

# CARETAKER PERIOD POLICY

## ADMINISTRATIVE POLICY



### 1 Scope

This policy applies to Councillors, employees, contractors and volunteers and quadrennial elections of Rockhampton Regional Council. This policy does not apply to by-elections and fresh elections.

### 2 Purpose

The purpose of this policy is to ensure the ordinary business of Council continues in a responsible, transparent and legally-compliant manner in the period leading up to an election.

### 3 Related Documents

#### 3.1 Primary

Nil

#### 3.2 Secondary

*Local Government Act 2009*

*Local Government Regulation 2012*

*Local Government Electoral Act 2011*

*Local Government Electoral Regulation 2012*

*Local Law No. 1 (Administration) 2011*

*Planning Act 2016*

*Subordinate Local Law No 1.4 (Installation of Advertising Devices) 2019*

Advertising Spending Policy

Code of Conduct

Community Grants and Minor Sponsorship Policy

Community Grants and Minor Sponsorship Procedure – Community Assistance Program

Community Grants and Minor Sponsorship Procedure – Councillors Discretionary Funds

Councillor Acceptable Request Guidelines Policy

Election Management Plan

Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy

### 4 Definitions

To assist in interpretation, the following definitions apply:

By-election	As defined in the <i>Local Government Electoral Act 2011</i> , an election to replace a Councillor after the Councillor's office becomes vacant.
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Caretaker Period	As defined in section 90A of the <i>Local Government Act 2009</i> , the period during an election for a local government that starts on the day when the public notice of the holding of the election is given under the <i>Local Government Electoral Act 2011</i> , section 25(1) and ends at the conclusion of the election. There is no caretaker period during a by-election or fresh election.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Civic Events	An event or ceremony which involves a guest(s) of honour and invited guests approved by the Mayor. Civic events are initiated by the Mayor.
Committee	A committee established under the <i>Local Government Regulation 2012</i> : (a) Standing Committee – A group of Councillors created by a resolution of the Council to undertake functions as determined under the <i>Local Government Act 2009</i> or <i>Local Government Regulation 2012</i> decided by a Council resolution. A standing committee may either be a delegated or non-delegated committee. (b) Advisory Committee – A group of Councillors, and in some cases, non-elected representatives, for the performance of any duty, not of a permanent nature, created by resolution of the Council to undertake functions as determined under the <i>Local Government Act 2009</i> or <i>Local Government Regulation 2012</i> decided by a Council resolution. An advisory committee cannot be a delegated committee.
Community Events	An event, ceremony or gathering aimed at the whole community which demonstrates a clear community benefit, or serves an educational or welfare purpose.
Conclusion of Election	As defined in section 7(a) of the <i>Local Government Electoral Act 2011</i> , the day on which the last declaration of a poll conducted in the election is published on the electoral commission's website under section 100(2) of the <i>Local Government Electoral Act 2011</i> .
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Council	Rockhampton Regional Council
Council Table	The body of elected Councillors of Council.
Councillor/s	The Mayor and Councillors of Council, within the meaning of the <i>Local Government Act 2009</i> .
Election Material	As defined in section 90D of the <i>Local Government Act 2009</i> , anything able to, or intended to: (a) Influence an elector about voting at an election; or (b) Affect the result of an election.
Election Period	As defined in the <i>Local Government Electoral Act 2011</i> , the period starting on the day when public notice of the holding of the election is given under section 25(1) and ending on the close of the poll for the election.
Employee	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .

