

Logan City Council

Caretaker Period Procedure

Logan City Council
2020

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1 Procedure Objective

This Procedure sets out the restrictions on the actions which may be taken by Councillors and Council employees during the caretaker period leading up to a local government election.

2 What is the caretaker period?

Section 90A of the *Local Government Act 2009* provides that the caretaker period for a local government is the period during local government elections that starts on the day when public notice of the holding of the election is given and ends at the conclusion of the election. Notice of the holding of a local government election is given by the Electoral Commission of Queensland.

3 What restrictions apply during the caretaker period?

The *Local Government Act 2009* imposes some restrictions on Council activities during caretaker period. Those restrictions include:

- Council must not publish or distribute election material
- Council cannot make any major policy decisions

The *Local Government Regulation 2012* imposes restrictions on allocation of discretionary funds from 1 January in an election year until the conclusion of the election.

4 Major policy decisions

Schedule 4 of the *Local Government Act 2009* defines “major policy decisions” as meaning a decision:

- about the appointment of a chief executive officer of the local government; or
- about the remuneration of the chief executive officer of the local government; or
- to terminate the employment of the chief executive officer of the local government; or
- to enter into a contract the total value of which is more than the greater of the following:
 - \$200,000;
 - 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.
- to establish an exception for obtaining quotes or tenders before entering into a contract such as a panel of pre-qualified suppliers or a panel of pre-approved suppliers;
- to make, amend or repeal a local law;
- to make, amend or repeal a local planning instrument under the *Planning Act 2016* (ie a planning scheme, a temporary local planning instrument or a planning scheme policy);
- to approve variation requests or change variation approvals under the *Planning Act 2016* that involve:
 - varying the category of development or category of assessment of consequential development;
 - varying the assessment benchmarks or criteria for accepted development that would apply to consequential development
 - facilitating development that would result in a greater demand on infrastructure than the demand anticipated in the Council’s infrastructure plan

Section 90B of the *Local Government Act 2009* allows for local governments to make application to the Minister for approval to make a major policy decision during the caretaker period under exceptional circumstances.

If Council has approved the budget expenditure prior to the commencement of the caretaker period for a quadrennial election and the decision is purely to award a contract or to implement the pre-approved policy decision, Council will seek confirmation from the Minister in each instance that this is not prohibited under section 90B.

In addition to this core legal obligation, Council has determined that it will not consider any new major policies, significant changes to policy and or major new projects during the caretaker period.

In this context, when defining a major policy or project, the following will be taken into consideration:

- What is the impact of the policy or project on the financial sustainability of the Council?
- Will the project or policy materially divert Council resources?
- Does the project or policy have the likely potential to be controversial or generate significant public interest?
- Would the project or policy generally require significant community engagement prior to initiating or finalising?

5 Publication and distribution of election material

Section 90D of the *Local Government Act 2009* states that a local government must not publish or distribute election material during the caretaker period. Election material is anything able to, or intended to:

- influence an elector about voting at an election;
- affect the result of an election.

Any advertisement, handbill, pamphlet or notice that contains election material whether physical or electronic during the election period is prohibited.

6 Media

During the caretaker period, media releases will be limited to operational issues rather than policy or major projects.

Council will not make comment on individual election campaigns except if harmful, inaccurate comments are made by a candidate that directly relates to Council operations. In these circumstances, the Chief Executive Officer reserves the right to correct the inaccuracy.

Council employees must not provide media advice to Councillors who have nominated as candidates regarding public comment on the elections. The Media Branch will not assist individual councillors with their election campaign media activities.

7 Council website and social media

Council social media pages including Facebook, Twitter, Instagram, blogs and other social media hosted or published by Council will carry a notice to exclude political comment. No response will be made to any political comments posted and Council reserves the right to remove any such comments. Content of a political nature posted to Council’s social media sites will be removed.

Council employees are required to be mindful of their obligations under the Code of Conduct when interacting with political content during the caretaker period. Care is required when liking, re-tweeting, posting, sharing or undertaking other interactions where a Council employee’s profile or presence is identifiable as an employee of Logan City Council.

