



Election Caretaker Period

Policy Type: Council Policy

Policy Owner: Chief Executive Officer

Policy No. CP- 105

Last Review Date: XX Month XXXX

POLICY OBJECTIVES

The purpose of this policy is to avoid making major decisions prior to an election which would bind an incoming Council, to prevent the use of public resources in ways seen to be advantageous to, or promoting, current Elected Members seeking re-election and to ensure staff act impartially in relation to candidates.

This policy is to be applied in conjunction with all other relevant legislation, local laws, delegations, policies, procedures and processes of the City and provides guidance to ensure the continuation of ordinary business for the City of Melville in a responsible and transparent manner that ensures elections are conducted in an ethical, fair and equitable manner and are publicly perceived as such.

POLICY SCOPE

This Policy applies to Elected Members, electoral candidates and employees of the City of Melville during the Caretaker Period and covers:

- a) Decisions that are made by the Council;
- b) Information and material published by the City;
- c) Attendance and participation in functions and events;
- d) Use of the City's resources;
- e) Access to information held by the City.

POLICY STATEMENT

1 INTRODUCTION

1.1 Scheduling Consideration of Major Policy Decisions During Local Government Caretaker Period.

As far as reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions 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.

Where circumstances require, the Chief Executive Officer may submit a major policy decision to the Council (see clause 2.2).

1.2 Decision Made Prior to the local government Caretaker Period

This Policy only applies to actual decisions made during the local government Caretaker Period, not the announcement of decisions made prior to the local government Caretaker Period. Whilst announcements of earlier decisions may be made during a local government Caretaker Period, as far as practicable any such announcements should be made before the local government Caretaker Period begins.

2 IMPLEMENTATION OF CARETAKER PRACTICES DURING LOCAL GOVERNMENT CARETAKER PERIOD

2.1 Role of the Chief Executive Officer in Implementing Caretaker Practices During Local Government Caretaker Period

The role of the Chief Executive Officer in implementing the local government caretaker practices outlined in this Policy is as follows:

- a) 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, 30 days prior to the start of the local government Caretaker Period.
- b) The Chief Executive Officer will ensure, as far as possible, that any major policy or significant decisions required by the Council are scheduled for Council resolution prior to the local government Caretaker Period or deferred where appropriate, for determination by the incoming Council.
- c) The Chief Executive Officer will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Local Government Caretaker Period, are publicised prior to the local government Caretaker Period.

2.2 Prevailing Circumstances

In some circumstances, the Chief Executive Officer **may facilitate a matter** defined as a “major policy decision” to be submitted to the Council during the local government Caretaker Period. The Chief Executive Officer is to have regard to a number of circumstances including but not limited to:

- whether the decision is significant;
- the urgency of the issue;
- whether the process has substantially commenced and/or approvals are in place;
- the possibility of legal and/or financial repercussions if it is deferred;
- **whether the matter is following a process under regulations or legislation;**
- whether the decision is likely to be controversial; and
- the best interests of the City of Melville.

2.3 Appointment or Removal of the Chief Executive Officer

While this Policy establishes that the Chief Executive Officer may not be appointed or dismissed during the local government Caretaker Period, in the case of an emergency, the Council may act to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms and conditions of their contract), pending the local government election, after which date a permanent decision can be made.

2.4 Prohibition

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 local government Caretaker Period on an issue which is contentious, unless the consultation is a mandatory statutory process or required under existing policy.

2.5 Local Government 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 the responsibility of the Returning Officer, to the Chief Executive Officer.

2.6 Elected Member Interactions

Elected Members should take particular care when:

- 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 under a discrete process and this policy does not apply;
- Undertaking a consultation or advocacy role on behalf of members of the community;
- Representing the Council's communications with State or Federal Government entities; and
- Information received in the role of an Elected Member, is not to be used for campaigning purposes, except to the extent that the information is already in the public domain.

3 IMPLEMENTATION OF CARETAKER PRACTICES DURING STATE AND FEDERAL GOVERNMENT ELECTIONS

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 is being used as a platform for their campaign during the election period. Therefore, an Elected Member:

- **is encouraged** to take leave of absence from the Council for such period as they see fit;
- should, as soon as practicable after becoming aware of their appointment, notify the Chief Executive Officer in writing, who in turn will advise the Council;
- should take care to ensure that:
 - items of business they place on the agenda;
 - Notice of Motion submitted by the Elected Member; and
 - communication with members of the community,

relate to the role of the Council and are not designed to further the Elected Member's electoral campaign.

NOTE: For State or Federal Government elections, the Caretaker Period commences from the date of the election writ issued by the Governor or Governor General as is relevant.

4 CITY OF MELVILLE PUBLICATIONS

4.1 Prohibition of Publishing Electoral Material

The City shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the City any advertisement, handbill, pamphlet or notice that contains "electoral material" during the Caretaker Period

4.2 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.

4.3 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 City (eg use of the City of Melville logo and/or crest).

4.4 Election Announcement

This Policy does not prevent publications by the City which merely announce the holding of the election or relate only to the election process itself.

