

POLICY: LOCAL GOVERNMENT ELECTIONS CARETAKER PERIOD POLICY

DATE ADOPTED: DIRECTOR CORPORATE SERVICES AND FINANCE #9.3.6
ORDINARY MEETING 15 MAY 2024
RESOLUTION NO. ORD2024-123

FILE REFERENCE: 12.00010

OBJECTIVE: To ensure the Council, community and staff are aware of what Council can and cannot do during the caretaker period prior to a Council election.

Purpose:

In the four weeks prior to the date of an ordinary election, Council enters a caretaker period. During this period, restrictions are placed on Council's functions. The purpose of this policy is to ensure:

1. Council, community, and staff are aware of what can and cannot be done during the caretaker period.
2. Council complies with the caretaker period provisions of the *Local Government (General) Regulation 2021 (Clause 393B)*.
3. Council continues to provide high standards of service to the community.
4. Council avoids making significant new policies or decisions that could unreasonably bind a future Council.
5. Public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

The caretaker period for the Local Government elections is contained in **Schedule 1** of this Policy.

Policy

Council is committed to complying with Clause 393B of Local Government (General) Regulation 2021 (the Regulation) which states:

1. *The following functions of a council must not be exercised by the council, or the general manager or any other delegate of the council, during a caretaker period:*
 - a. *Entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% (\$306,000) of the council's revenue from rates in the proceeding financial year (whichever is the larger),*
 - b. *Determining a controversial development application, except where:*
 - i. *A failure to make a determination would give rise to a deemed refusal under section 8.11(1) of the Environmental Planning and Assessment Act 1979, or*
 - ii. *Such a deemed refusal arose before the commencement of the caretaker period,*

- c. *The appointment or reappointment of a person as the council's general manager (or removal of a person from that position), other than:*
 - i. *An appointment of a person to act as general manager under section 336(1) of the Act, or*
 - ii. *A temporary appointment of a person as general manager under section 351(1) of the Act.*
- 2. *Despite subclause (1), such a function may be exercised in a particular case with the consent of the Minister.*

The following sections provide further details on the other restrictions that will apply during the caretaker period.

2.1 Decision Making

Council, or an officer acting under delegation, will not make the following decisions during the caretaker period:

1. Acquisition and sale of land,
2. Adoption or amendment of the Bathurst Regional Council Local Environmental Plan 2014, Development Control Plan 2014 or Section 7.11 Developer Contribution Plans,
3. Adoption or amendment of policies, strategies, master plans or frameworks,
4. Adoption or amendment of the Community Strategic Plan or Council's Delivery Plan,
5. Adoption of a revised budget,
6. Allocation of grants or awards to individuals or organisations,
7. Appointing representatives to Council committees,
8. Endorsing submissions to government or public bodies,
9. Authorisation of the entering into a contract or entrepreneurial agreements exceeding 1% (\$306,000) of Council's Revenue from Rates,
10. Hearing of submissions or deputations from the community,
11. Any other decision that the General Manager considers may affect voting at the election or is a decision that can be made outside of the caretaker period.

Decisions made by Council, or by an officer under delegation, **prior** to the caretaker period can be implemented during the caretaker period.

2.2 Council Meetings and Councillor Briefings

Ordinary Council Meetings will continue to be held during the caretaker period. The Council meeting agenda may contain items that may lead to discussions relating to election issues, Council will not consider the following during the caretaker period:

1. Petitions, joint letters and deputations
2. Notices of Motion
3. Mayoral Minutes

Nominated Candidates will not be permitted to speak during the public forum on any topic.

2.3 Council Resources

The Councillor Facilities and Expenses Policy still applies during the caretaker period. Council will continue to support Councillors in undertaking their normal civic duties and appropriate out-of-pocket expenses will be covered.

Council resources (including, but not limited to, offices and equipment, phones and tablets, logos, letterheads, stationary, information etc.) must not be used by Councillors and Officials for Electoral Matters and campaigns.

Councillors must ensure that operational requests (e.g. issues with roads, footpaths, trees, waste management and general amenity etc.) are made through the General Manager's Office.

No election campaigning material is to be distributed from or displayed in or on Council land (excluding road reserves), facilities, libraries, or community noticeboards.

Any Council facilities booked for the election campaign will be charged at the same rate to all hirers. Bathurst Regional Council will not cover the payment of these hire fees.

