

Policy number	Policy 011
Policy title	Caretaker
Strategic outcomes supported	CL8 – Visionary civic leadership with sound and accountable governance that reflects objective decision making.

POLICY OBJECTIVE:

Elected members and Employees must observe specific legislative and governance requirements during the period leading up to an election.

The primary objective of this Policy is to prevent the Council of the Town of Victoria Park making major decisions, prior to an election, that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting elected members who are seeking re-election, or new candidates, and ensuring the Town of Victoria Park administration acts impartially in relation to candidates.

This policy applies during a 'Caretaker Period' (see below for a definition) to cover:

- a) Decisions that are made by the Council;
- b) Materials published by the Town;
- c) Attendance and participation in functions and events;
- d) Use of the Town's resources; and
- e) Access to information held by the Town.

POLICY SCOPE:

This Caretaker policy applies to elected members and employees of the Town of Victoria Park.

DEFINITIONS:

Caretaker Period means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from the close of nominations (37 days prior to the Election Day – Section 4.49 (a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

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 in an election but does not include:

- a. An advertisement in a newspaper announcing the holding of a meeting (Section 4.87 (3) of the *Local Government Act 1995*)

Government Act 1995).

- b. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*.
- c. 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 purposes of conducting an election.

Extraordinary Circumstances means a situation that requires a major policy decision of the Council because:

- a. In the Chief Executive Officer's opinion, the urgency of the issue is such that it cannot wait until after the election;
- b. Of the possibility of legal and/or financial repercussions if a decision is deferred; or
- c. In the Chief Executive Officer's opinion, it is in the best interests of the Council and/or the Town of Victoria Park for the decision to be made as soon as possible.

Major Policy Decision means any:

- a. Decisions relating to the employment, termination or remuneration of the Chief Executive Officer or any other designated senior officer, other than a decision to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election.
- b. Decisions relating to the Town entering into a sponsorship arrangement with a total Town contribution that would constitute substantial expenditure unless that sponsorship arrangement has previously been granted "in principle" support by the Council and sufficient funds have been included in the Council's annual budget to support the project.
- c. Decisions relating to the Town entering into a commercial enterprise as defined by Section 3.59 of the *Local Government Act 1995*.
- d. Decisions that would commit the Town to substantial expenditure or actions that, in the Chief Executive Officer's opinion, are significant, such as that which might be brought about through a Notice of Motion by an Elected Member.
- e. Decisions that, in the Chief Executive Officer's opinion, will have significant impact on the Town of Victoria Park or the community.
- f. Reports requested or initiated by an Elected Member, candidate or member of the public that, in the Chief Executive Officer's opinion, could be perceived within the general community as an electoral issue 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 but does not include consultation required to be undertaken in order to comply with a written law.

Substantial Expenditure means expenditure that exceeds 0.5% of the Town's annual budgeted revenue (inclusive of GST) in the relevant financial year.

POLICY STATEMENT:

Scheduling Consideration of Major Policy Decisions

1. So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:
 - a. Considered by the Council prior to the Caretaker Period; or
 - b. Scheduled for determination by the incoming Council.
2. Where extraordinary circumstances prevail, the Chief Executive Officer may submit a major policy decision to the Council (refer to clause 5).

Decisions Made Prior to a Caretaker Period

3. This Policy only applies to decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker period. Whilst announcements of either decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins or after it has concluded.

Implementation of Caretaker Practices

Role of the Chief Executive Officer in implementing Caretaker Practices

4. The role of the Chief Executive Officer in implementing the caretaker practices outlined in this policy is as follows:
 - a. The Chief Executive Officer will ensure as far as possible, that all Elected Members and Employees are aware of the Caretaker Policy and practices at least 30 days prior to the start of the Caretaker Period;
 - b. The Chief Executive Officer will ensure, as far as possible, that any major policy or significant decisions required to be made by the Council are scheduled for Council resolution prior to the Caretaker Period or deferred where possible for determination by the incoming Council;
 - c. The Chief Executive Officer will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Caretaker Period, are publicised prior to the Caretaker Period; and
 - d. The Chief Executive Officer will provide guidelines for all relevant employees on their role and responsibilities in the implementation of this policy.

Extraordinary Circumstances Requiring Exemption

Extraordinary Circumstances

5. Notwithstanding clause 1, the Chief Executive Officer may, where extraordinary circumstances exist,

permit a matter defined as a 'major policy decision' to be submitted to the Council for determination during the Caretaker Period.

Appointment or Removal of the Chief Executive Officer

6. Whilst this policy establishes that a Chief Executive Officer may not be appointed or dismissed during a Caretaker period, the Council may, where the substantive officer is on leave, appoint an Acting Chief Executive Officer, or in the case of an emergency, suspend the current Chief Executive Officer (in accordance with the terms of their contract) and appoint a person to act in the position of Chief Executive Officer, pending the election, after which date a permanent decision can be made.

Caretaker Statement

7. To assist the Council to comply with its commitment to appropriate decision making during the Caretaker Period, a Caretaker Statement will be included in each report submitted to the Council where the Council's decision would, or could, be a Major Policy Decision. The Caretaker Statement will state:

"The decision the Council may make in relation to this item could constitute a 'Major Policy Decision' within the context of the Town of Victoria Park Caretaker Policy, however, an exemption should be made because, (insert the circumstances for making the exemption)".

Town of Victoria Park Publications

Prohibition on Publishing Electoral Material

8. The Town shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the Town, any advertisement, handbill, pamphlet or notice that contains 'electoral material' during the Caretaker Period.

