POLICY 2.22
Governance
Caretaker Period

Version: 5 | Next Review: June 2030

DISTRICT COUNCIL of TUMBY BAY

1. INTRODUCTION

The Caretaker Policy aims to guide the conduct of the Elected Members and Council Staff of the District Council of Tumby Bay (the Council) during the lead up to the Local Government periodic elections, and provides information regarding decision making during an election period to ensure that:

1.1. the Council does not make decisions they are prevented from making under section 91A(2)(a) of the *Local Government (Elections) Act 1999* (the Act),

1.2. Council resources are not used for the advantage of a particular candidate or group of candidates, contrary to section 91A(2)(b) of the Act,

1.3. the day-to-day business operations of Council continue as efficiently and effectively as possible, and

1.4. Council resources are not inappropriately diverted to, or influenced for, electoral purposes.

2. POLICY OBJECTIVE

This Caretaker Period Policy (the Policy) implements the statutory caretaker period requirements under section 91A and 91B of the *Local Government (Elections) Act 1999*.

This Policy is to ensure that Council meets its minimum legislative obligations and to address issues commonly asked or questioned by the community and the media during the caretaker period.

3. DEFINITIONS

In this Policy:

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

Council means the District Council of Tumby Bay.

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 Council.

Council resources means any asset or service owned or administrated by the Council, including property, Council Staff, equipment, vehicles, internet, telecommunications and media services (including social media), stationery and hospitality services, used in the course of carrying out Council business. It may also include invitations and attendances at functions and events.

Election period, otherwise known as the Caretaker 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, when the results have been declared.

Designated decision means a decision:

(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,

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(c) to enter into a contract, arrangement or understanding (other than a prescribed contract, being a contract entered into by the Council for the purposes of undertaking 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 is excluded by regulation 17 of the *Local Government (Elections) Regulations 2025* that:

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), or

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, or

iii. relates to the employment of a particular Council employee (other than the CEO), or

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:

(a) under section 5 of the *Local Government (Elections) Act 1999*, or

(b) pursuant to a proclamation or notice under the *Local Government Act 1999*.

Minister means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the *Local Government (Elections) Act 1999*.

Public meeting of candidates means a meeting of the kind set out in section 91B(1) of the *Local Government (Elections) Act 1999*.

4. APPLICATION OF THIS POLICY

4.1. This Policy applies throughout the election period for a general election.

4.2. For the purposes of the Local Government Elections, this Policy commences on the date nominations close and ends at the conclusion of the election, when results have been declared.

4.3. This Policy applies to the Council, as a governing body, and Council staff.

5. PROHIBITION ON DESIGNATED DECISIONS

The Council is prohibited from making a designated decision during an election period. A decision of the Council includes, except where otherwise stated, a decision of a committee of Council, and a delegate of Council.

6. TREATMENT OF OTHER SIGNIFICANT DECISIONS

6.1. So far as is reasonably practicable, the CEO should avoid scheduling significant decisions (including major policy 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.

6.2. 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.

6.3. A 'major policy' decision includes any decision (not being a designated decision):

a) to spend unbudgeted monies,

b) to conduct unplanned public consultation,

c) to endorse a new policy,

d) to dispose of Council land,

e) to approve community grants,

f) to progress any matter which has been identified as an election issue, and

g) any other issue that is considered a major policy decision by the CEO.

6.4. The determination as to whether or not any decision is significant will be made by the CEO, after consultation with the Mayor or Chairperson (as relevant). The CEO must keep a record of all such determinations made by the CEOs (including by previous CEOs) and make this list available to candidates upon request.

6.5. Where the CEO has determined that a decision is significant, but circumstances arise that require the decision to be made during the election period, the CEO will report this to the Council.

6.6. The aim of the CEO's report is to assist Council Members assess whether the decision should be deferred for consideration by the incoming Council.

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

a) why the matter is considered ‘significant’,

b) why the matter is considered urgent,

c) what are the financial and other consequences of postponing the matter until after the election, both on the current Council and the incoming Council,

d) whether deciding the matter will significantly limit options for the incoming Council,

e) whether the matter requires the expenditure of unbudgeted funds,

f) whether the matter is the completion of an activity already commenced and previously endorsed by Council,

g) whether the matter requires community engagement,

h) any relevant statutory obligations or timeframes, and

i) whether dealing with the matter in the election period is in the best interests of the Council area and community.

6.8. Council will consider the CEO's report and determine whether to make the decision.

7. PROHIBITION ON THE USE OF COUNCIL RESOURCES

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

7.2. For clarity, neither the Act nor this Policy prohibits a council making available resources to all members of the public, which necessarily includes all candidates for election.

7.3. The following Council resources must not be used for the advantage of a particular candidate, or group of candidates, and may only be used, accessed, or attended, by Council Members, where necessary, in the performance of their ordinary duties as a Council Member:

a) mobile phones,

b) Council vehicles,

c) Council provided landline phones, computers and other office equipment, beyond that provided to members of the public (e.g., in a public library),

d) Council provided business cards,

e) requests to Council Staff to perform tasks which would confer an advantage on a candidate, or group of candidates,

f) the ability to issue invitations to Council events,

g) Council travel arrangements (e.g., access to Council negotiated rates for flights, accommodation or hire cars),

h) access to areas that members of the public cannot access, including areas within the property of third parties (e.g., a 'Mayor's Parlour' at a suburban football oval), and

i) Council produced promotional brochures and documents, including social media posts.