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Fresh Election	As defined in the <i>Local Government Electoral Act 2011</i> and <i>Local Government Act 2009</i> , an election of all the Councillors of a local government that is not a quadrennial election.
Major Policy Decision	As defined in the <i>Local Government Act 2009</i> , a decision: <ul style="list-style-type: none"> <li>(a) About the appointment of a CEO of the local government;</li> <li>(b) About the remuneration of the CEO of the local government;</li> <li>(c) To terminate the employment of the CEO of the local government; or</li> <li>(d) To enter into a contract the total value of which is more than the greater of \$200,000 or 1% of 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; or</li> <li>(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</li> <li>(f) To make, amend or repeal a local law; or</li> <li>(g) To make, amend or repeal a local planning instrument under the Planning Act; or</li> <li>(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 vary the category of development or category of assessment of development or vary the assessment benchmarks or criteria for accepted development that would apply to development or 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</li> <li>(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 further vary the category of development or category of assessment of development or further vary the assessment benchmarks or criteria for accepted development that would apply to development or facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan.</li> </ul>
Mayor	The Mayor is an elected member of Council, also referred to as a Councillor, with extra responsibilities as outlined in section 12(4) of the <i>Local Government Act 2009</i> .
Quadrennial Election	As defined in the <i>Local Government Act 2009</i> , the election for local governments that is held in 2012, and every fourth year after 2012.
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
Resources	Includes employees, volunteers, contractors, services, information, equipment, printing, photographs, graphic design, public funds, grants, media services, materials published by Council (for example newsletters), hospitality, stationery, property, facilities, website, vehicles, administrative tools, and telecommunication devices.

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Term of Office	<p>As defined in section 159 of the <i>Local Government Act 2009</i>, a Councillor's term starts on:</p> <p>(a) If the Councillor is elected—the day after the conclusion of the Councillor's election; or</p> <p>(b) If the Councillor is appointed—the day on which the Councillor is appointed.</p> <p>As defined in section 160 of the <i>Local Government Act 2009</i>, a Councillor's term ends:</p> <p>(a) If the Councillor is elected at a quadrennial election or at a fresh election—at the conclusion of the next quadrennial election; or</p> <p>(b) If the Councillor is elected at a fresh election and a declaration is also made under a regulation—at the conclusion of the quadrennial election after the next quadrennial election; or</p> <p>(c) If the Councillor is elected or appointed to fill a vacancy in the office of another Councillor—at the end of the other Councillor's term; or</p> <p>(d) When the Councillor's office becomes otherwise vacant.</p>
Volunteer	Any person, who of their own free will, offers to undertake un-paid work for Council and is accepted as a volunteer by the CEO and/or their authorised delegates.

## 5 Policy Statement

Council will enter a caretaker period prior to Local Government quadrennial elections. During this time certain restrictions apply to Council, Councillors, employees, contractors and volunteers.

Council reaffirms its commitment during an election period to:

- (a) The efficient continuation of Council's day to day business;
- (b) Transparent actions and decision-making;
- (c) Actions that do not, or cannot be perceived to, bind an incoming Council table in its operational delivery;
- (d) The suspension of major policy decisions;
- (e) The neutrality of Council employees, contractors and volunteers; and
- (f) The continuation of the principle that the use of public funds for electoral purposes is unacceptable.

Councillors should take particular care in any campaign activity to ensure that there can be no possible perception of the use of Council provided resources and/or facilities that could be perceived as having electoral favour.

It is acknowledged that during an election period candidates may make election commitments which they intend to honour if they are elected. Such commitments are not subject to this policy.

### 5.1 Timing and Planning

The dates of a caretaker period are determined by the Electoral Commission Queensland.

### 5.2 Meetings and Committees

Council table meetings and committees will continue to meet during the caretaker period for the purpose of making decisions in the public interest. However, decisions will be deferred from being made during the caretaker period which:

- (a) Could be perceived to unreasonably bind an incoming Council table in its operational delivery; or
- (b) Constitute a major policy decision for which Ministerial approval has not been received.

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## 5.3 Major Policy Decisions

### 5.3.1 Prohibition on Major Policy Decisions

In accordance with the *Local Government Act 2009* the following prohibitions on major policy decisions in caretaker period apply:

- (a) The Council table must not make any major policy decisions during a caretaker period.
- (b) However, if the Council table considers that, having regard to exceptional circumstances that apply, it is necessary to make a major policy decision in the public interest, the Council Table resolve to apply to the Minister for approval to make the decision.
- (c) The Minister may give approval if the Minister is satisfied that, having regard to exceptional circumstances that apply, it is necessary for the Council Table to make the major policy decision in the public interest.
- (d) The Minister's decision may include conditions with which the Council Table must comply.