2.4 Access to Council Information

Councillors will continue to receive information necessary to fulfil their existing roles as a Councillor during the caretaker period (e.g. information related to Council Meetings). Requests not relevant to their civic duties will be managed through the General Manager's Office.

Council staff must not offer comment to the public about any Councillors or candidates, except to provide contact details for current Councillors.

2.5 Community Consultation and Engagement

Council will limit community consultation and engagement during the caretaker period to statutory requirements and topics that are likely or not likely to be the subject of an election campaign.

Technical Liaison Committees (e.g. Audit and Risk Management, Floodplain Risk Management, Local Traffic, Local Emergency Management) meetings and regular statutory planning consultations/engagement involving Council staff, Councillors and interested persons will be held during the caretaker period. Discussions at these planning meetings must not involve Electoral Matters or significant community consultation on major developments, strategy, or policy issues.

Public exhibition of Development Applications will continue in accordance with the adopted Community Participation Plan.

2.6 Events and meetings

Council will not schedule public Council events outside of the existing program during the caretaker period.

Councillors can attend and accept invitations for externally organised events (e.g. business breakfasts, annual general meetings, launches, opening and exhibitions) held during the caretaker period. However, Council officers' support (e.g. attendance administration, briefing notes or speech preparation) will not be available and the event must not be used for the purpose of an election campaign.

2.7 Publications and Communications

Council will limit publications and communications and ensure the material does not contain electoral matter other than information relating to the election process (e.g. where to vote etc). The following are examples of limited publications and communications:

1. Council Newsletters
2. Advertisements and notices

3. Leaflets, brochures, stickers etc.
4. Mail outs to multiple addresses (except Community Consultation as identified in Section 2.6 above)

Any of the above will require the Executive Leadership team, Manager Corporate Communications and General Manager's approval.

Documents exempted from General Manager's approval are:

- a) Publications that were published prior to the commencement of the caretaker period.
- b) Publications that are required to be published in accordance with any Act or Regulation.

Council's website will function as normal during the caretaker period; however, Councillor profile pages will be limited to names, contact details and membership of committees.

Any references to the election on the website will be restricted to process only and links to the NSW Electoral Commission for polling places.

2.8 Media and Social Media

During the caretaker period, Council will, where possible, reduce media releases. The General Manager is required to approve all media releases, responses and public comments and will determine the appropriate spokesperson in relation to specific issues. The General Manager will be Council's spokesperson if the issue relates to electoral matters.

Councillors must not use their position as elected representatives to gain media attention specifically in support of their election campaign.

The Mayoral Column and other similar media publications and engagements will cease during the caretaker period.

Council managed social media sites must not be used for election campaigning. The public will be able to post comments on Council's social media sites, however, comments referencing election candidates, or the 2024 election will be removed. The General Manager will determine the spokesperson for Council's social media channels. Publishing of comments or new content on Council's social media sites will require the General Manager's approval.

3 Approval Requirements

The Manager Corporate Governance will assess all Council publications before they are presented to the General Manager for approval.

If the publication is approved, the following wording from the General Manager is to be used:

"I certify that the attached material is suitable for printing, publishing or distributing on behalf of Bathurst Regional Council in accordance with Council's Local Government Election Caretaker Period Policy".

Once a determination has been made by the General Manager, staff will be advised of the outcome of the request for certification process and a record of all certified publications will be kept via Council's document management system.

4 Definitions

Caretaker period: means the period of 4 weeks preceding the date of an ordinary election (clause 393B(3) of the regulation).

Controversial development application: means a development application under the Environmental Planning and Assessment Act 1979 for which at least 25 persons have made submissions during community consultation (clause 393B(3) of the regulation).

Electoral material: means anything, including without limitation a how-to-vote card, poster or advertisement, containing Electoral Matter (whether in a tangible or an electronic form).

Electoral Matter: means:

- a) Any matter that is intended or calculated or likely to influence or is capable of influencing the result of any election held or to be held or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at any election, or
- b) The name of a candidate at any election, the name of the party of any such candidate, the name or address of the electoral and campaign office of any such candidate or party, the photograph of any such candidate, and any drawing or printed matter that purports to depict any such candidate or to be a likeness or representation of any such candidate.

Schedule 1

Election	Caretaker Period
14 September 2024	Commences midnight Friday 16 August 2024 and ends on Saturday 14 September 2024.