

Caretaker policy

1. Purpose

The purpose of this Policy is to establish requirements for the conduct of Council, its Committees, Elected Members, appointed Independent Committee Members, and employees during an Election Period for general and periodic local government elections, as required by section 91A of the *Local Government (Elections) Act 1999*. This Election Period is commonly referred to as a caretaker period, which usually occurs between September to November of a general election year.

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

This Policy does not apply to supplementary elections.

2. Policy

Council is committed to fair and democratic elections, and adherence to the principle during the lead up to local government elections, specifically that:

- a. The incumbent Council does not make certain decisions that may be perceived as intended to influence the results of an election, or have a significant impact on or unnecessarily bind an incoming Council leading up to an election.
- b. Council resources are not used for the advantage of incumbent Elected Member(s) where it may be perceived to provide to advantage or disadvantage over other candidates due to their current position on Council;
- c. Council must not print, publish or distribute any advertisement, handbill, poster, pamphlet or notice that contains promotional Electoral Material during an Election Period (section 12(b) of the *Local Government (Elections) Act 1999*). This includes print, electronic, digital and web-based materials, but does not include publishing or distributing information about the election process itself.
- d. Day to day business of the Council continues efficiently and as normal as possible.

This Policy only applies to actual decisions made during an Election Period, not the announcement of decisions made prior to the Election Period. While announcements of earlier decisions may be made during an Election Period, as far as reasonably practicable any such announcements should be made before the Election Period begins.

This Policy applies during an Election Period of Council for the following types of conduct:

- a. Council decisions
- b. Use of Council resources
- c. Attendance and participation in functions and events
- d. Equity in assistance to candidates

2.1. Council decisions

2.1.1. Designated Decisions

Council is prohibited by legislation from making certain decisions during an election period. These are referred to as **Designated Decisions** which are prescribed as follows:

Designated Decisions – 91A(8) of the Act	
a.	A decision relating to the employment or remuneration of the CEO, (other than a decision to appoint an acting CEO)
b.	A decision to terminate the appointment of the CEO
c.	A decision to enter into a contract, arrangement or understanding (other than a Prescribed Contract) 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.

Any **Designated Decision** made by the Council during the **Election Period** without an exemption from the Minister is invalid. The following kinds of decisions are excluded from the definition of **Designated Decision** and can still occur during an **Election Period**.

Exclusions from Designated Decisions – Regulation 17	
a.	Carrying out of works in response to an emergency or disaster within the meaning of the <i>Emergency Management Act 2004</i> , or under section 298 of the <i>Local Government Act 1999</i> .
b.	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.
c.	The employment of a particular council employee (other than the CEO).
d.	Decision 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.
e.	A Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the council.
f.	Suspension of a Chief Executive Officer for serious and wilful misconduct.

Where a general election is held in special cases in accordance with section 56 of the *Local Government Act 1999*, restrictions on activities covered during the Election Period are detailed in section 57 of this Act.

In extraordinary circumstances where Council considers a designated decision is required, Council may apply in writing to the Minister for an exemption. If the Minister chooses to grant an exemption it may be subject to any conditions or limitations that the Minister considers appropriate.

2.1.2. Other Significant Decisions

So far as is reasonably practicable, the CEO should avoid scheduling significant or major policy decisions for consideration during an Election Period that may inappropriately bind the incoming Council, and instead ensure that such decisions are either:

- Considered by Council prior to the Election Period
- Scheduled for determination by the incoming Council.

Significant and major policy decisions include decisions that would:

- allocate a material amount of unbudgeted monies

- b. begin new unplanned public consultation
- c. endorse a new or significantly revised policy
- d. dispose of Council land (unless finalising a matter previously approved by Council)
- e. approve community grants
- f. progress any matter which has been identified as an election issue
- g. Any other issue that is considered a major policy decision by the CEO that is not a **Designated Decision**, with the CEO having regard to:
 - i. Whether the decision is significant
 - ii. The urgency of the issue (i.e. can it wait until after the election?)
 - iii. The possibility of financial repercussions if it is deferred
 - iv. Whether the decision is likely to be controversial
 - v. The requirement of expenditure of unbudgeted funds
 - vi. If the matter is the completion of an activity already commenced and endorsed by Council
 - vii. If the matter requires community engagement
 - viii. If there are any relevant statutory obligations or timeframes
 - ix. The best interests of Council.

2.2. Use of Council resources

During an Election Period, Council resources must be used exclusively for normal Council business and must not be used in connection with an election other than uses strictly relating to the election process.

