



Caretaker Policy

Policy Number	S0010
File Number	9.63.2.1
Responsible Officer	Director Corporate Services
Adopted	17 May 2010
Last reviewed at Council Meeting	15 July 2026
Minute Number	198-26
Due date of next Review	May 2031

1. Purpose

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

2. Scope

- 2.1 This policy applies throughout the **Election Period** for a general election and ends at the conclusion of the election, when results have been declared.
- 2.2 This policy applies to:
- Council Members;
 - Council Employee;
 - A delegate of Council and
 - Committee of Council

3. Definitions

- 3.1 **Chief Executive Officer** means the appointed Chief Executive Officer, Acting Chief Executive Officer or their nominee.
- 3.2 **Council Employee** means any person that is employed full-time, part-time or casually by Council who receives remuneration for their work.



- 3.3 **Council Member** means an elected member of Clare & Gilbert Valleys Council.
- 3.4 **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.
- 3.5 **Designated Decision** means a decision:
- 3.5.1 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;
 - 3.5.2 to terminate the appointment of the Chief Executive Officer;
 - 3.5.3 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;
 - (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.
- 3.6 **General Election** means a general election of council members held:
- 3.6.1 under section 5 of the *Local Government (Elections) Act 1999*; or
 - 3.6.2 pursuant to a proclamation or notice under the *Local Government Act 1999*.
- 3.7 **Major Policy Decision** includes any decision, (not being a Designated Decision):
- to spend unbudgeted monies;
 - to conduct unplanned public consultation;
 - to endorse a new policy or significantly change an existing policy unless required by legislation;
 - to dispose of Council land;
 - to approve community grants;
 - to progress any matter which has been identified as an election issue (as identified by the CEO); and
 - any other issue that is considered a major policy decision by the Chief Executive



Officer.

- 3.8 **Minister** means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the *Local Government (Elections) Act*.
- 3.9 **Significant decision** means any Major Policy or other decision which will significantly affect the Council area or community or will inappropriately bind the incoming Council.

4. Designated Decisions Prohibited by the *Local Government (Elections) Act 1999*.

- 4.1 Under Section 91A of the *Local Government (Elections) Act 1999*, Council is prohibited from making a Designated Decision during an election period.
- 4.2 A decision of the Council includes a decision of:
- 4.2.1 A committee of Council; and
 - 4.2.2 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.
- 5.2.1 The following council resources must not be used for the advantage of a particular candidate or group of candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:
- Mobile phones.
 - Council vehicles.
 - Council provided landline phones, computers 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.
 - The ability to issue invitations to council events.
 - Council travel arrangements (eg access to council-negotiated rates for flights, accommodation or hire cars).
 - Access to areas that members of the public cannot access, including areas within the property of third parties (eg a 'Mayor's Parlour' at a suburban football oval).
 - Council's produced promotional brochures and documents.



- Council provided email accounts.

6. Consequence 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.¹
- 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.²

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 1999* and this Policy.³
- 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 1999* and this Policy, then the Council Members and Employees will comply with any conditions or limitations that the Minister imposes on the exemption.⁴

8. Treatment of other Significant & Major Policy Decisions

- 8.1 So far as is reasonably practicable, the Chief Executive Officer must avoid scheduling Significant Decisions (including Major Policy Decisions) for consideration during an 'election period' and instead ensure that such decisions:
- are considered by Council prior to the 'election period'; or
 - are scheduled for determination by the incoming Council.
- 8.2 The determination as to whether any policy decision is Major or any other decision is Significant will be made by the Chief Executive Officer, after consultation with the Mayor.
- 8.3 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 must report this to Council. Council will consider the decision and determine whether to make the decision or to defer it for consideration by the incoming Council.
- 8.4 The Chief Executive Officer's report to Council will address the following issues (where

¹ Section 91A(5) *Local Government (Elections) Act 1999*

² Section 91A(6) *Local Government (Elections) Act 1999*

³ Section 91A(3) *Local Government (Elections) Act 1999*

⁴ Section 91A(4) *Local Government (Elections) Act 1999*



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.

9. Continuing the Functions of Council during the Caretaker Period

- 9.1 Nothing in this Policy prevents the Mayor, Council Members and employees carrying on the business of the Council during the Caretaker Period.
- 9.2 The Mayor will 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 support of the Council through grants or not.
- 9.3 The Chief Executive Officer will ensure as is practical that Council initiatives will not be launched during the Caretaker Period.
- 9.4 The Mayor will continue to be Council's spokesperson in the media or at other official functions.

10. Policy Responsibility

The Manager Corporate Services is responsible for ensuring the proper operation of this Policy.

11. Delegations

- 11.1 The Chief Executive Officer, or their delegate, is authorised to carry on the business of the organisation to ensure the continuing functions of Council, subject to the application of this Policy.
- 11.2 Council or its officers with delegated authority will, when implementing decisions under this Policy, act in accordance with financial delegated authority, Council's budget, relevant policies, strategies, plans, agreements and resolutions.



12. Availability/Accessibility

- 12.1 [This Policy](#) and Council's [Fees & Charges Register](#) are available to be downloaded free of charge from Council's website: www.claregilbertvalleys.sa.gov.au.
- 12.2 This Policy is available for inspection at Council's offices during ordinary business hours. Hard copies, for a fee in accordance with Council's schedule of [Fees & Charges](#), can be provided upon request.

13. Review

This policy will be reviewed prior to the next general election (four years) or as required.

14. References

- 14.1 [Local Government \(Elections\) Act 1999](#)
- 14.2 [Local Government Act 1999](#)

15. Document History

This Policy shall be reviewed at least every four (4) years or more frequently if legislation or Council requires.

Version	Adopted	Minute	Description of Change
1	17/05/2010	MB188/10	Adoption
2	19/08/2013		Minor Review by Council
3	16/11/2015		Minor Review by Council
4	16/04/2018	122-18	Adopted by Council pre November 2018 Election
5	02/05/2022	115-22	Reviewed and adopted by Council pre November 2022 Election
6	20/05/2026	104-26	Reviewed and endorsed by Council
7	15/07/2026	198-26	Reviewed in line with changed date of 2026 General Elections. Removed reference to date of commencement, now commencing at beginning of Election Period.