



4/006 Elections – Caretaker Period

Objective

The objective of this policy is to ensure the Town's activities and those of Elected Members are undertaken in a manner that maintains a high standard of integrity during local government election periods.

The primary objective of this Policy is to ensure the Council of the Town of Port Hedland makes no major decisions, prior to election, that would bind an incoming Council, prevents the use of public resources in ways that are seen as advantageous to, or promote sitting Elected Members seeking re-election, or any other candidates, and that the Town of Port Hedland administration acts impartially in relation to all candidates seeking election.

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

- a. Decisions made by the Council;
- b. Materials authorised by the Council for publication by the Town;
- c. Attendance and participation in functions and events;
- d. Use of the Town's resources;
- e. Access to Council information.

Part 1 - Introduction

1.1 Application

This Caretaker Policy applies to Elected Members, candidates, employees and volunteers of, and contractors to the Town of Port Hedland.

1.2 Scheduling Consideration of Major Policy Decisions

So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that such decisions are recommended either:

- a. prior to the commencement of the Caretaker Period; or
- b. scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the Chief Executive Officer may submit a major policy decision to the Council in accordance with Part 3 of this policy.

1.3 Decision Made Prior to a Caretaker Period

This Policy only applies to actual decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker Period. Whilst the announcement 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.

All documentation prepared for Council meetings must be authorised by the Chief Executive Officer to ensure no agenda item is included that is likely in the opinion of the Chief Executive Officer to influence voters' intentions at the forthcoming election or which would likely be used by a candidate for Mayor and/or Councillor for the purpose of canvassing votes.

Elected Members commit to refraining from moving motions or raising matters at a meeting that could potentially be considered an electoral matter.

Part 2 – Implementation of Caretaker Practices

2.1 Role of the Chief Executive Officer in Implementing Caretaker Practices

The role of the Chief Executive Officer is to implement the caretaker practices outlined in this policy and ensure as far as possible, that all Elected Members and Town employees are aware of the Caretaker Policy and practices 30 days prior to the start of the Caretaker Period.

Part 3 – Extraordinary Circumstances Requiring Exemption

3.1 Extraordinary Circumstances

The Chief Executive Officer may, where extraordinary circumstances prevail, permit a matter defined as a 'major policy decision' to be submitted to the Council. The Chief Executive Officer 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 (that is - can it wait until after the election);
- c. The possibility of legal and/or financial implications of a deferred decision;
- d. Whether the decision is likely to be controversial;
- e. The best interests of the Town of Port Hedland; and
- f. The Public Interest.



3.2 Appointment or Removal of the Chief Executive Officer

A Chief Executive Officer may not be appointed or dismissed during a Caretaker Period unless in the case of an emergency, the Council may appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election, after which date a permanent decision can be made.

Part 4 - Caretaker Statement

To ensure the Council complies with the commitment to appropriate decision making during the Caretaker Period, a Caretaker Statement will be included in every report submitted to the Council for a decision recommended to be taken throughout the duration of the Caretake Period. The Caretaker Statement will specify one of the following:

- a. “The recommended decision is not a ‘Major Policy Decision’ within the context of Council Policy 4/006 ‘Elections - Caretaker Policy’.”
- b. “The recommended decision is a ‘Major Policy Decision’ within the context of Council Policy 4/006 ‘Elections – Caretaker Policy’, however an exemption is recommended because of the following extraordinary circumstance(s), which must be followed by the details of the applicable extraordinary circumstance(s)”.

Part 5 – Town Of Port Hedland Publications

5.1 Prohibition on Publishing Local Government Electoral Material

The Town shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the Town by any means any publication, including but not limited to advertisement, handbill, pamphlet, notice, digital communication or voice message that contains ‘electoral material’ during the Caretaker Period.

5.2 Electoral Material Relevant to Prohibition

Without limiting the generality of the definition of ‘electoral material’, material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:

- a. The election; or
- b. A candidate in the election; or
- c. An issue submitted to, or otherwise before, the voters in connection with the election.

5.3 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 Town. For example, use of the Town of Port Hedland crest or logo is prohibited from use of any of the Town's photographs or images.

5.4 Election Announcements

This policy does not prevent publications by the Town which merely announce the holding of the election or relate only to the conduct of the election.

5.5 Town of Port Hedland Publications

Any reference to Elected Members or any other candidates for the relevant election in the Town's publications printed, published or distributed during the Caretaker Period must not include promotional text. All Town publications that are subject to this policy must be approved by the Chief Executive Officer to ensure that any circulated, displayed or otherwise publicly available material during the Caretaker Period does not contain material that may be construed as 'electoral material'.

5.6 Town of Port Hedland Website

During the Caretaker Period the Town's website will not contain any material which is precluded by this policy. All references to the election must relate only to the conduct of the election. Information relating to those Elected Members standing as candidates in the relevant election will be restricted to names, contact details, titles, membership of Council committees and other bodies to which they have been appointed to by the Council. Information about candidates, including Elected Members seeking re-election, on the Town's website will be restricted to their candidate profiles only.

Part 6 - Public Consultation during the Caretaker Period

6.1 Prohibition

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 is contentious, unless the consultation is a mandatory statutory process or such extraordinary circumstances exist, and for which prior approval is provided by the Chief Executive Officer.

Part 7 - Attendance and Participation at Events / Functions / Meetings

7.1 Public Events Hosted by External Bodies

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

7.2 Town of Port Hedland Organised Civic Events/Functions

Civic events and functions organised by the Town and held during the Caretaker Period will be limited to only those essential to the operation of the Town or for which there is an over-riding public interest to convene. Such events and functions must not in any way be associated with any issues considered topical and relevant to the election. All declared candidates are to be invited to civic events and functions organised by the Town during the Caretaker Period, however, only sitting Elected Members will be formally acknowledged at such events and functions.