Council’s website will not feature any new articles or events which are not approved by the Chief Executive Officer.

8 Conduct of Council employees

The use of any Council employees during ordinary working hours for election campaigns is strictly prohibited. Normal service delivery and business activities will be maintained throughout the caretaker period and Councillor administrative support officers will continue to provide support for core Council activities, but not for election or politically related matters.

Council employees must not:

- undertake any activity that may affect voting in the election.
- authorise, use or allocate a Council resource for any purpose which may influence voting in the election.
- assist Councillors or a candidate in a way that is or could create a perception that they are being used for electoral purposes.

If a Council employee wishes to provide support or assistance to a Councillor or a candidate in their own time as a private citizen including on the day of the election they must in no way be seen to be acting as a representative of Council, must not be wearing any item of clothing identifying them as a Council employee and must ensure that in these actions they are acting as a private citizen.

9 Use of Council resources

The use of any Council resources for election campaigns is strictly prohibited. Council resources include, employees, services, information, equipment, public funds, grants, media services, materials published by Council, hospitality facilities and websites.

Care is to be taken to ensure that there can be no perception that Council resources are being used to assist candidates in their election campaign. Councillors may continue to use Council resources for routine activities in the fulfilment of their roles and responsibilities as a councillor and in accordance with Council’s Councillor Expenses and Entitlements Policy until their term of office (as defined in the *Local Government Act 2009*) ends.

Council owned resources including mobile phone and vehicles shall not be used for election or campaigning purposes. Councillors and Council employees are not permitted to fix or allow to remain affixed to Council property any poster, election sign, sticker, decal, magnetic or adhesive that promotes the Councillor or another person as a candidate or potential candidate in a Federal, State or Local Government election.

The use of Council resources and equipment (office space, laptops, printers, photocopiers or stationery) for the production of election material is strictly prohibited.

10 Major events and community engagement activities

The following Council organised events and ceremonies will have the following variations and or restrictions during the caretaker period:

- Citizenship ceremonies – formal citizenship ceremonies will continue to be held
- Community, civil and public events - all public events will be advertised and continue to be held
- Community awards and recognition and civic receptions – there will be no formal awards, recognitions or civic receptions during the caretaker period.

Should extenuating circumstances warrant a civic/major event or activity, then the official duties and formalities will be undertaken by the Chief Executive Officer of their delegate.

11 Public consultation and stakeholder engagement

No discretionary public consultation will take place during the caretaker period on an issue which is significant, contentious or not of an ongoing operational matter.

For the purpose of this Procedure, discretionary public consultation means consultation which is not legislatively mandated and is a process which involves an invitation from or to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

This Procedure does not prevent any mandatory public consultation required by the *Local Government Act 2009*, *Planning Act 2016* or any other Act which is required to be undertaken to enable the Council to fulfil its functions in relation to any matter or decisions which are not prohibited by this policy.

Where public consultation is approved to occur during the caretaker period, the results of that consultation will not be reported to Council until after the caretaker period, except where it is necessary for the performance of functions of Council and approved by the Chief Executive Officer.

12 Requests for information and contact with Council employees

The Chief Executive Officer will ensure Councillors are provided with appropriate administrative support to continue to fulfil their official duties and responsibilities during the caretaker period.

During the caretaker period Councillors may still seek information and advice on Council issues in accordance with Council's Staff Interaction Policy. Councillors must limit information requests to those matters that are either routine, or essential to continue Council operations. Requests for reports on substantive matters will not be processed during the caretaker period unless they involve a matter of public safety or are requested by a resolution of Council.

Any approach to a Council employee from a candidate for information must be referred to their Branch Manager in the first instance.

13 Councillor training and professional development

During the caretaker period Council will not fund or conduct any training or professional development activities for Councillors.

14 Definitions

Definitions for terms used within the Procedure can be found in the Caretaker Period Policy (DM: 13345691).