### 5.3.2 Invalidity of a Major Policy Decision in a Caretaker Period

In accordance with the *Local Government Act 2009* the following invalidities apply:

- (a) A major policy decision made by the Council Table during a caretaker period is invalid to the extent the Council Table:
  - (i) Does not have the Minister's approval to make the decision; or
  - (ii) Does not comply with any conditions of the Minister's approval.
- (b) A contract is void if it is the subject of a major policy decision that is invalid.
- (c) A person who acts in good faith in relation to a major policy decision of the Council Table, 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 Council for the loss or damage.
- (d) The person may bring a proceeding to recover the compensation in a court of competent jurisdiction.

## 5.4 Use of Council Resources and Facilities During an Election Period

Councillors are entitled to use Council resources and/or facilities as outlined in the Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy, until their term of office concludes.

However, Council resources and facilities are unavailable to be used for election purposes. To clarify in particular for vehicles, where private rights have been approved or purchased, this vehicle may be used subject to the following paragraph.

Councillors are not permitted to affix, or allowed to remain affixed, to Council property any election material that promotes the Councillor as an actual or potential candidate for any election.

## 5.5 Civic and Community Events

Representation of Council at civic and community events will continue during an election period provided the event meets one or more of the following criteria:

- (a) It is a planned event endorsed by Council's current Operational Plan;
- (b) It is, or plans to be, routinely held at the same time of year;
- (c) It is a commemorative or anniversary event held on or near the anniversary date;
- (d) It demonstrates a clear community benefit, or serves an educational or welfare purpose;
- (e) It contributes to cultural development, social awareness or sense of community identity; and/or

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- (g) It is an event to be hosted by or on behalf of the Mayor in fulfilling their statutory responsibilities for ceremonial and civic functions, including but not limited to, civic receptions, courtesy calls or hosting VIP guests to the Region.

## 5.6 Community Programs and Engagement

Surveys, blogs, invitations to put forward submissions, and other community engagement activities should be avoided during the caretaker period. However, community engagement may continue if it is part of an ongoing project that requires the engagement. Where community engagement has occurred prior to the caretaker period but the report has not yet proceeded to Council Table, results of the consultation will not be provided to the Council Table until the caretaker period has concluded.

## 5.7 Grants and Sponsorships

### 5.7.1 Community Grants

Community grants approved prior to the commencement of the caretaker period may continue during a caretaker period in accordance with the Community Grants and Minor Sponsorship Policy.

Any funding round for community grants that is open during the caretaker period may remain open but applications received during this time will not be determined until after the election.

Councillors will not approve community grant payments during the caretaker period other than if representation is made to the CEO for approval to support funding if it meets one or more of the following criteria:

- (a) It is an event that meets Council's vision and objectives;
- (b) It is, or plans to be, held routinely at the same time of year;
- (c) It is a commemorative or anniversary event held on or near the anniversary date;
- (d) It demonstrates a clear community benefit, or serves an educational or welfare purpose; and/or
- (e) It contributes to cultural development, social awareness or a sense of community identity.

### 5.7.2 Sponsorship

No new sponsorship will be approved or entered into during the caretaker period. This includes providing sponsorship, in-kind sponsorship, or seeking sponsorship from external entities. Any sponsorship approved prior to the commencement of the caretaker period may continue in accordance with the Community Grants and Minor Sponsorship Policy.

Sponsorship applications may continue to be received during the caretaker period however no decisions on sponsorships will be made until the conclusion of the election.

### 5.7.3 Councillor Discretionary Funds

In accordance with the *Local Government Regulation 2012* a Councillor must not allocate the Councillor's discretionary funds:

- (a) Starting on 1 January in the year a quadrennial election must be held; and
- (b) Ending at the conclusion of the election.

Funds committed prior to a caretaker period for an event or activity scheduled to take place during a caretaker period will not be realised.

## 5.8 Media

Media releases prepared by Council during the caretaker period must be of public interest, relate to day-to-day Council business and must not be reasonably interpreted as being for political purposes.

During the caretaker period, Council will respond to media enquiries that relate to operational matters only.

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Media events may continue to be held during a caretaker period provided the media event relates to core Council business or an ongoing project and is not used for political purposes.

