

1 Purpose

The *Local Government Act 2009* imposes some restrictions during the 'Caretaker Period' (the period between when nominations are called for, until the declaration of the polls). This protocol defines the boundaries of what action can and cannot occur during the caretaker period to ensure Council avoids any perception that its resources are being used in a manner that other candidates are not privy to or that it is acting in a politicised manner.

2 Scope and applications

This protocol applies to all Councillors, employees, contractors, labour hire, volunteers, work experience students, and controlled entities.

3 Principles

This policy aligns with Council's 2019-2024 Corporate Plan outcome of leadership and governance for regional success and is guided by the strategic actions:

- 5.1.3 Ensure leadership and decision making is transparent, accountable and represents the current and future interests of the region.
- 5.1.4 Develop, implement and communicate local laws, policies, standards and codes to achieve regulatory compliance.

In addition to upholding the Corporate Plan principles outlined above, Council is committed to upholding the obligations within the *Human Rights Act 2019* by giving proper consideration to the provisions of the Act when making decisions relevant to this protocol.

3.1 Key principles

1. Major policy decisions will not be made during the Caretaker Period unless approved by the Minister.
2. Council resources will not be used for any political or electoral purposes.
3. Council will not publish or distribute election material.

4 Content

4.1 Protocol statement

Council is committed during an Election Period, to minimise the incumbent Council making decisions that will have an enduring effect that spans or extends into the subsequent term (after the next election) resulting in the new Council having no discretion in relation to matters decided by the present administration.

4.2 Council and committee meetings

Council's Committee and Ordinary Meetings will continue on the normal basis in February, but for March, only the Ordinary Meeting will be held.

The focus of the March meeting will be on making decisions to continue the ongoing operations of Council.

Unless emergent matters require an immediate response, Council must avoid making:

- major policy decisions, unless approved by the Minister and
- other decisions that may bind an incoming Council.

Under section 90B of the *Local Government Act 2009*, Council may apply to the Minister for approval to make a major policy decision under exceptional circumstances.

A major policy decision made without the approval of the Minister is invalid. A person who acts in good faith in relation to a major policy decision of a local government, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of any invalidity of the decision or because the contract is void, has a right to be compensated by the local government for the loss or damage.

4.3 Advisory committee meetings

Advisory committee meetings may continue during the caretaker period; however, no decisions will be made until the caretaker period has concluded unless it is necessary for the performance of functions of Council and is approved by the Chief Executive Officer (CEO).

4.4 Prohibition on election material

Section 90D of the *Local Government Act 2009*, prohibits Council or a controlled entity publishing or distributing anything that may influence an elector about voting in an election or affect the result of the election.

4.5 Use of council resources during the election period

Council resources must not be used to assist Councillors in their election campaigns and care must be taken to avoid any perception that Council resources are being used.

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 the Expenses Reimbursement and Provision of Facilities – Councillors (No. 2.53) policy, until their term of office ends. Council will not fund or conduct any training or professional development activities for Councillors during this period,

Council owned resources or equipment, must not be used for election or campaigning purposes. This restriction does not apply to vehicles provided to Councillors for private usage, as outlined in the vehicle provisions in the 2.53 Expenses Reimbursement and Provision of Facilities – Councillors Policy.

Councillors must not fix or allow to remain affixed, to Council property any sticker, decal, magnetic or adhesive advice that promotes the Councillor as a candidate or potential candidate in an election.

4.6 Advertising and media releases

In accordance with 2.55 Advertising Spending Policy, 2.64 Social Media Policy, 2.35 Media Policy and associated guidelines and pursuant to s90D of the *Local Government Act 2009*, advertising will be limited during the Election Period.

Council's publications may be produced as usual and will only cover key operational projects and events during this period.

During this period:

- Council will restrict its advertising and media releases to those required to maintain the necessary, customary and routine operations;
- Individual Councillors will not be featured in any paid advertising and media releases will not be attributed to individual Councillors;
- Advertising or media releases must not be able to be construed to be of a political nature;
- All quotes within media releases will be attributed to the CEO or his delegate;
- Council News must only include interviews with delegated officers;

- Councillors may respond to media questions in their individual capacity as a candidate and should distinguish their individual opinion and the majority view of the elected Council;
- Speeches will not be provided to Councillors during the Caretaker Period and;
- Councillors must not seek media advice from officers for the purpose of assisting them with their campaign.

