

1. Policy intent

To inform Councillors and Council staff of responsibilities during the mandatory caretaker period prior to and during Local Government elections.

2. Scope

- 2.1 This policy applies to Council's March 2020 elections.
- 2.2 It applies to all Tableland Regional Council Councillors and all Council officers, whether permanent, temporary, casual or part-time employees, contractors or volunteers.
- 2.3 The Caretaker Period Policy is to be read and implemented in conjunction with policies regarding requests by Councillors for information and advice and guidelines for election advertising.
- 2.4 The principles of sections 4.4 and 4.7 also apply to caretaker periods associated with State and Federal Government elections.
- 2.5 The CEO is the final decision-maker in relation to this policy.

3. Background/supporting information

- 3.1 *Local Government Act 2009 (LGA)*
- 3.2 *Local Government Regulation 2012 (LGR)*
- 3.3 *Local Government Electoral Act 2011 (LGEA)*
- 3.4 Council Local Laws
- 3.5 Policy: Councillor Interaction with Organisation policy

4. Policy statement

4.1 Policy principles

4.1.1 Council commitment

- a. Council reaffirms its commitment during an election period to:
 - i. the efficient continuation of Council's day to day business;
 - ii. transparent actions and decision-making;
 - iii. actions that do not, or cannot be perceived to, bind an incoming Council in its operational delivery;
 - iv. the suspension of major policy decisions;
 - v. the neutrality of Council employees; and
 - vi. the continuation of the principle that the use of public funds for electoral purposes is unacceptable.
- b. During an election period, candidates may make election commitments which they intend to honour if they are elected and form a government. Such commitments are not subject to this policy.

4.1.2 Council meetings

- a. Council will continue to meet during the caretaker period for the purpose of making decisions in the public interest. However, Council will defer making any decisions during the caretaker period which:
 - i. could be perceived to unreasonably bind an incoming Council in its operational delivery; or
 - ii. constitute a major policy decision for which Ministerial approval has not been received (refer section 4.3)

4.2 Timing and planning

- 4.2.1 The dates of a caretaker period are determined by the Electoral Commission Queensland but according to the LGEA, a caretaker period shall commence no less than 21 days and no more than 42 days prior to the local government election. The election is scheduled for 28 March 2020.
- 4.2.2 The earliest the caretaker period can commence is 28 January 2020.
- 4.2.3 Managers will consider the timing of local government elections, and any restrictions that apply in the period leading up to an election in forward planning processes.
- 4.2.4 The CEO, as far as possible, will ensure that matters of Council business that require major policy decisions are scheduled for Council business before the commencement of the caretaker period or are deferred for consideration for an incoming Council.

4.3 Prohibition on major policy decisions

- 4.3.1 In accordance with Section 90B of the LGA Council will not make a major policy decision during the caretaker period. Schedule 4 of the LGA defines "major policy decision" to mean a decision—
 - a. about the appointment, remuneration or termination of a Chief Executive Officer of the Local Government
 - b. to enter into a contract greater than \$200,000 or one per cent 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)—whichever is greater
 - c. 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
 - d. to make, amend or repeal a local law
 - e. to make, amend or repeal a local planning instrument under the *Planning Act 2016* (i.e. a planning scheme, a temporary local planning instrument or a planning scheme policy)
 - f. to approve variation requests or change variation approvals under the *Planning Act 2016* that involve:
 - i. varying the category of development or category of assessment of consequential development
 - ii. varying the assessment benchmarks or criteria for accepted development that would apply to consequential development
 - iii. facilitating development that would result in a greater demand on infrastructure than the demand anticipated in the Council's infrastructure plan.

- 4.3.2 Any contracts made pursuant to an invalid major policy decision are void and Council may be liable to any person who suffers loss or damage as a result of the void contract or expectation. Such persons have the right to bring court proceedings against Council.
- 4.3.3 Official correspondence must not be entered into by any Councillor during caretaker period that makes future policy commitments that could bind an incoming Council.
- 4.3.4 Council may resolve to apply to the Minister for approval to make a major policy decision in exceptional circumstances.