4.5 City of Melville Publications

Any reference to Elected Members in the City's publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the City's publications that are potentially affected by this Policy will be reviewed by the Chief Executive Officer to ensure that any circulated, displayed or otherwise publically available material during the Caretaker Period does not contain material that may be considered as "electoral material". This clause does not apply to information published prior to the Caretaker Period.

4.6 City of Melville Website

During the Caretaker Period the City's website will not contain any material which is precluded by this Policy. Any references to the election will only relate to the election process. 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 by the Council. This clause does not apply to information published prior to the Caretaker Period.

4.7 Social Media

During the Caretaker Period, the City's social media accounts including, but not limited to Facebook, Twitter, Instagram and YouTube, will not contain any material that is precluded by this Policy. Any reference to the election will only relate to the election process.

4.8 City of Melville Business Cards

During the Caretaker Period, Elected Members shall ensure that their allocated business cards are used only for purposes associated with the normal role of an Elected Member in servicing their electorate. Elected Member business cards shall not be used in a matter that could be perceived as an electoral purpose. It should be noted that this prohibition on the use of the City's resources for electoral purposes is not restricted to the Caretaker Period.

5 ATTENDANCE AND PARTICIPATION AT EVENTS/FUNCTIONS

5.1 Public Events Hosted by External Bodies

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

5.2 City of Melville Organised Civic Events/Functions

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 considers essential to the operation of the City, and should not in any way be associated with any issues that, in the Chief Executive Officer's opinion, are considered relevant to, or likely to influence the outcome of the local government election.

Annual, recurring City-wide community events that are scheduled to take place during the Caretaker Period will proceed, but there should be no formal role for Elected Members at these events.

During the Caretaker Period, Elected Members dinners and lunches should not be scheduled for any sitting Elected Member who is nominating as a candidate for local, state or federal government elections and/or an Elected Member host any events, presentation or appear in any Council promotional material during the Caretaker Period. This provision does not restrict Elected Members attendance at a meal prior to Council/Committee meetings and other City functions.

5.3 Addresses by Elected Members

Elected Members nominating as a candidate for local, state or federal government elections should not be permitted to make speeches or addresses at events/functions organised or sponsored by the City during the Caretaker Period. Elected Members may make short welcome speeches to events and functions organised or sponsored by the City during the Caretaker Period.

5.4 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.

6 THE USE OF CITY OF MELVILLE RESOURCES

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 (for example – prohibits the use of employees for personal tasks and prohibits the use of equipment, stationery or hospitality for non-Council business). This includes that the use of resources for electoral purposes is not restricted to the Caretaker Period.

The City'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 City resources might be construed as being related to a candidate's election campaign, advice is to be sought from the Chief Executive Officer.

7 ACCESS TO COUNCIL INFORMATION

7.1 Elected Member Access to Information

During the Caretaker Period, Elected Members are able to access Council information relevant to the performance of their functions as an Elected Member.

However, this access to information should be exercised with caution and limited to matters that the Council is dealing with within the objectives and intent of this policy. Any Council information so accessed must not be used for election purposes.

7.2 Electoral Information and Assistance

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls) and information relevant to their election campaigns from the City's administration. Information, briefing material and advice prepared or secured by staff for a Elected Member must be necessary to the carrying out of the Elected Member's role and must not be related to election issues that might be perceived to be of an electoral nature (refer to Part 6 of this policy).

Any assistance and advice provided to candidates as part of the conduct of an election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to candidates in advance. Types of assistance may include advice on manipulation of electoral roll data and interpretation of legislative requirements amongst other matters.

7.3 Information Request Register

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

7.4 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. 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.

7.5 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 City activity, it must be approved by the Chief Executive Officer. In any event, the City's publicity during the Caretaker Period will be restricted to communicating normal City activities and initiatives.

7.6 Media Attention

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.

7.7 City of Melville Employees

During the Caretaker Period no City employees may make any public statement that relates to an election issue unless the statements have been approved by the Chief Executive Officer.

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:

- 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*.
- b) Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*.
- c) 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 Function 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

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 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 City entering into a sponsorship arrangement with a total City contribution value exceeding \$10,000 (excluding GST).
- c) irrevocable decisions that commit the City 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 City of Melville 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 electoral 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 involved an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.



References that may be applicable to this Policy

Legislative Requirements: *Local Government Act 1995*
Local Government (Election) Regulations 1996
Local Government (Model Code of Conduct) Regulations 2021

Policy **Code of Conduct – Elected Members, Committee Members and Candidates**
CP-004 Use of Elected Member Meeting Rooms and Facilities
CP-091 Elected Member Allowances and Expenses
CP-092 Elected Members Professional Development

Procedure, Process Maps, Work Instructions:

Other Plans, Frameworks, Documents Applicable to Policy:

Delegated Authority No:

ORIGIN/AUTHORITY

Ordinary Meeting of Council

15 August 2017

ITEM NO.

M17/5570

REVIEWS

Ordinary Meeting of Council

XX Month XXXX

MXX/XXXX