4.7 Civic events

Civic events will only be held where:

- it fulfils a statutory obligation;
- it is of a routine nature;
- it is held to commemorate the anniversary of a significant event; or
- its purpose is to host visiting dignitaries.

4.8 Public consultation and community engagement

Public consultation may only be undertaken during the caretaker period if its legislatively mandated to enable Council to fulfil its functions in relation to any matter or decision which is not prohibited by this protocol.

If community engagement or public consultation has occurred before the caretaker period or was approved to occur during the Caretaker Period, the results of the consultation will not be provided to Council until the Caretaker Period has concluded unless it is necessary for the performance of functions of Council.

4.9 Council website and social media

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 any such comments will be removed. Content of a political nature posted to Council's social media sites will be removed as will posts which tag Toowoomba Regional Council or mention the organisation.

Council employees must not 're-tweet', 'post' share' or 'like' political content where it can be identified that they are an employee of Toowoomba Regional Council and ensure that they meet their obligations under the Code of Conduct for Employees.

Council's website will not feature any new articles or events which are not approved by the CEO.

4.10 Information requests

Requests for information or requests for services from Councillors will continue to be processed under the existing administrative arrangements defined in 2.07 Guidelines for Councillors Receiving Customer Requests or Complaints and 2.09 Acceptable Request Guidelines for Councillors .

Councillors must limit information requests to those matters that are either routine, or essential to continue Council operations.

Requests for reports on substantive matters must not be processed during the Caretaker Period unless they involve a matter of public safety or are requested by a resolution of Council.

4.11 Councillor support

Normal service delivery and business activities will be maintained, and Councillor Support persons will continue to provide support for core Council activities, but not election or politically related matters.

The Media team will not assist individual Councillors with their media activity.

4.12 Complaints about councillors

Processes required for complaints made against Councillors remain unchanged.

4.13 Assisting Councillors in a private capacity

Council employees, contractors, labour hire, volunteers, work experience students may, in a personal or private capacity, provide support or assistance to a Councillor or a candidate in their own time, providing that any support or assistance provided does not breach legislation or Council's Code of Conduct for Employees, and that all reasonable steps are taken to ensure that in providing any support or assistance they are acting as private citizens and not perceived as acting in an official capacity as a Council employee, contractor, labour hire, volunteer, or work experience student.

4.14 Electoral signage

Candidates are required to comply with 2.23 Election Signs Policy, Local Law No. 1 (Administration) 2011 and Subordinate Local Law No. 1.4 (Installation of Advertising Devices).

4.15 Mayor and Councillor Correspondence

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.

5 Responsibilities/accountabilities

The **CEO or Manager Governance and Legal Services** are authorised to make determinations and issue such directions as necessary to assist compliance with this protocol.

The Councillors, CEO, employees, contractors, labour hire, volunteers, work experience students, and controlled entities must comply with the provisions of this policy.

6 Relevant laws

6.1 Legislation

Local Government Act 2009

Local Government Regulation 2012

Local Government Electoral Act 2011

Planning Act 2016

6.2 Local Laws

Local Law No. 1 (Administration) 2011

Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011

7 Related policies/documents

Members of the public can access Council policies on Council's website. If a policy listed below does not appear on the website please contact 131 872 or email info@tr.qld.gov.au to request a copy. Staff may access policies via the [Policy Register and Review Schedule](#).

Council policies

- 2.07 Guidelines for Councillors Receiving Customer Requests or Complaints
- 2.08 Committee Chairperson and Portfolio Leader Guidelines
- 2.09 Acceptable Request Guidelines for Councillors
- 2.23 Election Signs Policy
- 2.35 Media Policy
- 2.53 Expenses Reimbursement and Provision of Facilities – Councillors Policy
- 2.55 Advertising Spending Policy
- 2.64 Social Media Policy
- 2.72 Investigation Policy – Councillors

Other documents

[Corporate Plan 2019 – 2024](#)

[Councillor Code of Conduct](#)

[Code of Conduct for Employees](#)

[Best practice standing orders for local government and standing committee meetings \(DM 10983715\)](#)

8 Related forms

Nil

9 Definitions

Advertising – is the promotion of an idea, goods or services to the public, for which a fee is paid.