These restrictions apply to Council resources incorporating personnel, goods, equipment, services, information and opportunities and further includes:

Council resource during an Election Period		
a.	Correspondence	Elected Members may respond to correspondence about normal Council business but must not include election campaign material.
b.	Council facilities and resources	Elected Members must not use an Council provided facilities and resources (including. mobile phones, tablets, computers, printers, stationery, email, internet connections) for campaign purposes. Elected Members may publish campaign material at their own expense, provided it does not imply Council endorsement or use Council branding. Reimbursement of expenses for Elected Members during an Election Period is managed under the Elected Member Support and Training Policy.
c.	Council publications	Council publications must not include Elected Member articles, messaging, commentary including for one month prior to the Election Period. Council publications may notify the public of a public meeting of candidates under section 91B of the Act, such publications are subject to the constraints listed in section 2.3.1(e) of this policy. For legislated publications, such as the Annual Report, Elected Member Content will be restricted to that required by the <i>Local Government Act 1999</i> and relevant Regulations.

d.	Council website	Council will not publish new content that is precluded by this Policy on the Council's website. Election related content will be limited to information, education or publicity. Information about Elected Members will be restricted to names, titles, contact details, portrait photographs, and membership of committees and other bodies to which they have been appointed by Council.
e.	Public consultation	Council must not undertake discretionary Public Consultation on issues which are contentious or have the potential to become contentious, unless approved by Council or the CEO. This Policy does not prevent any mandatory public consultation required by <i>the Local Government Act 1999</i> or public notification requirements under the <i>Planning, Development and Infrastructure Act 2016</i>. Where public consultation is approved to occur during an Election Period, the results will not be reported to Council until after the Election Period, unless approved by the CEO or it is necessary for the performance of functions as set out above.
f.	Council facilitated community meetings	Council facilitated community meetings will not be held during an Election Period. It is not the intention of this Policy to restrict any routine and special meetings of Council or Committees.
g.	Access to information	Elected Members continue to have a statutory right to access Council information relevant to their role. This right should be exercised with caution and limited to matters before Council and within the objectives and intent of this Policy. Any Council information accessed that is not publicly available must not be used for election purposes.
h.	Information or briefing material	Council employees must not provide information and briefing material to Elected Member's related to election issues or to issues that might be perceived to be of an electoral nature. Queries by Council employees regarding provision of information will be directed to the CEO in the first instance.
i.	Media advice	Council employees must not provide media advice or assistance to Elected Members. All requests will be referred to the CEO, who may authorise assistance only where the matter does not relate to election issues or Elected Member publicity.
j.	Media releases / spokespersons	Council employees must not distribute media releases that could be perceived to favour any candidate .

		Media releases generally will not reference individual Elected Members except where a spokesperson is required to be identified which will be managed in accordance with Council's Media Policy. Elected Members will not use their position or their access to Council employees and resources to gain media attention in support of an election campaign.
k.	Publicity campaigns	Council will avoid undertaking publicity campaigns, except those required for conducting the election in accordance with the requirements of section 12(b) and 91B of the <i>Local Government (Elections) Act 1999</i>. Where a publicity campaign is necessary, it must be approved by the CEO and will be restricted to normal Council activities and initiatives without variation in form or size to Council's normal practices.
l.	Activities and statements by employees	Prior to an Election Period, the CEO will ensure that all Council employees are advised of this Policy. Council employees must not: 1. assist Elected Members in ways that are, or could create a perception that they are, being used for electoral purposes. 2. undertake an activity that may affect voting in the election, except where the activity relates to the election process and is approved by the CEO. 3. authorise, use or allocate Council resources for any purpose which may influence voting in the election, except where it only relates to the election process and is approved by the CEO. 4. make public statements on election issues unless approved by the CEO. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, the incident must be reported to and advice sought from the CEO.

2.3. Event or function attendance

During an Election Period, Council events and functions must remain strictly impartial, ensuring that Council resources are used only for routine operations and not in any way that could influence, or be seen to influence, the election.