7.4. The reimbursement of Council Members' out of pocket and travel expenses during the election period will only be applicable to costs incurred in the undertaking of Council business, and not for expenses that could be perceived as supporting, or being connected with, that Members election campaign.

7.5. The use of Council logos, letterheads and other corporate branding by candidates, or others acting on behalf of candidates, for electioneering activity is prohibited.

7.6. The use of images taken by Council Staff, including those appearing on the Council website and social media platforms, by candidates, or others acting on behalf of candidates, for electioneering activity is prohibited.

7.7. Any assistance provided to candidates in terms of Council resources as part of the conduct of the general election will be provided equally to all candidates and determined on an 'as needs' basis and communicated to all candidates by the CEO.

8. CONSEQUENCE OF CONTRAVENING THIS POLICY

8.1. In accordance with section 91A(5) of the Act, 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 the Council for that loss or damage under section 91A(6) of the Act.

8.3 A breach of this Policy is a breach of the Behavioural Standards for Council Members and Employee Conduct for Council staff.

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 Act and this Policy.

9.2. If the Minister grants an exemption to enable the making of a designated decision under section 91A of the Act and this Policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

9.3. An exemption must be sought, and granted, prior to the Council making the designation decision.

10. EVENTS AND FUNCTIONS

10.1 Council Members may continue to attend events and functions in their capacity as a Council Member during an election period provided that their attendance is consistent with the ordinary course of a Council Member's duties and is not used for election campaigning.

10.2 The following events and ceremonies, organised by the Council, will be subject to the following variations or restrictions during the election period:

a) *Formal Citizenship Ceremonies* will take place during the election period under the delegation of the CEO, pursuant to the *Australian Citizenship Act 2007* and section 99(1)(j) of the *Local Government Act 1999*.

b) *Opening Ceremonies* set up for the opening of a facility or project developed, owned or managed by the Council, will be deferred where appropriate, until the conclusion of the election period, otherwise, an invitation will be extended to all candidates to attend.

10.3 The Council will avoid scheduling major events within the election period, unless the event is a state or region wide activity, or otherwise unless all candidates are invited to attend.

11. MEDIA USE

11.1 During the election period media releases will be limited to operational issues. Council will not make comment on individual election campaigns, except in circumstances where harmfully inaccurate comments are made by a candidate. In these circumstances, the CEO reserves the right to correct the inaccuracy.

11.2 During the election period, no media advice or support will be provided to Council Members who have nominated as candidates, or anyone acting on behalf of a candidate, for the purposes of that candidate's election campaign.

11.3 During the election period, the Council will not respond to publicity or media inquiries involving individual candidates or election issues, unless the publicity pertains to comments specified in clause 11.1 of this Policy.

11.4 Council's social media accounts will be used to promote the upcoming election process, for the purposes of encouraging people to vote, including links to all candidate information on the Local Government Association of South Australia website.

11.5 Council's social media accounts will not be used to promote individual candidates, or link to any Council Member or candidate's social media accounts.

11.6 The public's ability to post comments on Council's social media accounts will be disabled for the duration of the election period.

12. CONTACT WITH COUNCIL STAFF

12.1 The CEO is committed to ensuring Council Members are provided with the appropriate support to continue to fulfill their official duties and responsibilities during an election period.

12.2 During the election period, Council Members will direct all their enquiries, requests and access information through the CEO.

13. CONTINUING COUNCIL OPERATIONS DURING THE ELECTION PERIOD

13.1 Nothing in this Policy prevents the Mayor, Council Members and Council staff carrying on the business of the Council during the election period.

13.2 The Mayor may continue to accept invitations to attend community functions, as will Council 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.

13.3 The Mayor, in addition to the CEO, will continue to be Council's spokesperson in the media and act in other official capacities. However, it will be determined on a case by case basis as to whether these are functions that should be undertaken by the CEO during this period.

14. PUBLIC MEETING OF CANDIDATES

14.1 In accordance with section 91B of the Act, the Council will hold at least one public meeting of candidates between the close of nominations and polling day.

14.2 The timing and organisation of the public meeting(s) will be at the discretion of the CEO.

15. POLICY REVIEW

This Policy will be reviewed every four (4) years prior to the general election commencing. The Council has the right to review this policy at any time, if considered desirable.

16. AVAILABILITY OF THIS POLICY

This Policy will be available for inspection at the Council's Office during ordinary business hours and via the Council's website, www.tumbybay.sa.gov.au. Copies will also be provided to the public upon request and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

17. FURTHER INFORMATION

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Related Policies	Elected Members Allowance & Support Policy
Related Procedures	LGASA Caretaker Guidelines (issued February 2026)

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SIGNED: 

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Responsible Officer