

### 1.1.11 Elections – Caretaker Period

<b>Type:</b>	Office of the CEO – Elected Members
<b>Legislation:</b>	<i>Local Government Act 1995 Local Government (Election) Regulations 1996</i> <i>Local Government (Model Code of Conduct) Regulations 2021</i> <i>Meeting Procedures Local Law 2016</i> Model Code of Conduct – Elected Members
<b>Delegation:</b>	N/A
<b>Other Related Document:</b>	

#### Objective

The policy will provide 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 Town of East Fremantle resources and access to information and advice.

This policy is to be applied in conjunction with all other relevant legislation, local laws, delegations, policies, procedures and processes of the Town, providing guidance to ensure the continuation of ordinary business.

#### Policy

The Caretaker Period for Local Government Elections will take effect at the period of time from the close of nominations being 37 days prior to the Ordinary Election Day (4pm) in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day.

#### 1. Scope

1. This Policy applies to Elected Members and employees of the Town of East Fremantle during the Caretaker Period and covers:
  - (a) Notices of Motions and Matters for Investigation submitted by Elected Members and specific decisions that are made by the Council;
  - (b) Information and material published by the Town;
  - (c) Attendance and participation at functions and events;
  - (d) Use of the Town’s resources;
  - (e) Access to information held by the Town;
  - (f) Staff engagement with candidates and/or Elected Members.

2. The Chief Executive Officer(CEO) will ensure as far as possible that all Elected Members and employees are aware of the Caretaker Period Policy and practices, at least 30 (thirty) days prior to the start of the Caretaker Period.
3. 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 Caretaker Period on an issue which is contentious, unless the consultation is a mandatory statutory process or required under existing policy.
4. This Policy only applies to decisions made during the Caretaker Period and not the announcement of decisions made prior to the Caretaker Period, however, as far as practicable any such announcements should be made before the Caretaker Period begins.

## **2. Scheduling consideration of major policy decisions or Council commitments during Local Government Caretaker Period**

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

## **3. Prevailing Circumstances**

### **1. Council Reports**

In some circumstances, the CEO may permit a matter defined as a major policy decision, major consultation or major commitment to be submitted to the Council during the Caretaker Period. The CEO is to have regard to a number of circumstances including, but not limited to:

- (a) whether the decision is significant
- (b) the urgency of the issue
- (c) whether the process has substantially commenced and/or approvals are in place
- (d) the possibility of legal and/or financial repercussions if it is deferred
- (e) unless the consultation is a mandatory statutory process or required under existing policy
- (f) whether the decision is likely to be controversial or contentious, and;
- (g) the best interests of the Town of East Fremantle.

### **2. Council Forums, Workshops or Briefings**

Where during the Caretaker Period, the CEO determines that Prevailing Circumstances apply, the CEO may include matters relating to a Major Policy Decision for elected members discussion at Council Forums, Workshops or Briefings.

The CEO is required to provide Elected Members with advice as to why Prevailing Circumstances apply and how potential electoral impacts will be managed or mitigated. Details of this advice are to be retained, with the Forum, Workshop or Briefing Notes, as a Local Government record.

#### 4. Elected Member Interactions

During the caretaker period, Elected Members should take particular care when:

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;
2. undertaking a consultation or advocacy role on behalf of members of the community;
3. representing the Town's communications with State or Federal Government entities; and:
4. information received in the role of an Elected Member, is not to be used for campaigning purposes. This includes claiming personal credit of previous council decisions in their marketing material.

#### 5. Marketing

##### 1. Publishing Electoral Material

The Town will not print, publish or distribute, or authorise others to print, publish or distribute on behalf of the Town 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. The Town will also publish the electoral related biographies of all candidates on its website.

Information on the Town's website about current Elected Members who are standing for re-election will be restricted to current names and contact details together with a link to their electoral biography.

##### 2. 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 Town. They must not use the Town of East Fremantle logo or crest or anything resembling them in their campaign material.

##### 3. Town of East Fremantle Publications

There will be no interviews with Councillors or images of any Councillor in the Town's printed material during the Caretaker Period.

This clause does not apply to information published prior to the Caretaker Period.

##### 4. Media

- (a) Elected Members will not use their position as an elected representative or their access to Town staff or resources to gain media attention in support of their or any candidate's election campaign.
- (b) During the Caretaker Period there will be no proactive publicity shots used by the Town in any form involving any Elected Member, except the Mayor.
- (c) The Mayor will still be quoted in media responses during the Caretaker Period when providing information as spokesperson on behalf of the Town.
- (d) 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.
- (e) Proactive media during the Caretaker Period will be restricted to operational matters or issues already resolved by Council.
- (f) Candidates may not use the Town's social media accounts to profile themselves, their campaign or provide any responses or comments to questions or statements on the Town's social media pages.