Council resource		
a.	Events staged by external bodies	Elected Members may continue to attend events and functions staged by external bodies during an Election Period in their capacity as an Elected Member.
b.	Council events and functions	Council organised events and functions held during an Election Period will be reduced to only those essential to the operation of Council, in line with the normal business practices of Council, e.g. citizenship ceremonies

c.	Addresses by Elected Members	Elected Members may not give speeches or keynote addresses at Council organised or sponsored events and functions during an Election Period except where participating as an election candidate in the Public Meeting of Candidates as detailed in section 2.3.1 of this Policy. Elected Members may, make brief and factual welcome speeches at Council organised or sponsored events and functions during an Election Period in line with the normal business practices of Council, e.g. citizenship ceremonies
d.	Publication of promotional material	In preparing any material concerning a Council organised or sponsored function or event which will be published or distributed during an Election Period, such preparation must be consistent with the section 2.2.c of this Policy.

2.3.1. Public Meeting of Candidates

Where Council convenes or facilitates a public meeting of candidates under section 91B of the *Local Government (Elections) Act 1999*, the meeting must be conducted in an impartial manner to ensure that no candidate gains an advantage from the use of Council resources.

a. Equal treatment of candidates

All candidates participating must be provided with equal opportunity to participate and engage with the public.

b. Role of Elected Members

Current Elected Members attending the meeting must do so:

- a. in the same capacity as any other candidate (if contesting the election), or
- b. as observers only (if not contesting).

c. Speeches, introductions, and commentary

Council employees facilitating or supporting the meeting may provide factual and procedural information (e.g., evacuation procedures, meeting format) but must not acknowledge or speak in a way that may be perceived to support or oppose any candidate.

d. Promotional and informational material

Council may publish promotional information for the public meeting of candidates, limited to: event purpose, date, time, venue, accessibility arrangements, meeting format, how to submit questions, and a generic Council contact point.

- a. If candidates are listed, they must be presented in alphabetical order by surname. No titles, honorifics, offices, campaign links, comparative statements or descriptors are to be included.

2.4. Equity in Assistance to Candidates

Council is committed to ensuring equality and transparency in the provision of information and advice to candidates during an Election Period. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, the incident must be reported to and advice must be sought from the CEO.

Council resource		
a.	Candidate assistance and advice	Elected Members and candidates have equal rights to access public information relevant to their election campaigns from Council employees.

		Neither Elected Members nor candidates will be provided information or advice from Council employees that might be perceived to support election campaigns, Any assistance and/or advice provided to candidates as part of the conduct of a Council election will be provided consistently and transparently to all candidates. Employees must not be asked to undertake any tasks connected directly or indirectly with an election campaign.
b.	Election process enquiries	All election process enquiries from candidates, whether current Elected Members or not, will be directed to the nominated Electoral Officers.
c.	Council branding and stationery	Council logos, letterheads, or other Council branding, resources or facilities may not be used for, or linked in any way with, a candidate's election campaign.

2.5. Handling Behavioural Standards complaints during an Election Period

Any complaint against an Elected Member, who is also a candidate for re-election, made under the [Elected Member Behavioural Management Policy](#) during an Election Period will not be heard or determined by the Council during that period.

If required, any Behavioural Standards complaints will be referred to the relevant agency depending on the nature and seriousness of the complaint.

The CEO upon receiving a complaint against an Elected Member, who is also a candidate for re-election, about conduct specifically in relation to this Policy will refer the complaint for any relevant assessment and investigation to the person responsible for managing the complaint in accordance with the Behavioural Management Policy.

If the complaint is, in the opinion of the person responsible for managing the complaint, not so serious as to warrant urgent determination, consideration of the complaint will be deferred until after the Election Period, however a reminder and a copy of this Policy content will be provided to the Elected Member by the CEO.

An example of a serious complaint which would warrant urgent determination is where a complaint of a deliberate and wilful breach of this Policy is made and is supported by sufficient evidence for the person responsible for managing the complaint to be satisfied that the conduct of the Elected Member was not an honest or innocent mistake.

Council recognises that the Electoral Commissioner has the role of investigating any alleged breach of the *Local Government (Elections) Act 1999*, including alleged illegal practices.

3. Definitions

For the purposes of this policy the following definitions apply:

CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

Designated Decision

As defined in *Local Government (Elections) Act 1999* with exclusions prescribed in regulation 17 of the *Local Government (Elections) Regulations 2025*.

Discretionary Public Consultation

Consultation which is not legislatively mandated and is a process which involves an invitation/s to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

Elected Members

Includes the Councillors and the Mayor of the City of Tea Tree Gully.

Election Period

The Election Period will be as defined in the *Local Government (Elections) Act 1999* (from the close of nominations until the conclusion of a periodic or general local government election). For an election that is held in accordance with section 56 of the *Local Government Act 1999*, this will commence on the date of a declaration under this section that relates to the council and ending on the day on which general elections for the council held pursuant to that section conclude.

