**Policy Type**

Council

**Policy Purpose**

The policy supplements the caretaker provisions of the *Local Government Act 1995* to provide additional 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.

**Policy Statement**

1. Legislation

1.1. This policy applies in addition to, and does not derogate from, the

requirements of the *Local Government 1995* (the Act), and the *Local*

*Government (Functions and General) Regulations 1996* (the

Regulations).

1.2. In the event of any inconsistency the legislative provisions prevail.

1.3. This policy is to be read 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.

2. Scope

2.1. This Policy applies to Elected Members and employees of the City of

Cockburn during the Caretaker Period and covers:

2.1.1. Notices of Motions and Matters for Investigation submitted

by Elected Members

2.1.2. Decisions that are made by the Council;

2.1.3. Information and material published by the City;

2.1.4. Attendance and participation at functions and events;

2.1.5. Use of the City’s resources;

2.1.6. Access to information held by the City;

2.1.7. Staff engagement with candidates and/or Elected Members.

2.2. This policy only applies to decisions made during the Caretaker Period

and not announcement of decisions made prior to Caretaker Period.

However, as far as practicable any such announcements should be made

before Caretaker Period begins.

3. Caretaker Period

3.1. The Caretaker Period is defined in Section 1.4A of the Act

3.2. Unless otherwise specified in the Act, the Caretaker Period for Local

Government Elections begins at the close of nominations (as defined

in section 4.49(a) of the Act), being 4pm on the day 37 days prior to

the Ordinary Election Day, and ends on the day after the returning

officer declares the election results.

4. Preparation for Caretaker Period

4.1. The Chief Executive Officer (CEO) will ensure as far as possible that

all Elected Members and employees are aware of this Policy and

practices, at least 30 (thirty) days prior to the start of the Caretaker

Period.

5. Significant Acts

5.1. Significant Acts are dealt by the Act and Regulations

5.2. In accordance with Section 3.73(2) of the Act, a local government must

not do a significant act during a caretaker period.

5.3. This prohibition is subject only to the exceptions prescribed in the Act

and Regulations, and this is not subject to Prevailing Circumstances or

other exceptions in this Policy.

6. Public Consultation

6.1. It is prohibited under this Policy, for Public Consultation on a contentious

issue to be commenced during the Caretaker Period.

6.2. Despite subclause 1. above, Public Consultation may be commenced during

the Caretaker Period if:

6.2.1. the process has substantially commenced and/or approvals are in place, or

6.2.2. the consultation is a mandatory statutory process or required under existing policy.

7. Major Policy Decisions

7.1. As far as reasonably practicable, the Chief Executive Officer should avoid

scheduling Major Policy Decisions for consideration at Council Meetings during

a Caretaker Period.

7.2. Such decisions should be either:

7.2.1. Considered by the Council prior to the local government Caretaker

Period; or

7.2.2. Scheduled for determination by the incoming Council.

7.3. Major Policy Decisions may be considered by Council, if the CEO is satisfied

that Prevailing Circumstances apply.

8. Council Forums, Workshops or Briefings relating to Major Policy Decisions

8.1. As far as reasonably practicable, the Chief Executive Officer should avoid

scheduling matters related to Major Policy Decisions for discussions at Council

Forums, Workshops or Briefings during a Caretaker Period.

8.2. Matters related to Major Policy Decisions may be scheduled for discussions at

Council Forums, Workshops or Briefings during a Caretaker Period if the CEO

is satisfied that Prevailing Circumstances apply.

9. Prevailing Circumstances

9.1. When determining whether Prevailing Circumstances apply, the CEO is to

have regard to a number of circumstances including, but not limited to:

9.1.1. whether the decision is significant

9.1.2. the urgency of the issue

9.1.3. whether the process has substantially commenced and/or approvals

are in place

9.1.4. the possibility of legal and/or financial repercussions if it is deferred

9.1.5. unless the consultation is a mandatory statutory process or required

under existing policy

9.1.6. whether the decision is likely to be controversial or contentious; and

the best interests of the City of Cockburn.

9.1.7. If the CEO is satisfied that Prevailing Circumstances apply,

9.2. the CEO is required to provide Elected Members with advice setting out:

9.2.1. the reasons why Prevailing Circumstances apply; and

9.2.2. how potential electoral impacts will be managed or mitigated.

9.3. Details of advice provided under this clause are to be retained, with the Forum,

Workshop or Briefing notes, as a Local Government record.

10. Elected Member Interactions

10.1. During the caretaker period, Elected Members should take particular care

when:



10.1.1. 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 an independent

process and this policy does not apply;

10.1.2. Undertaking a consultation or advocacy role on behalf of members

of the community; and

10.1.3. Representing the City’s communications with State or Federal

Government entities

11. Publishing Electoral Material

11.1. 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.

11.2. In accordance with Section 4.52 of the Act, the City will publish the

required information about all candidates on its website.

11.3. Other than information published in accordance with the Act, during

the Caretaker Period no additions or changes will be made to

information on the City’s website about current Elected Members who

are standing for re-election.

12. Candidate and/or Elected Member Publications

12.1. Candidates and/or Elected Members who publish Electoral Material

cannot claim or represent that the Electoral Material originates from

or is authorised by the City.