Electoral material Relevant to Prohibition

9. Without limiting the generality of the definition of 'electoral material', material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:
 - a. The election; or
 - b. A candidate in the election; or
 - c. An issue submitted to, or otherwise before, the voters in connection with the election.

Candidate and/or Elected Members Publications

10. 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.

Election Announcements

11. This policy does not prevent publications by the Town which merely announce the holding of the election or relate only to the election process itself.

Town of Victoria Park Publications

12. Any reference to elected members in the Town's publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the Town's publications that are potentially affected by this policy will be reviewed by the CEO to ensure that any circulated, displayed or otherwise publicly available material during the Caretaker Period does not contain material that may be construed as 'electoral material'.

Town of Victoria Park Website

13. During the Caretaker Period the Town's website will not contain any material which is precluded by this policy. Any references to the election will only relate to the election process. Information about elected members will be restricted to names and contact details.

Town of Victoria Park Elected Member Emails and Business Cards

14. During the Caretaker Period, elected members shall ensure that their allocated business cards are used only for purposes associated with the normal role of a elected member in servicing their electorate. Elected member business cards shall not be used in a manner that could be perceived as an electoral purpose. It should be noted that this prohibition on the use of the Town's resources for electoral purposes is not restricted to the Caretaker Period.

Public Consultation during the Caretaker Period Prohibition

15. It is prohibited under this policy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing) on an issue which, in the Chief Executive Officer's opinion, could be perceived as intended or calculated to affect the result of an election, unless authorised by the Chief Executive Officer.
16. This Policy does not prevent any mandatory public consultation required by the *Local Government Act 1995* or any other relevant Act which is required to be undertaken to enable the Town to fulfil its functions.

Approval for Public Consultation

17. Given the prohibition under clause 15 of this policy, the elected members should not commission or approve any public consultation where it is likely that such consultation will continue into the Caretaker Period.
18. Where public consultation is approved to occur during the Caretaker Period, the results of that consultation will not be reported to the elected members until after the Caretaker Period, except where otherwise approved by the Chief Executive Officer or necessary for the performance of the

Town's functions as prescribed in the *Local Government Act 1995* or any other relevant Act.

Attendance and Participating at Events/Functions

Public Events Hosted by External Bodies

19. Elected members may continue to attend events and functions hosted by external bodies during the Caretaker Period.

Town of Victoria Park Organised Civic Events/Functions

20. Events and/or functions organised by the Town of Victoria Park and held during the Caretaker Period will be limited to only those that the Chief Executive Officer considers essential to the operation of the Town, and should not in any way be associated with any issues that in the Chief Executive Officer's opinion, are considered relevant, or likely to influence the outcome of, an election.
21. All known candidates are to be invited to civic events/functions organised by the Town during the Caretaker Period.

Addresses by Elected Members

22. Excluding the Mayor and Deputy Mayor fulfilling their functions as prescribed by sections 2.8 and 2.9 of the *Local Government Act 1995*, respectively, elected members that are also candidates should not, without the prior approval of the Chief Executive Officer, be permitted to make speeches or addresses at events/functions organised or sponsored by the Town during the Caretaker Period.

The Use of Town of Victoria Resources

23. The Town's resources, including officers, support staff, hospitality services, equipment and stationery should be used exclusively for normal Town business. It should be noted that the prohibition on the use of the Town's resources for electoral purposes is not restricted to the Caretaker Period.
24. The Town's employees must not be asked to undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting elected members in ways that could create a perception that they are being used for electoral purposes. 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 from the Chief Executive Officer.

Access to Town Information and Assistance

Electoral Information and Assistance

25. All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls), monthly enrolment details, and information relevant to their election campaigns from the Town's administration.
26. Any assistance and advice provided to candidates as part of the conduct of the election will be provided equally to all candidates.

Media Advice

27. Any requests for media advice or assistance, from elected members during the Caretaker Period will be referred to the Chief Executive Officer. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Elected Members. 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 members, the Chief Executive Officer may authorise the provision of a response to such a request.

Publicity Campaigns

28. During the Caretaker Period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Town activity, it must be approved by the Chief Executive Officer. In any event, the Town’s publicity during the Caretaker Period will be restricted to communicating normal Town activities and initiatives.

Publicity – Elected Members

29. The use of photographs or articles featuring elected members whose terms of office expire at the next ordinary election shall not be used in any public advertisement or publication funded by the Town in the period commencing from 1 July to Election Day, in the year of the ordinary election, with the exception of their portraits on display at the various Town venues and in each edition of the Town’s Newsletter during that period.

Media Attention

30. Elected members will not use or access Town employees or resources to gain media attention in support for their or any other candidate’s election campaign.

Election Process Enquiries

31. All election process enquiries from candidates, whether current elected members or not, will be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the Chief Executive Officer.

RELATED DOCUMENTS:

[Local Government Act 1995 \(WA\)](#)

[Local Government \(Election\) Regulations 1997](#)

Policy manager	Manager – Governance and Strategy
Responsible officers	Governance Officer - Compliance
Approval authority	Council
Next Evaluation Date	

REVISION HISTORY

Version	Approved, Amended, Rescinded or Reviewed	Date	Authority	Resolution Number	Key Changes/Notes
1	Approved	28/09/1999	Council	-	Item 4.1
2	Amended	15/08/2006	Council	-	Item 4.1
3	Amended	27/11/2007	Council	-	Item 4.1
3	Reviewed	09/07/2013	Council	-	Item 10.1
3	Reviewed	11/08/2015	Council	-	Item 10.1
4	Amended	08/11/2016	Council	-	Item 15.4
5	Reviewed and Amended	20/08/2019	Council	148/2019	Item 10.1