Electoral Material

Material (including print, electronic, digital or web material) which is calculated (i.e. intended or likely) to affect voting in a Local Government election. It does not include any materials produced by Council relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the returning officer for the purposes of conducting an election. Without limiting the generality of this definition, material will be considered to be intended or likely to affect voting in an election if it contains an express or implicit reference to or comment on:

- a. The election
- b. A candidate in the election
- c. An issue submitted to, or otherwise before, the voters in connection with the election.

General Election

Defined under the Local Government Act 1999 as an “election of members of the council (whether held under section 5 of the Local Government (Elections) Act 1999 or pursuant to a proclamation or notice under this Act).

Periodic Election

Defined under Section 5 of the Local Government (Elections) Act 1999 as an “election to determine the membership of each council, held at 4-year intervals, with voting closing at 5 pm on the third-last business day before the second Saturday in November of 2026, 2030, and every four years thereafter.

Prescribed Contract

A contract entered into by Council for the purpose of undertaking road construction or maintenance, or drainage works. Prescribed Contracts allow Council to continue with its core road and drainage infrastructure work unaffected by the Caretaker period.

Public Meeting of Candidates

A meeting as set out in section 91B(1) of the *Local Government (Elections) Act 1999*.

Supplementary elections

Defined under Section 6 of the Local Government (Elections) Act 1999 as an election to “fill the office or offices not filled by the election, or the office that has become vacant.”

4. LEGISLATIVE FRAMEWORK

It is a legislative requirement under section 91A of the *Local Government (Elections) Act 1999* to adopt a caretaker policy governing the conduct of the council and its employees during the election period for a general election.

This Policy is based on a model policy prepared by the Local Government Association in conjunction with Council’s lawyers and the Caretaker policies Guidance Paper No. 4 2010 by Office for State / Local Government Relations (Dept. of Planning and Local Government).

The following legislation applies to this Policy:

Local Government Act 1999

This Policy will also apply to section 57 of this Act, which outlines the restrictions on Council activities subject to a declaration under section 56 (General election to be held in special case).

Local Government (Elections) Act 1999

Section 91A of this Act, sets out the requirements of Council in regard to its conduct during an Election Period. At a minimum, the Caretaker Policy must prohibit the making of a Designated Decision by Council during the Election Period.

Council is required to manage and conduct an election process pursuant to the requirements of the Local Government (Elections) Act 1999.

4.1. Other references

Council’s document including:

- a. Elected Member Support and Training Policy
- b. Control of Election Signs Policy
- c. Communications Policy
- d. Fees and Charges Register
- e. Elected Member Behavioural Management Policy
- f. Code of Practice for Meeting Procedures

5. Strategic Plan 2030

5.1. Strategic objectives

The following strategic objectives and aspirations in Council’s Strategic Plan 2030 are the most relevant to this report:

Strategic Objective		Comments
5.	Our Leadership We are trusted to make good decisions that are in the best interest of our community.	Caretaker provisions protect public trust by preventing electoral advantage and ensuring decisions reflect community interest rather than political campaigning.
5.1.	Our service provision is sustainable and adaptable.	Ensures continuity of essential services during the Election Period while restricting new or significant decisions.

5.3. Our engagement is meaningful and we keep our community informed about Council initiatives.	Caretaker rules regulate communication to ensure it is factual, neutral and not promotional.
5.4. Our planning and decision making is evidence based, consistent and focused on outcomes for the future.	The policy ensures decisions made during the Election Period are consistent with established plans and not influenced by political considerations.

5.2. Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on four key themes of customer care, trust, teamwork and growth. The key theme most relevant to this policy is trust.

6. Policy Implementation

This Policy will be implemented by the Chief Executive Officer or relevant portfolio General Manager and managed in accordance with Council's scheme of delegations.

Record number	D26/18083
Responsible Manager	Manager Corporate Governance
Other key internal stakeholders	N/A
Last reviewed	26 May 2026
Adoption reference	Council
Resolution number	944
Previous review dates	15/10/2024, 17/02/21, 8/05/18, 12/9/17, 12/8/14, 13/08/13, 11/05/10
Legal requirement	Section 91A of the Local Government (Elections) Act 1999 requires Council to prepare and adopt a Caretaker Policy.
Due date next review	2030
Delegations	Y