

# COUNCIL POLICY

## Caretaker Period



|                                     |                                                                                                                                                     |
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| <b>Policy Number</b>                | CL07                                                                                                                                                |
| <b>Responsible Section</b>          | Governance                                                                                                                                          |
| <b>Responsible Department</b>       | Corporate Services                                                                                                                                  |
| <b>Date Last Adopted</b>            | September 2026                                                                                                                                      |
| <b>Date of Next Review</b>          | September 2030                                                                                                                                      |
| <b>Applicable Legislation</b>       | <i>Local Government Act 1999</i><br><i>Local Government (Elections) Act 1999</i><br><i>Local Government (Elections) Regulations 2010</i>            |
| <b>Related Governance Documents</b> | Behavioural Management Policy<br>Caretaker Period Procedure<br>Code of Conduct – Council Employees<br>Elected Members Allowances and Support Policy |
| <b>City Vision</b>                  | Organisational Capacity                                                                                                                             |

### 1. PURPOSE / OBJECTIVE

It is a long-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.

This Policy implements the statutory caretaker period requirements under Section 91A of the *Local Government (Elections) Act 1999* and should be read in conjunction with the City of Port Adelaide Enfield's Code of Conduct - Council Employees and Behavioural Management Policy.

The objectives of the Caretaker Period Policy are to guide the conduct of the City of Port Adelaide Enfield during the lead up to local government elections and provide information regarding decision making during an election period to ensure that:

- the incumbent Council does not make certain decisions that will be binding on an incoming Council and limit its freedom;
- incumbent elected members do not receive (or are perceived to receive) any advantages or disadvantages over other candidates due to their current position on Council;
- the day to day business of the Council continues efficiently and as normal as possible; and
- Council resources are not diverted or influenced for electoral purposes.

### 2. SCOPE

This Policy applies to decisions of the elected Council (Elected Members as the governing body), a committee of Council, a delegate of the Council including the Chief Executive Officer, and Council employees.

This Policy applies to:

- Each periodic election of members of the Council under the Act; and

- Each general election of members of the Council held pursuant to a proclamation or notice under the *Local Government Act 1999*.

This Policy does not apply to supplementary elections.

This Policy applies to actual decisions made during an election period, not the announcement or implementation of decisions made prior to the election period.

### **3. POLICY**

#### **3.1 Designated decisions**

In accordance with Section 91A(2) of the *Local Government (Elections) Act 1999*, Council is prohibited from making a designated decision during the election period.

The *Local Government (Elections) Act 1999* stipulates that any designated decision made by the Council during the election period without an exemption from the Minister is invalid. Council is liable to pay compensation to any person who suffers loss or damage as a result of acting in good faith in reliance on such a designated decision.

If the Council considers that there are extraordinary circumstances which require the making of a designated decision, the Council may apply in writing to the Minister for an exemption, the effect of which would be to allow such a designated decision to be validly made during the election period.

#### **3.2 Significant decisions**

Any major policy or other decision which will significantly affect the Council area or community or will inappropriately bind the incoming Council constitutes a significant decision and is prohibited by the operation of this Policy.

In the context of this Policy, a 'major policy' decision may include any decision:

- to spend unbudgeted monies;
- to conduct unplanned public consultation for significant issues;
- to endorse a new policy position;
- 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 that is not a designated decision.

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

Council resources, including officers, support staff, hospitality services, equipment and stationery must be used exclusively for ordinary Council business and must not be used in connection with an election other than uses strictly relating to the election process.

Council Members and employees will ensure that due propriety, and compliance with Section 91A(2) of the *Local Government (Elections) Act 1999*, is observed in the use of Council resources and must exercise appropriate judgement in this regard.

Council resources cover a wide range of personnel, goods, services, information and opportunities and may include:

- materials published by Council;
- attendance, participation or issuing invitations to Council functions and events;
- access to Council information;
- media support; and

- Requests to Council employees to perform tasks which would confer an advantage on a candidate or group of candidates.

All candidates have equal rights of access to public information relevant to their election campaigns from Council administration. Neither Council Members nor candidates will be provided with information or advice from Council employees that might be perceived to support election campaigns, and there shall be transparency in the provision of all information and advice during an election period.

### **3.4 Public meeting for candidates**

In accordance with Section 91B(4) of the *Local Government (Elections) Act 1999*, the Council has determined that a public meeting of candidates will not be held in respect of general elections. This determination, in addition to the statement certified by the Principal Member setting out the reasons for this decision, has been resolved by Council.

The Council's reasons for this determination include the costs to ratepayers associated with arranging and holding a meeting of candidates outweighing the benefits to the community of such a meeting.

Certified by Principal Member: Mayor Claire Boan

### **3.5 Behavioural complaints and complaints under this policy during an election period**

Any complaint against a Council Member who is also a candidate for re-election which alleges a breach of this Policy will be dealt with in accordance with this clause.

The Chief Executive Officer, upon receiving a complaint against a Council Member who is also a candidate for re-election about conduct specifically in relation to this Policy, will refer the complaint to an independent assessor for assessment and investigation.

If the complaint is, in the opinion of the independent assessor, not so serious as to warrant immediate determination, consideration of the complaint must be deferred until after the election period.

A serious complaint which would warrant urgent determination would be a matter that involves deliberate and wilful breach of this Policy. For a complaint to be considered serious, it needs to be supported by sufficient evidence for the independent assessor to make this determination.

If a Council Member against whom a complaint is made is not returned to office after the election, the complaint will lapse.

## **4. SPOKESPERSON**

The Mayor will continue to be the principal spokesperson for Council decisions. During the caretaker period, the Mayor must not use their position or Council communications to promote or campaign for re-election. The CEO will be substituted as spokesperson for legislative matters and/or promotional matters where necessary to ensure compliance with this Policy.

## **5. ROLES AND RESPONSIBILITIES**

### **5.1 All employees**

All employees are responsible for understanding and complying with this Policy, ensuring that Council resources and information are used only for official or authorised purposes during the election period.

### **5.2 Managers**

Managers are responsible for ensuring staff awareness and the consistent application of this

Policy, overseeing the appropriate use of Council resources within their areas.

### 5.3 CEO

The CEO is responsible for organisational compliance with caretaker requirements and the determination of significant decisions during the election period. In addition, the CEO is also responsible for overseeing media activity, acting as principal spokesperson for legislative matters or promotional publications, ensuring equitable access to information for all candidates, and appropriately referring complaints received under this Policy.

### 5.4 Elected members

Elected members are responsible for the adoption of this Policy and adhering to caretaker requirements, ensuring their conduct does not use or appear to use Council resources for electoral benefit, and exercising care in accessing information and/or participating in activities that may be perceived as conferring an advantage during the election period.

## 6. DEFINITIONS

**Chief Executive Officer** means the appointed Chief Executive Officer, acting Chief Executive Officer or nominee.

**council employees** 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 Port Adelaide Enfield including the Mayor and Deputy Mayor.

**designated decisions** 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* (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;

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| <b><i>election period</i></b>     | 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.                                                     |
| <b><i>general election</i></b>    | means a periodic election held under Section 5 of the <i>Local Government (Elections) Act 1999</i> , or an election pursuant to a proclamation or notice under the <i>Local Government Act 1999</i> . |
| <b><i>prescribed contract</i></b> | means a contract entered into by the Council for the purpose of undertaking road construction or maintenance or drainage works.                                                                       |
| <b><i>Minister</i></b>            | means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the <i>Local Government (Elections) Act</i> .                             |