

<b>CARETAKER POLICY</b>	
	Council Policy
TRIM Reference	AR19/39254[v2]
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Next Review	November 2025

## 1. POLICY STATEMENT

- 1.1 This policy implements the statutory caretaker period requirements under Section 91A of the *Local Government Act 1999* (SA).

## 2. PURPOSE

### 2.1 Purpose

To define the regulated practice associated with designated decisions which apply during an 'election period' of Council as outlined in the *Local Government (Elections) Act 1999*.

### 2.2 Scope

2.2.1 This policy applies throughout the election period for a general election.

2.2.2 This policy applies to the Council and Council staff.

2.2.3 This Policy is to be read in conjunction with the Local Government Association (SA) Caretaker Guidelines.

### 2.3 Definitions

**Election Period** means the period commencing on the day of the opening of nominations for a general election and expiring at the conclusion of the general election.

**Designated Decision** means a decision:

- a) relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and wilful misconduct;
- b) to terminate the appointment of the Chief Executive Officer;
- c) to enter into a contract, arrangement or understanding (other than a contract for road works, road maintenance or drainage works) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year, except if the decision:
  - i) relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* (SA), or under Section 298 of the *Local Government Act 1999* (SA);
  - ii) is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
  - iii) relates to the employment of a particular Council employee (other than the CEO);
  - iv) is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
  - v) relates to a Community Wastewater Management Systems Scheme that has, prior to the election period, been approved by the Council.

**General Election** means a general election of council members held under Section 5 of the *Local Government (Elections) Act*; or pursuant to a proclamation or notice under the *Local Government Act 1999* (SA).

## **2.4 Strategic Reference**

### **5 Governance and Financial Sustainability**

- 5.5 We meet or exceed legislative and accreditation requirements for all relevant programs.

## **3. PRINCIPLES**

### **3.1 Treatment of Significant Decisions**

- 3.1.1 So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling significant decisions for consideration during an ‘election period’ and ensure that such decisions:
- a) are considered by Council prior to the ‘election period’; or
  - b) are scheduled for determination by the incoming Council.
- 3.1.2 A ‘significant decision’ is any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.
- 3.1.3 The determination as to whether or not any decision is significant will be made by the Chief Executive Officer, after consultation with the Mayor.
- 3.1.4 Where the Chief Executive Officer has determined that a decision is significant, but circumstances arise that require the decision to be made during the election period, the Chief Executive Officer will report this to the Council, to assist Council Members assess whether the decision should be deferred for consideration by the incoming Council or whether they will make the decision.

### **3.2 Prohibition of Designated Decisions**

- 3.2.1 The Council is prohibited from making a designated decision during an election period.
- 3.2.2 A decision of the Council includes a decision of a committee of Council and a delegate of Council.

### **3.3 Consequences of Contravening this Policy**

- 3.3.1 A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.
- 3.3.2 Any person who suffers loss or damage as a result of acting in good faith on a designated decision made by the Council in contravention of this policy is entitled to compensation from the Council for that loss or damage.
- 3.3.3 A breach of this policy is a breach of the Statutory Behaviour Standards for Council Members.

### **3.4 Application for Exemption**

- 3.4.1 If the Council considers that it is faced with extraordinary circumstances which require the making of a designated decision during an election period, the Council may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under Section 91A of the *Local Government (Elections) Act* and this policy.

- 3.4.2 If the Minister grants an exemption to enable the making of a designated decision that would otherwise be invalid under Section 91A of the *Local Government (Elections) Act* and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

### **3.5 Prohibition on the use of council resources**

- 3.5.1. Council resources must not be used for the advantage of a particular candidate or group of candidates.
- 3.5.2. For clarity, neither the Local Government (Elections) Act 1999 nor this Caretaker Policy prohibits a council providing resources to all members of the public, which incidentally includes all candidates for election.
- 3.5.3. The following council resources must not be used for the advantage of a particular candidate or group of candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:
- Mobile phone
  - Council vehicle
  - Council-provided landline phone, computer, laptop, iPad and other office equipment beyond that provided to members of the public.
  - Council-provided business cards.
  - Requests to council employees to perform tasks which would confer an advantage on a candidate or group of candidates.
  - The ability to issue invitations to council events.
  - Councils produced promotional brochures and documents.
- 3.5.4 Despite paragraph 3.5.1, the Council may determine those Council resources that may be used by all candidates for election on an equal basis.

## **4. RESPONSIBILITY & REVIEW**

### **4.1 Responsible Officer**

Chief Executive Officer

### **4.2 Availability**

This policy will be available on Council's website / intranet

### **4.3 Review**

To be reviewed within 12 months prior to a General Election, in line with any legislative requirements, or by resolution of Council.

## **5. REFERENCES**

### **5.1 Legislation**

Local Government Act 1999  
Local Government (Elections) Act 1999 - Section 91A

### **5.2 Other References**

Caretaker Guidelines (Local Government Association of SA)  
Statutory Behaviour Standards for Elected Members  
Employee Performance Standards Policy