## **6. Attendance and Participation at Events/Functions**

### **1. Public Events Hosted by External Bodies**

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.

### **2. Town of East Fremantle organised Civic Events/Functions/Official Openings**

Events and/or functions organised by the Town 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 Town.

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 Town 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 Town arranged event/function will be at the discretion of the CEO, in conjunction with the Mayor.

Elected Members must not distribute any campaign material or promote their campaign at any Town of East Fremantle organised Civic Events/Functions/Official Openings, or similar.

### **3. Delegates to Community and Advisory Groups**

Elected Members appointed to community groups and other external organisations as representatives of the Town 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.

## **7. The use of Town of East Fremantle Resources**

1. The Council's adopted Model Code of Conduct (Elected Members) provide that the Town's resources are only to be utilised for authorised activities and prohibits the use of equipment, stationery or hospitality for non-Council related business. Note that prohibiting the use of resources for electoral purposes is not restricted to the Caretaker Period.

2. The Town's employees must not be asked to undertake any tasks connected directly or indirectly with an election campaign, unless it is undertaken in conjunction with a function related to the election.

3. In any circumstances where the use of Town resources might be construed as being related to a candidate's election campaign, advice is to be sought through the Chief Executive Officer.

4. Community groups who wish to hire Town 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 Town's normal practices.

## **8. Access to Town Held Information**

### **1. Candidate Access to Information**

All candidates will have equal rights to access publicly available information from the Town's administration.

2. Use of information accessed from the Town

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. Any Town held information accessed must not be used for election purposes.

3. Information Request Register

An Information Request Register will be maintained by the CEO, or 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 CEO, or delegate, for inclusion in the Register.

4. Media Advice

Any requests for media advice or assistance from Elected Members during the Caretaker Period will be referred to the CEO. 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. 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. Any media opportunities for Elected Members will not be arranged by the Town during the Caretaker Period.

5. Town of East Fremantle Employees

- (a) During the Caretaker Period no Town employee may make any public statement that relates to an election issue.
- (b) Employees must avoid assisting Elected Members in ways that could create a perception of being used for electoral purposes.
- (c) Employees must not accept employment (voluntary or paid) related to local elections for any candidate.
- (d) Employees must not interact with Elected Members or candidates on their social media pages during the Caretaker Period.

**9. Local Government Election Process Enquiries**

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.

**10. Electoral Signs**

1. Electoral signage is not permitted within road reserves (this includes Council verges outside private properties). This is based on a requirement for:
  - (a) Pedestrian safety;
  - (b) Risk aversion and exposed liability to the Town for injuries or damage; and
  - (c) Vehicle safety for manoeuvrability and sightlines.
2. Electoral signage is not permitted on Town Reserves or Town infrastructure.
3. The installation of signage on private property requires permission from the owner.

## **11. Implementation of Caretaker Practices during State and Federal Government Elections**

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.
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
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.

## **12. 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:

1. An advertisement in a newspaper announcing the holding of a meeting in accordance with section 4.87(3) of the Local Government Act 1995.
2. Any materials exempted under Regulation 78 of the Local Government (Elections) Regulations 1997.
3. Any materials produced by the Town 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 Functions*** means gatherings of internal or external stakeholders conducted by the Town to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Town 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 Ordinary Election Day in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day;

***Major Policy Decision*** means any:

1. Decisions relating to the employment, termination or remuneration of the CEO or any other designated senior officer, other than a decision to appoint an Acting CEO, if relevant.
2. Decisions relating to the Town entering into a sponsorship arrangement with Town of East Fremantle residents or community organisations.
3. Irrevocable decisions that commit the Town to substantial expenditure or significant unforeseen action.
4. Irrevocable decisions that will have unforeseen significant impact on the Town of East Fremantle 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 decisionmaking 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 involves an invitation to individuals, groups or organisations, or the community generally, to comment on an issue, proposed action or proposed policy.

<b>Responsible Directorate:</b>	Office of the CEO
<b>Reviewing Officer:</b>	Chief Executive Officer
<b>Decision making Authority:</b>	Council
<b>Policy Adopted:</b>	21/9/21
<b>Policy Amended/Reviewed:</b>	