7.3 Addresses by Elected Members

Elected Members who are also candidates in the relevant election, will not be authorised and should not otherwise make speeches at or address events and/or functions organised or sponsored by the Town during the Caretaker Period.

7.4 Delegates to Community and Advisory Groups

Elected Members appointed to community groups, advisory groups and other external organisations as representatives of the Council shall not use their attendance at meetings of such groups to either recruit volunteers or otherwise seek assistance with election campaigning or to promote their personal or other candidates' election campaigns.

7.5 Questions and Statements at Council or Committee Meetings

All candidates, including Elected Members seeking re-election at the relevant election, must declare they are a candidate for the upcoming election prior to asking questions or making a statement at Council or Committee Meetings.



Part 8 - The Use of Town Of Port Hedland Resources

The *Town of Port Hedland Code of Conduct* provides that the Town's resources are only to be utilised for authorised activities. It should be noted that the prohibition on the use of the Town's resources for electoral purposes is not restricted to the Caretaker Period.

The Town's staff 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 may create a perception that they are being used for election purposes. In any circumstances where the use of Town resources may be construed as being related to a candidate's election campaign, advice is to be sought from the Chief Executive Officer.

Photographs, videos or images taken by, or provided by the Town are not to be used by candidates for the purposes for electioneering or in support of their election campaign. This applies equally to images on the Town's website that may be able to be copied and subject to copyright.

General correspondence addressed to Elected Members will be answered as usual. However, Elected Members will only sign necessary minimum correspondence during the Caretaker Period. Correspondence in respect to significant, sensitive or matters likely to be contentious that would otherwise be signed off by an Elected Member on behalf of the Town it to be forwarded to the Chief Executive Officer for consideration and signing.

Part 9 - Access to Council Information and Assistance

9.1 *Elected Members Access to Information*

During a Caretaker Period, Elected Members are able to access Council information relevant to the performance of their functions as an Elected Member in the usual course. However, the provision of such access to information is to be exercised with caution and limited to matters the Council is considering formally and subject to the approval of the Chief Executive Officer. Such information so accessed must not be used for election purposes. Nothing in this Policy limit the entitlement of access to information available to Elected Members, candidates, any other person or organisation under the *Freedom of Information Act 1992*.

9.2 *Electoral Information and Assistance*

All candidates will have equal access to public information and information relevant to the conduct of the election from the Town administration.

All advice provided to candidates as part of the conduct of the local government election will be provided equally to all candidates. The extent of assistance the Town will make available will be authorised by the Chief Executive Officer (or the



Returning Officer), documented and communicated to candidates in advance of the commencement of the Caretaker Period.

Candidates may obtain advice or assistance from the Western Australian Electoral Commission (WAEC) as it is responsible for the overall conduct of the Town of Port Hedland council elections.

9.3 Information Request Register

An Information Request Register will be maintained by the Chief Executive Officer during the Caretaker Period. This Register will be published on the Town's website, and record requests for information made by Elected Members and candidates, and the response provided to those requests, during the Caretaker Period. Town officers will be required to provide details of requests to the Chief Executive Officer for inclusion in the Register.

9.4 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 nor 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 Chief Executive Officer may authorise the provision of a response to such a request.

9.5 Publicity Campaigns

During the Caretaker Period, publicity campaigns are to be limited to those related to the conduct of the election, for the purpose of promoting the day-to-day activities of the Town and for emergency and urgent community need, subject to the approval of the Chief Executive Officer.

Definitions

'Candidate' means an enrolled elector standing for election for the office of Mayor and/or Councillor of the Council of the Town of Port Hedland.

'Caretaker Period' means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from the close of nominations, being 37 days prior to the Election Day in accordance with Section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day.

'Elected Member' means a serving Mayor, Deputy Mayor or Councillor elected at the preceding election or special election.

'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 but is not limited to any digital communications, 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 in accordance with Section 4.87(3) of the *Local Government Act 1995*.
- (c) Any materials produced by the Town relating to the conduct of the election 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' means a concert, conference, function, sporting event, or an occasion of a kind prescribed in the regulation (s5.90A(1) of the *Local Government Act 1995*); or an official ceremony or a formal social event, such as a party or a special meal, at which a large number of people are usually present.

'Local Government Election' means all ordinary and extraordinary Mayoral and Councillor elections.

'Major Policy Decision' means any:

- (a) 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 or Deputy Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election.
- (b) Decisions relating to the Town entering into a sponsorship arrangement with a total Town contribution value exceeding \$10,000 (excluding GST).
- (c) Irrevocable decisions that commit the Town to substantial expenditure or significant actions, such as that which might be brought about through a Notice of Motion by an Elected Member.

- (d) Irrevocable decisions that will have a significant impact on the Town of Port Hedland or the community.
- (e) 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 election issue that 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.

'Relevant Election' means the election to which the Caretaker Period applies.

Relevant legislation	<i>Local Government Act 1995 Part 4</i> <i>Local Government (Elections) Regulations 1996</i>
Delegated authority	-
Business unit	Governance
Directorate	Corporate Services

<i>Governance to complete this section</i>			
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Document Control Statement – The electronic reference copy of this Policy is maintained by the Governance Team. Any printed copy may not be up to date and you are advised to check the electronic copy at <http://www.porthedland.wa.gov.au/documents/public-documents/policies> to ensure that you have the current version. Alternatively, you may contact the Governance Team.