

1. POLICY STATEMENT

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

This policy also deals with council's approach to holding a public meeting involving candidates for a general election under section 91B of the *Local Government (Elections) Act 1999*.

2. APPLICATION

This policy applies throughout the election period for a general election.

This policy applies to:

- the Council; and
- Council staff

3. DEFINITIONS

Chief Executive Officer means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

Council Member means an elected member of the Barunga West Council.

Council staff means any person employed by Council on a full-time, part-time, casual or other remunerated basis.

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 (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;

election period means the period:

- (a) commencing on the day of the close of nominations for a general election; and
(b) expiring at the conclusion of the general election.

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. PROHIBITION ON DESIGNATED DECISIONS

The Council is prohibited from making a designated decision during the Caretaker Period.

A decision of Council includes a decision of:

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

5. PROHIBITION ON THE USE OF COUNCIL RESOURCES

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

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

A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.¹

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

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

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

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7. APPLICATION FOR EXEMPTION

If Council considers that it is faced with extraordinary circumstances which require the making of a designated decision during the 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 policy³.

If the Minister grants an exemption to enable the making of a designated decisions that would otherwise be invalid under section 91A of the *Local Government (Elections) Act 1999* and this policy, then Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption⁴.

8. CANDIDATE INFORMATION SESSION / PUBLIC MEETING

Council will ordinarily facilitate one publicly advertised candidate information session during each general election period in accordance with section 91B of the *Local Government (Elections) Act 1999* and may resolve prior to an election period to schedule additional candidate information session(s) by resolution.

The session will be coordinated by the Chief Executive Officer or delegate and may include:

- (a) equal candidate speaking times;
- (b) moderated questions from attendees;
- (c) neutral chairing arrangements;
- (d) livestreaming or recording where practical;
- (e) cancellation where uncontested or insufficient candidate attendance occurs.

9. LEGISLATION

Local Government (Elections) Act 1999 & any applicable Transitional Provisions
Local Government (Elections) Regulations 2010
Local Government Act, 1999 & any applicable Transitional Provisions

10. AVAILABILITY

This Policy is available for inspection, download or printing, free of charge, from Council's website: www.barungawest.sa.gov.au

A printed copy may be purchased on request from the Council office at 11 Bay Street, Port Broughton, during ordinary business hours.

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

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

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11. REVIEW

This Policy will be reviewed at least once every four years, or earlier if legislative amendments require.

Date	Revision Number	Reason for Amendment
11.03.2014	01	Adopted by Council
08.05.2018	02	Reviewed by Council
18.01.2022	03	Review adopted by Council
08.07.2026	04	Reviewed to remove excessive operational restrictions and included newly legislated provision for a candidate information session.