4.4 Prohibition on Election Material

- 4.4.1 In accordance with section 90D of the Local Government Act 2009, Councillors and Council employees must not publish or distribute election material that is able to, or intended to influence an elector about voting at an election or affect the result of an election.

4.5 Use of Council Resources during an Election Period

- 4.5.1 Councillors may continue to use Council resources and facilities as outlined in the Councillor Remuneration, Expenses Reimbursement and Resources Policy for the performance of their role until their term of office ends.
- 4.5.2 Council equipment and resources may not be used for election purposes, including vehicles. Councillors are not permitted to affix, or allowed to remain affixed, to Council property any sticker, poster, decal or other magnetic or adhesive device that promotes the Councillor as an actual or potential candidate for any election.
- 4.5.3 Any circumstances where the use of Council resources might be misconstrued as being related to a candidate's election campaign must be reported to the CEO.
- 4.5.4 Care must be taken by both Councillors and officers to ensure that there can be no perception that Council resources have been utilised to assist Councillors in the election campaign.

4.6 Requests for information

- 4.6.1 Councillors may continue to request information and advice from Council staff in accordance with the Acceptable Request Guidelines in order to conduct day to day Council business as per the relevant policies. Councillors must not request or receive information or advice from Council employees to support election campaigns, and there shall be transparency in the provision of all information and advice during the election period.
- 4.6.2 Requests for information by candidates (including Councillors in their role as a candidate) will be dealt with as per the process for a request by a member of the public.
- 4.6.3 Requests by candidates for information that is outside the public domain (for example, information that has not been published) will be referred to the appropriate agency.

4.7 Electoral Signage

- 4.7.1 Candidates are required to comply with electoral signage protocols in the lead up to an election. These conditions, including applicable size, placement and approval requirements, are stipulated in Council's Local Laws. Council employees are authorised to remove and dispose of electoral signage erected in contravention of signage protocols.

4.8 Mayor and Councillor Correspondence

- 4.8.1 The Mayor and Councillors may continue to correspond with constituents on matters related to Council business during the caretaker period. However, in responding to correspondence, the Mayor and Councillors shall not purport to make policy commitments binding the incoming Council.

4.9 Council Officers

- 4.9.1 Council employees shall maintain the normal business activities of Council during the caretaker period. Employees shall undertake their duties in an appropriate way and take all steps to avoid any real or perceived partisanship in order to protect the organisation's ability to impartially serve any incoming Council following an election.
- 4.9.2 Employees shall not fulfil any request that is, or could be perceived to be, an electioneering activity.
- 4.9.3 Councillor support employees will continue to provide support for Council endorsed activities and core Council business.
- 4.9.4 Any Council officer proposing to stand as a candidate for the election must be absent on leave from their appointment during the entire caretaker period.

5. Compliance

- 5.3.1 Failure to comply with this Policy, and any policies, guidelines, and procedures referred to or relevant to this Policy, may constitute inappropriate conduct, misconduct, or corrupt conduct and shall be dealt with as follows:
- i. corrupt conduct shall be referred to the Crime and Corruption Commission;
 - ii. breaches by employees shall be managed under the Code of Conduct; and
 - iii. breaches by Councillors shall be managed under the conduct and performance obligations of the Local Government Act 2009

6. Responsibility

Council is responsible for the adoption, amendment and repeal of the Policy and the Chief Executive Officer is responsible for the development and amendment of any associated procedures and guidelines relevant to the Policy.

7. Review

It is the responsibility of the General Manager Organisational Services to monitor the adequacy of this policy and recommend appropriate changes. This policy will be formally reviewed every four years or as required by the CEO.

This Policy is to remain in force until the completion of the 2020 quadrennial election.

This Policy repeals the former Tablelands Regional Council Policy titled "Caretaker Period Policy" adopted 1 October 2015.

JUSTIN COMMONS
CHIEF EXECUTIVE OFFICER