



Caretaker Policy

Reference Number:	2.14
Type:	Council
Category:	Corporate Governance
Relevant Community Plan Outcome:	<ul style="list-style-type: none"> Our values, leadership and collaborative approach are bold and courageous and enables us to deliver value for our Community and create a leading liveable City Open and accountable governance
Responsible Officer(s):	General Manager Corporate Services
First Issued/Approved:	July 2022
Minutes Reference:	CL 25/07/22, Item 6.64
Last Reviewed:	
Next Review Due:	July 2024
Applicable Legislation:	Local Government (Elections) Act 1999 Local Government Act 1999
Related Policies:	Council Member Code of Conduct Policy Council Members' Allowance and Support Policy Employee Code of Conduct Policy Civic Recognition and Events Policy Discretionary Ward Allowance Guidelines Media, Communications and Social Media Policy Public Consultation Policy
Related Procedures:	Code of Practice for Meeting Procedures

1. Purpose

Section 91A of the Local Government (Elections) Act 1999 requires Council to prepare and adopt a Caretaker Policy governing the conduct of the council and its staff during the election period for a general election.

2. Scope

This policy applies to the Council Members, Chief Executive Officer and Council Staff of the City of Charles Sturt.

3. Policy Statement

The Caretaker Policy affirms Council's commitment to fair and democratic elections, and adherence to the established democratic principle that outgoing elected bodies should not use public resources for election campaigning, nor make decisions which may unreasonably, inappropriately, or

unnecessarily bind an incoming Council. In addition, during an 'election period', Council will avoid actions and decisions which could be perceived as intended to affect the results of an election.

4. Policy Application

This Policy applies throughout the 'election period' for each periodic election of members of the Council under the Local Government (Elections) Act 1999. 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.

This Policy forms part of (and is to be read in conjunction with) the Council's Council Member Code of Conduct Policy and the Staff Code of Conduct Policy in accordance with Section 91A(7) of the Local Government (Elections) Act 1999.

5. Prohibition on Designated Decisions

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

5.2 A decision of the Council includes a decision of:

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

6. Prohibition on the Use of Council Resources

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

6.2 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.

6.3 The following council resources must not be used for the advantage of a particular candidate or group of candidates (for example in any way campaigning) and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:

- Council provided computers, printers and other office equipment beyond that provided to members of the public (eg. in a public library)
- Council provided business cards
- Requests to council employees to perform tasks which would confer an advantage on a candidate or group of candidates
- Access to Council information
- Attendance and participation at functions and events, and, the ability to issue invitations to council events
- Access to areas that members of the public cannot access, including areas within the property of third parties (eg. Lyle Gilligan Room at Woodville Oval)
- Media services and materials published by Council such as promotional brochures, documents and images.

7. Treatment of Other Significant Decisions

- 7.1 So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling significant decisions (including major policy decisions) for consideration during an 'election period' and ensure that such decisions:
- Are considered by Council prior to the 'election period'; or
 - Are scheduled for determination by the incoming Council.
- 7.2 The determination as to whether or not any decision is significant will be made by the Chief Executive Officer, after consultation with the Mayor. The Chief Executive Officer must keep a record of all such determinations made by Chief Executive Officers (including by previous Chief Executive Officers) and make this list available to candidates upon request.
- 7.3 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.
- 7.4 The aim of the Chief Executive Officers Report is to assist Council Members assess whether the decision should be deferred for consideration by the incoming Council.
- 7.5 The Chief Executive Officer's report to Council will address the following issues (where relevant):
- Why the matter is considered 'significant'
 - Why the matter is considered urgent;
 - What are the financial and other consequences of postponing the matter until after the election, both on the current Council and the incoming Council;
 - Whether deciding the matter will significantly limit options for the incoming Council;
 - Whether the matter requires the expenditure of unbudgeted funds;
 - Whether the matter is the completion of an activity already commenced and previously endorsed by Council;
 - Whether the matter requires community engagement;
 - Any relevant statutory obligations or timeframes; and
 - Whether dealing with the matter in the election period is in the best interests of the Council area and community.
- 7.6 Council will consider the Chief Executive Officer's report and determine whether or not to make a decision.

8. Consequence of Contravening this Policy

- 8.1 A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.
- 8.2 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 Council for that loss or damage.

9. Application for Exemption

- 9.1 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 1999 and this Policy.
- 9.2 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 1999 and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

10. Definitions

Key Term – Acronym	Definition
Chief Executive Officer	Means the appointed Chief Executive Officer or Acting Chief Executive Officer 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 the City of Charles Sturt
Election period	Means the period commencing on the day of the close of nominations for an election and expiring at the conclusion of an 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 construction, 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, or under Section 298 of the Local Government Act 1999; (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;

	<p>(iii) relates to the employment of a particular Council employee (other than the Chief Executive Officer);</p> <p>(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</p> <p>(v) relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council.</p>
General election	<p>Means a general election of council members held:</p> <p>(a) Under section 5 of the Local Government (Elections) Act 1999; or</p> <p>(b) Pursuant to a proclamation or notice under the Local Government Act 1999</p>
Major Policy Decision	<p>Means any decision (not being a designated decision):</p> <ul style="list-style-type: none"> • To spend unbudgeted monies; • To conduct unplanned public consultation; • To endorse or modify a policy or strategic management plan that would have an impact on a significant cohort of the community or strategic direction of the council; • To dispose of Council land; • To approve community grants; • To progress any matter which has been identified as an election issue; and • Any other issue that is considered a major policy decision by the Chief Executive Officer.
Minister	<p>Means the 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>(a) Means any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.</p> <p>(b) A decision of Council to determine the outcome of a Discretionary Ward Allowance application. (Note: Applications will not be reviewed by the Chief Executive Officer or his delegate/s from 1 July of an election year until after the declaration of an election.</p>