during the caretaker period.

Prescribed significant act and example:

- a. **Making a local law (including making a local law to amend or repeal a local law).**
The making of a waste local law.
- b. **Entering into, or renewing or terminating, the contract of employment of the CEO or of a senior employee.**
Resolving to appoint a person as CEO or signing the contract for that person’s appointment.
- c. **Entering into a major land transaction.**
Resolving to undertake a major land transaction or signing the contract of sale for the land transaction.



- d. **Entering into a land transaction that is preparatory to entry into a major land transaction.**
The CEO using delegated authority to purchase a portion of adjoining land for a major land transaction and signing the associated contract for purchase.
- e. **Commencing a major trading undertaking.**
Resolving to commence the operation of a golf course for profit or opening the golf course for the first time.
- f. **Entering into a contract, or other agreement or arrangement worth, or expected to be worth more than \$250,000** (this includes contracts for good and services or the disposal or acquisition of property or entering into 2 or more contracts to avoid this requirement.)
Resolving to accept the tender for a major works contract or signing the contract with the successful tenderer.
- g. **Inviting tenders worth more or expected to be worth more than \$250,000.**
The CEO determining to go to tender for some works or giving actual notice of the opening of the tender.
- h. **Deciding to do anything referred to in paragraphs (a) to (g).**
The decision by council or delegated authority to do any of the above.
- i. **An act done under a written law or otherwise that is a prescribed act.** Refer to regulation 3A of the Local Government (Functions and General) Regulations 1996.
The prescribed matters include:
 - establishment or changes to a regional local government or regional subsidiary
 - commencing the adoption, amendment or repeal of a local planning strategy, scheme, or policy
 - commencing procurement of a panel of pre-qualified suppliers.

Scheduling Major Policy Decisions

So far as is reasonably practicable, the CEO should avoid scheduling 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 CEO may submit a major policy decision to the Council.

Decisions made prior to Caretaker Period

This policy only applies to decisions made during a Caretaker Period, 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.

Implementation of Caretaker Practices - Role of the CEO in Implementing Caretaker Practices

The role of the CEO in implementing the caretaker practices outlined in this policy is as follows:

- a. The CEO will ensure as far as possible, that all Elected Members and employees are aware of the Caretaker Policy and practices at least 30 days prior to the start of the caretaker period.



- b. The CEO will ensure, as far as possible, that any major policy or significant decisions required to be made by the Council are scheduled for Council resolution prior to the caretaker period or deferred where possible for determination by the incoming Council.
- c. The CEO will endeavour to make sure all announcements regarding decisions made by the Council, are made prior to the caretaker period.
- d. The CEO will provide guidelines for all relevant employees on the role and responsibilities of employees in the implementation of this policy.

Extraordinary circumstances requiring exemption

Whilst the definitions above establishes that a CEO may not be appointed or dismissed during a caretaker period, the Council may, where the substantive employee is on leave, appoint an Acting CEO, or in the case of an emergency, suspend the current CEO (in accordance with the terms of their contract) and appoint a person to act in the position of CEO pending the election, after which date a permanent decision can be made.

Shire of Carnarvon publications

During the caretaker period the Shire's website will not contain any material which is precluded by this policy.

Information about Elected Members 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.

Public consultation during the caretaker period

It is prohibited under this policy for public consultation to be undertaken during the caretaker period (either new consultation or existing) on an issue which, in the CEO's opinion could be perceived as intended or calculated to affect the result of an election, unless authorised by the CEO.

This policy does not prevent any mandatory public consultation required by the Local Government Act 1995 or any other relevant Act which is required to be undertaken to enable the Shire to fulfil its functions.

Approval for Public Consultation

Given the general prohibition above the 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 the Council until after the caretaker period, except where otherwise approved by the CEO or necessary for the performance of the Shire's functions as prescribed in the Local Government Act 1995 or any other relevant Act.

Attendance and participation at events and functions

Public Events Hosted by External Bodies



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

Shire of Carnarvon Organised Civic Events/Functions

Events and/or functions organised by the Shire and held during the caretaker period will be limited to only those that the CEO considers essential to the operation of the Shire and should not in any way be associated with any issues that in the CEO's opinion, are considered relevant to, or likely to influence the outcome of an election. All known candidates are to be invited to civic events/functions organised by the Shire during the caretaker period.

Addresses by Elected Members

Excluding the Shire President and Deputy Shire President fulfilling their functions as prescribed by s2.8, 2.9 of the Local Government Act 1995, respectively, Elected Members that are also candidates should not, without the prior approval of the CEO, be permitted to make speeches or addresses at events/functions organised or sponsored by the Shire during the caretaker period.

Use of Shire resources

The Shire of Carnarvon's Code of Conduct provides that the Shire's resources are only to be utilised for authorised activities (e.g., no use of employees for personal tasks or no 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 Shire's resources for electoral purposes is not restricted to the caretaker period.

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

Access to Shire information and assistance

Electoral Information and Assistance

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls), monthly enrolment details, and information relevant to their election campaigns from the Shire's administration.

Any assistances and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

Media Advice

Any requests for media advice or assistance from Elected Members during the caretaker period will be referred to the CEO. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Elected Members. 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/s, the CEO may authorise the provision of a response to such a request.

Publicity Campaigns

During the caretaker period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Shire activity, it must be approved by the CEO. In any event, the Shire's publicity during the caretaker period will be restricted to communicating normal Shire activities and initiatives.

Media Attention

Elected Members will not use or access Shire employees or resources to gain media attention in support of their or any other candidate's election campaign.

Election Process Enquiries

All election process enquiries from candidates, whether current Elected Members or not, will be directed to the Returning Officer, or where the matter is outside of the responsibilities of the Returning Officer, to the CEO.