12.2. The City of Cockburn logo or crest or anything resembling them,

must not be used in Electoral Material.

13. City of Cockburn Publications

13.1. There will be no interviews with Councillors or images of any

Councillors in the City`s printed material during the Caretaker

Period. This clause does not apply to information published

prior to the Caretaker Period.

14. Media

14.1. 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.



14.2. 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.

14.3. The Mayor will still be quoted in media responses during the

Caretaker Period

when providing information as spokesperson on behalf of the City.

14.4. Proactive statements in the media realm will be monitored under the

Direction of the CEO during the Caretaker Period to ensure

compliance with these provisions.

14.5. Proactive media during the Caretaker Period will be restricted to

operational

matters or issues already resolved by Council.

14.6. 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.

15. Attendance and Participation at Events/Functions

15.1. Public Events Hosted by External Bodies

15.1.1. 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.

15.2. City of Cockburn organised Civic Events/Functions/Official Openings

15.2.1. 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.

15.2.2. 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

CEO, in conjunction with the Mayor.

15.2.3. Elected Members must not distribute any Electoral Material or

promote their campaign at any City of Cockburn organised

Civic Events, Functions, Official Openings, or similar

15.3. Delegates to Community and Advisory Groups

15.3.1. 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

for Electoral Purposes, to recruit assistance with electoral

campaigning or promote their personal or other candidate’s

electoral campaigns

16. Use of City of Cockburn Resources

16.1. The Council’s adopted Code of Conduct for Council Members,

Committee Members and Candidates prohibits the use of the

City’s resources for Electoral Purposes.



16.2. The City’s employees must not be asked to undertake any tasks

connected directly or indirectly with an election campaign.

16.3. 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.

16.4. 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.

17. Use of City Information

17.1. 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.

17.2. Information received or accessed in the role of an Elected

Member is not to be used for Electoral Purposes. This includes

claiming personal credit for previous Council decisions in

marketing material.

18. Media Advice

18.1. Any requests for media advice or assistance from Elected Members during

the Caretaker Period will be referred to the CEO.

18.2. 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.

18.3. 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 CEO may authorise the provision of a response to such a

request.

18.4. The City will continue to arrange media opportunities for the Mayor when

required to fulfil the function of speaking on behalf of the City in accordance

with Section 2.8(1)(d) of the Act. These media opportunities must not be used

for Electoral Purposes.

18.5. The City will not arrange Any media opportunities for Councillors during the

Caretaker Period.

19. City of Cockburn Employees

19.1. During the Caretaker Period no City employee may make any public

statement that relates to an election issue.

19.2. Employees must avoid assisting Elected Members in ways that could

create a perception of being used for Electoral Purposes.

19.3. Employees must not accept employment (voluntary or paid) related to local

elections for any candidate.

19.4. Employees must not interact with Elected Members or candidates on their

social media pages during the Caretaker Period.

20. Local Government Election Process Enquiries

20.1 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 CEO

or delegate.

21. Electoral Signs

21.1. Electoral signage is not permitted within road reserves (this includes

Council verges outside private properties). This is based on a requirement

for:

21.1.1. Pedestrian safety;

21.1.2. Risk aversion and exposed liability to the City for injuries or damage;

and

21.1.3. Vehicle safety for manoeuvrability and sightlines.

21.2. Electoral signage is not permitted on City Reserves or City Infrastructure.

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

owner.

22. Implementation of Caretaker principles during State and Federal Government

Elections

22.1. 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.

22.2. 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 CEO in writing, who in turn will

advise the other Elected Members

22.3. 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.

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# 23. Definitions

***Caretaker Period*** is defined in section 1.4A of the *Local Government Act 1995.*

***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. 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.

***Electoral Purpose*** means the purpose of persuading electors to vote in a particular

way at an election, referendum or other poll held under the *Local Government Act*

*1995*, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*.

***Events and Functions*** means gatherings of internal or external stakeholders conducted by the City 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.

***Major Policy Decision*** excludes anything that constitutes a Significant Act, means any:

1. Decisions relating to the remuneration of the CEO or any other designated senior officer;
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 CEO’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.

***Prevailing Circumstances*** is defined in clause 9 of this Policy.

***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.

***Significant Act*** is defined in section 3.73(1) of the *Local Government Act 1995*.

24. References

* *Local Government Act 1995*
* *Local Government Act (Functions and General) Regulations 1996*
* City of Cockburn Code of Conduct for Council Members, Committee Members and Candidates
* *Electoral Act 1907*
* *Commonwealth Electoral Act 1918*

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| [Strategic Link](#bookmark2): | Strategic Community Plan |
| [Category](#bookmark2) | Elected Members |
| [Lead Business Unit](#bookmark2): | Legal and Compliance |
| [Public Consultation](#bookmark2):  **(Yes or No)** | No |
| [Adoption Date](#bookmark2):  (Governance Purpose Only) | 12 November 2024 |
| [Next Review Due](#bookmark2):  (Governance Purpose Only) | November 2026 |
| [ECM Doc Set ID](#bookmark2):  (Governance Purpose Only) | 8549055 |