Caretaker Period – is prescribed in section 90A of the *Local Government Act 2009* and commences on the day when the public notice of the holding of the election is given and ends at the conclusion of the election. The caretaker period does not apply during a by-election or fresh election.

Civic Events – are public events that are initiated, funded and managed by Council.

Conclusion of the Election – is prescribed in section 7 of the *Local Government Electoral Act 2011* and is the day on which the last declaration of a poll is displayed in the Returning Officer's public office.

Controlled entity - is prescribed in section 90D of the *Local Government Act 2009* and means an entity subject to the control of either or both the local government or another entity.

Council resource – includes Council assets (e.g. provided mobile phones, other devices, stationery, facilities, property, and employees, Council services (e.g. video productions) and Council social media.

Election Material – is prescribed in section 90D of the *Local Government Act 2009* and is anything able to or intended to influence an elector about voting at an election or affect the result of the election.

Election Period – is prescribed in the dictionary of the *Local Government Electoral Act 2011* and commences on the day when the public notice of the election is given and ends at the close of the poll.

Major Policy Decision – is defined in the *Local Government Act* as:

- a. about the appointment of a chief executive officer of the local government; or
- b. about the remuneration of the chief executive officer of the local government; or
- c. to terminate the employment of the chief executive officer of the local government; or
- d. to enter into a contract the total value of which is more than the greater of the following—

- i. \$200,000;
- ii. 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 governments most recently adopted annual report; or
- e. relating to making or preparing an arrangement, list, plan or register in the way provided under a regulation made under this Act that can be used to establish an exception to obtaining quotes or tenders when entering into a contract; or
- f. to make, amend or repeal a local law; or
- g. to make, amend or repeal a local planning instrument under the *Planning Act*; or
- h. under the *Planning Act*, chapter 3, part 3, division 2 on a development application that includes a variation request under that Act if the application proposes to—
 - i. vary the category of development or category of assessment of development; or
 - ii. vary the assessment benchmarks or criteria for accepted development that would apply to development;
 - iii. facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government’s local government infrastructure plan; or
- i. under the *Planning Act*, chapter 3, part 5, division 2, subdivision 2 on a change application under that Act that includes a change to a variation approval if the application is being assessed under section 82 of that Act and the application proposes to—
 - i. further vary the category of development or category of assessment of development; or
 - ii. further vary the assessment benchmarks or criteria for accepted development that would apply to development; or
 - iii. facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government’s local government infrastructure plan.

Note — Change application assessments for minor changes under the *Planning Act*, section 81 are not subject to paragraph (i).

Term of Office – for a Councillor starts on the day after the conclusion of the election (if elected) or the day on which the Councillor is appointed and ends:

- if elected at a quadrennial or fresh election, at the conclusion of the next quadrennial election;
- if elected at a fresh election and a declaration is made under regulation, at the conclusion of the next quadrennial election;
- if elected or appointed to fill a vacancy in the office of another Councillor, at the end of the other Councillor’s term;
- when the Legislative Assembly ratifies the dissolution of the local government under section 123 of the *Local Government Act 2009*; and
- when the Councillor’s office otherwise becomes vacant.

10 Policy details

Policy category:	Council Policy	Policy version number¹:	6.00
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Approval authority:	Council		

¹ Printed copies are uncontrolled. It is the user’s responsibility to ensure that any copies of policy documents are the current issue. Any delegations should be verified via the relevant Delegation Register as it takes precedence if there is a conflict. The Chief Executive Officer will, if necessary, be the sole arbiter in resolving any issues of conflict

Policy Owner:	Governance and Legal Services Branch – Office of the CEO
Contact officer:	Manager Governance and Legal Services
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11 Revision history

Policy version	Approval date	DM Reference
1.00	21 February 2012	4960793v1
2.00	15 December 2015	6695470v1
3.00	23 November 2018 (Immaterial Changes Only)	7413227v2
4.00	22 October 2019	8812179v2
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