



COUNCIL POLICY

Caretaker Policy

Agriculturally rich-Naturally beautiful

Policy Number:	PO138		
Strategic Plan Objective	Meet all legislative and compliance responsibilities		
Policy Owner:	CEO	File Number:	9.63.1
Responsible Officer:	Governance Officer	Minute Reference:	198/2014 (11/06/2014)
Date Adopted:	11/06/2014	Next Review Date:	June 2018

1. POLICY OBJECTIVES

This policy governs the conduct of the Council and its staff during an election period for a general election and restricts Council from making certain decisions during an election period.

2. SCOPE

This policy applies:

- (a) Throughout the election period for a general election (for the purposes of the Local Government Elections of November 2014, commences on 16 September 2014 and ends at the conclusion of the election, when results have been declared);
- (b) To all Elected Members and Council staff.

This policy forms part of the Code of Conduct for Council Employees gazetted for the purpose of Section 110 of the Local Government Act.

3. DEFINITIONS

Definitions are provided in Attachment 1.

4. POLICY STATEMENT

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

4.1 Prohibition on Designated Decisions

The Council is prohibited from making a designated decision during an election period.

A decision of the Council includes a decision of a committee of Council and/or a delegate of Council.

4.2 Treatment of Other Significant Decisions

So far as is reasonably practicable, the Chief Executive Officer (CEO) will avoid scheduling significant decisions (including major policy decisions) for consideration during an election period.

The determination as to whether or not any decision is significant will be made by the CEO, in consultation with the Mayor.

Where the CEO has determined that a significant decision needs to be made during the election period, the CEO will report this to the Council and the Elected Members will consider the report and assess whether or not the decision should be deferred for consideration by the incoming Council.

The CEO's report to Council will address the following issues (where relevant):

- (a) why the matter is considered significant;
- (a) why the matter is considered urgent;
- (b) what are the financial and other consequences of postponing the matter until after the election, both on the current Council and the incoming Council;
- (c) whether deciding the matter will significantly limit options for the incoming Council;
- (d) whether the matter requires the expenditure of unbudgeted funds;
- (e) whether the matter is the completion of an activity already commenced and previously endorsed by Council;
- (f) whether the matter requires community engagement;
- (g) any relevant statutory obligations or timeframes;
- (h) whether dealing with the matter in the election period is in the best interests of the Council area and community.

4.3 Consequence of Contravening This Policy

A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.

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.

4.4 Application for Exemption

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.

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.

4.5 Continuing the Functions of the Council During the Caretaker Period

Nothing in this policy prevents the Mayor, Elected Members and staff carrying on the business of the Council during the caretaker period. The Mayor will continue to accept invitations to attend community functions, as will Elected Members, particularly when those functions are in recognition of activities of community groups whether having gained the support of the Council through grants or not.

The CEO will ensure as far as is practical that Council initiatives will not be launched during the caretaker period.

4.6 Media Spokespersons

The CEO and Mayor will continue to be Council’s spokespersons in the media or at other official functions.

4.7 Impartiality

Council staff will act impartially in relation to all candidates.

4.8 Policy Availability

This Policy will be available for inspection at Council’s principal office during ordinary business hours and on the Council’s website www.yorke.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council’s schedule of fees and charges.

5. COMPLAINTS

Complaints about this policy can be made in writing to the Governance Officer. Complaints will be managed in accordance with Council’s Complaints Policy PO147.

6. REVIEW

This policy will be reviewed every four years and as deemed necessary in consideration of any changes to legislation and relevant standards, codes and guidelines. Elected Members and employees will actively participate in evaluation processes.

7. TRAINING

Council is committed to supporting Elected Members and employees in complying with this policy.

This policy will be provided to Elected Members and employees during induction. Training needs will be reviewed annually, during individual performance reviews and as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

Elected Members and employees will actively participate in training.

8. RELATED COUNCIL POLICIES AND DOCUMENTS

PO146 Disciplinary and Performance Management Policy
PO147 Complaints Policy

9. REFERENCES AND LEGISLATION

Local Government (Elections) Act 1999
Local Government Act 1999
Code of Conduct for Council Employees
Code of Conduct for Council Members
LGA Model Caretaker Policy
LGA Caretaker Guidelines

10. COUNCIL DELEGATION

Details of Delegation:	Nil
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11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Caretaker Policy	PO138	08/06/10	08/06/10

Definitions

ATTACHMENT 1

Council staff	Any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.
Election Period	The period commencing on the day of the close of nominations for a general election and expiring at the conclusion of the general election.
Designated Decision	<p>A decision:</p> <ul style="list-style-type: none"> (a) relating to the employment or remuneration of the CEO, other than a decision to appoint an acting CEO or to suspend the CEO for serious and wilful misconduct; (b) to terminate the appointment of the CEO; (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: <ul style="list-style-type: none"> (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

	<p>Management System scheme that has, prior to the election period, been approved by the Council; or</p> <p>(d) allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates).</p>
General Election	<p>A general election of Elected Members held:</p> <p>(a) under Section 5 of the Local Government (Elections) Act; or</p> <p>(b) pursuant to a proclamation or notice under the Local Government Act 1999 (SA).</p>
Major Policy	<p>Any decision (not being a designated decision) including:</p> <p>(a) to spend unbudgeted monies;</p> <p>(b) to conduct unplanned public consultation;</p> <p>(c) to endorse a new policy;</p> <p>(d) to dispose of Council land;</p> <p>(e) to approve community grants;</p> <p>(f) to progress any matter which has been identified as an election issue; and</p> <p>(g) any other issue that is considered a major policy decision by the CEO.</p>
Minister	<p>Minister for Local Government or other minister of the South Australian Government vested with responsibility for the Local Government (Elections) Act.</p>
Significant Decision	<p>Any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.</p>