

CARETAKER POLICY

Type	Governance
Category	Corporate & Community
Responsible Officer	Director Corporate & Community
First Issued / Adopted	26 May 2010
Review Period	4 years or before each general election
Last Reviewed	21 December 2022, 27 July 2022, 27 April 2022, 25 July 2018, 25 June 2014, 22 June 2011
Minutes Reference	OM67/23, OM272/22, OM131/22, OM199/18, OM134/14
Next Review Date	June 2026 (subject to Council approval)
Applicable Legislation	Local Government (Elections) Act 1999, s91A
Related Documents	Code of Conduct for Council Employees Code of Conduct for Council Members LGA Caretaker Guidelines for Local Government General Elections
Public Consultation Required	No
File Reference	9.63.1.4

1. POLICY STATEMENT

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

2. DEFINITIONS

In this Policy:

Chief Executive Officer (CEO) means the appointed CEO or Acting CEO or nominee.

Council staff means any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.

Council Member means an Elected Member of **Port Pirie Regional Council**.

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

Definitions Cont'd

Council revenue from rates means for the purpose of this policy revenue from rates is calculated using the general ledger account – 106460000: Rates General Income.

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 Chief Executive Officer);
 - (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; or

General election means a general election of council members held:

- (a) under section 5 of the *Local Government (Elections) Act*; or
- (b) pursuant to a proclamation or notice under the *Local Government Act 1999* (SA).

Minister means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the Local Government (Elections) Act.

3. APPLICATION OF THIS POLICY

- 3.1 This policy applies throughout the election period for a general election. For the purposes of the Local Government Elections of November 2022, the policy commences on 6 September 2022 and ends at the conclusion of the election, when results have been declared.

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Application of this policy cont'd

3.2 This policy applies to:

- the Council; and
- Council staff.

4. PROHIBITION ON DESIGNATED DECISIONS

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

4.2 A decision of the Council includes a decision of:

- a committee of Council; and
- a delegate of Council.

5. PROHIBITION ON THE USE OF COUNCIL RESOURCES

5.1 Council resources must not be used for the advantage of a particular candidate or group of candidates.

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.

6. CONSEQUENCES OF CONTRAVENING THIS POLICY

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

6.2 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.

7. APPLICATION FOR EXEMPTION

7.1 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.

7.2 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.

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5. AVAILABILITY OF THIS POLICY

This policy will be available to be downloaded, free of charge, from Councils internet site: www.pirie.sa.gov.au

Copies will be provided to interested parties upon request, and upon payment of a fee in accordance with Councils Schedule of Fees and Charges

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