If a Councillor is at a media event and is asked a political question, under no circumstances should a response be attributed to Council. If seeking re-election, the Councillor should respond in their capacity as a candidate. If the Councillor is not seeking re-election, they should respond as an individual not affiliated with Council.

During the caretaker period, employees, contractors or volunteers will not offer advice, assistance or scheduling to any Councillor in relation to a Councillor newsletter, media segment such as radio or a newspaper column. Any general requests for information to assist with such media will be directed through the CEO.

## 5.9 Website

Council will retain material placed on Council's website prior to the commencement of the caretaker period, however, this material will be reviewed to ensure no materials promote individual Councillors.

Updates of Council's website will be limited to the following:

- (a) Uploading of essential operational media releases, restricted to administrative or operational information of public interest and of a time-sensitive nature;
- (b) Road work updates or road closures;
- (c) Health or emergency warnings;
- (d) Material that is purely factual regarding Council's decisions and operations;
- (e) Updates to existing forms;
- (f) Aesthetic changes;
- (g) Fixing broken links or repairing web issues; and/or
- (h) Compliance with legislative requirements.

## 5.10 Prohibition of Election Material

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

## 5.11 Electoral Signage

Electoral signage must comply with *Subordinate Local Law No 1.4 (Installation of Advertising Devices) 2019* and any applicable electoral signage permit conditions in the lead up to any election. Authorised employees may remove electoral signage erected in contravention of *Subordinate Local Law No 1.4 (Installation of Advertising Devices) 2019* and/or take enforcement action in accordance with *Local Law No. 1 (Administration) 2011*.

## 5.12 Provision of Information to Candidates

Requests for information by candidates during the caretaker period will be dealt with as per the process for a member of the public. The process for requesting and providing information will remain the same.

## 5.13 Councillor Correspondence

Councillors may continue to correspond with electors on matters related to Council business during the caretaker period, however, in responding to correspondence, Councillors will not purport to make policy commitments binding the incoming Council Table.

## 5.14 Requests for Information by Councillors

All requests for information or advice from Councillors will continue to be responded to in accordance with the Councillor Acceptable Request Guidelines Policy.

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### 5.15 Councillor Conduct Complaints

Complaints about Councillor conduct made during the caretaker period will continue to be assessed and dealt with in accordance with the *Local Government Act 2009*.

If the Councillor about whom the complaint was made is seeking re-election and is not successful, the complaint process will continue in accordance with legislative requirements.

### 5.16 Employees, Contractors and Volunteers

Employees, contractors and volunteers will maintain the normal business activities of Council during the caretaker period. Employees, contractors and volunteers will undertake their duties in an appropriate way and take all steps to avoid any real or perceived prejudice in order to protect Council's ability to impartially serve any incoming Council Table following an election.

Employees, contractors and volunteers will not fulfil any request that is, or could be perceived to be, an electioneering activity.

Councillor Executive Support Officers will continue to provide support to Councillors for Council endorsed activities and core Council business.

Any employee, contractor or volunteer proposing to stand as a candidate for the election must complete an Election Management Plan.

As a candidate, employees are entitled to a leave of absence, for a period of not more than two months during the election period in accordance with section 203 of the *Local Government Electoral Act 2011*.

### 5.17 Compliance

Failure to comply with this policy may constitute inappropriate conduct, misconduct, or corrupt conduct and may be dealt with as follows:

- (a) Corrupt conduct will be referred to the Crime and Corruption Commission;
- (b) Breaches by employees will be managed under the Code of Conduct; and
- (c) Breaches by Councillors will be managed under the conduct and performance obligations of the *Local Government Act 2009*.

### 5.18 Responsibilities

The CEO will inform Councillors and employees, contractors and volunteers of an impending election period and the restrictions that apply, by no later than two months before the commencement of an election period.

The CEO is the principal adviser to the Council Table in relation to the application of this policy. As such, the CEO is the final decision-maker in relation to this policy.

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## 6 Review Timelines

This policy will be reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by Council.

## 7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Executive Coordinator to the Mayor
Policy Owner	Executive Coordinator to the Mayor
Policy Quality Control	Legal and Governance



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