

POLICY MANUAL

Policy Number: 3	Election Caretaker Arrangements
Purpose:	To prescribe 'caretaker' arrangements to be applied to the conduct of Council business following notice of a general local government election by the Tasmanian Electoral Commission.
Department:	Governance
Author:	John Jordan, General Manager and Jacqui Parker, Manager, Governance & Performance
Council Meeting Date:	12 July 2022
Minute Number:	161/2022
Next Review Date:	<i>June 2026 (as set, or every four years or as required)</i>

POLICY

1. Definitions

By-Election:	Election to replace a councillor after the councillor's office becomes vacant.
Candidate:	A person standing for election.
Caretaker Period:	Period from the notice of election through until the close of the polls of the relevant local government general election.
Electoral Material:	Any advertisement, handbill, pamphlet, notice, flyer, letter or article that is intended or calculated to affect the result of an election.
Election Campaign:	Activities of candidates to win voter support in the period preceding an election and includes activities such as door knocking, bulk emails, production of signs and flyers, telephone canvassing, social media campaigns and advertising.
Major Policy Decision:	The appointment, remuneration or termination of the General Manager, approval of contracts greater than \$250,000, adoption or renewal of policies, making, amending or repealing of planning schemes (unless already certified), and establishment of by-laws. Any amendment to Council's adopted budget that exceeds \$250,000 over budget

estimates, but not a reallocation of funds from one project to another that remains within Council's overall budget.

Council Resources: Any equipment, materials, office space or property owned or operated by Council, but excluding publicly bookable venues. Any information, systems, images or social media and websites of Council.

2. Objective

To provide direction to Councillors, Council staff and election candidates on the conduct of Council business during the period of an election.

3. Scope

This policy applies to:

- a. Elected members, employees and contractors of Council, for the duration of any caretaker period for a local government general election.
- b. This policy does not apply to local government by-elections, other than the restrictions applicable to the use of Council resources and information for the advantage of a candidate or political party during a by-election.

4. Policy Statement

Meander Valley Council, its elected representatives and staff will, during a caretaker period, conduct the business of Council in a manner that balances continuity of service and administration with the need to ensure that:

- a. Major policy decisions are not made by the Council in the lead-up to an election that would prove binding or limit freedom of action for an incoming Council;
- b. Council resources and information are not used for the advantage of a candidate, interest group or political party in a local government general election; and
- c. The apolitical nature of the services provided by the Council staff is protected and controversy about their role and work in the context of an election period is avoided.

5. Major Policy and Funding Decisions

- a. During a Caretaker Period, Council will avoid decisions which give rise to major policy, resourcing or financial outcomes that:
 - i. Commit or compromise the freedom of the incoming Council;
 - ii. Risk reputational damage to Council; and
 - iii. Risk drawing Council or staff into matters of political contention within the context of an election campaign.
- b. For clarity, a Major Policy Decision does not include promises on future policies or actions a candidate or political party announces as part of their election campaign.
- c. During a Caretaker Period, Council (or the General Manager as applicable under delegation) will not:
 - i. Appoint, dismiss or renew the contract of a General Manager. An acting General Manager may still be appointed in the event of any absence or resignation by the incumbent General Manager.
 - ii. Approve proceeding to tender or the awarding of a contract where the total commitment exceeds \$250,000. This does not prevent the General Manager executing, within the Caretaker Period, a contract as agreed by a resolution of the Council before the Caretaker Period.
 - iii. Make, amend or repeal a local planning instrument under the *Land Use Planning and Approvals Act 1993* (i.e. a planning scheme, a temporary local planning instrument or a planning scheme policy).
 - iv. Make a new By-Law.
 - v. Council will not approve or renew any Council major policies unless there is a legislated or compelling business requirement supported by qualified advice that is certified by the General Manager under the *Local Government Act 1993*: s65. Such reasons may include:
 - A. Unforeseen issues such as an emergency, legal requirement or other matter not otherwise foreseen,

which may compel the Council or the General Manager to exercise judgment and make a Major Policy Decision in order to ensure continuity of service or address a compelling business need; or

- B. A decision relates to a component or activity that forms part of an approved and ongoing program of work where the total spend is specified in the annual budget, *and* which if not progressed during the Caretaker Period would cause a substantial disruption, risk of loss, damage or reputational harm to Council if the decision is deferred.
- d. Where the above circumstances apply, as described in either 5(c)(v)(A) or 5(c)(v)(B) of this Policy, in the interests of transparency Council will:
- i. Issue a public advice on its website as to the reasons for the variation to the above restrictions.
 - ii. Such advice does not alter the need and discretion Council has on the release or otherwise of information determined in a Closed Session of the Council.

6. Major Announcements and Representation of Council

- a. This policy applies to the timing of the making of Major Policy Decisions that are likely to commit an incoming Council, not to their announcement.
 - i. This policy is not contravened where decisions made before the calling of an election are announced during the caretaker period.
 - ii. Where possible, decisions that have been agreed but not made public should be announced ahead of the caretaker period if their announcement is likely to cause controversy during the election campaign.
- b. Whether a particular policy decision or announcement qualifies as 'major' is a matter for judgement. The General Manager will if needed provide guidance or a determination on whether or not a decision should be made.
- c. The Mayor shall continue to be the spokesperson for Council in accordance with Section 27 of the Local Government Act 1993 (the

Act) and shall carry out the civic and ceremonial functions of the mayoral office during the Caretaker Period.

- d. Individual Councillors may continue to represent the community and facilitate communication between Council and the community for the duration of the Caretaker Period.
- e. Councillors who are candidates for re-election are to ensure they continue to comply with the Act and relevant policy, including but not limited to:
 - i. Policy 23 - Responsibilities of Council Representatives; and
 - ii. Policy 49 - Media Communications.
- f. In fulfilling their duties as a Councillor during this period, Councillors may claim allowances and expenses under Council's Policy 24: Councillor Expense Entitlements, Attendance at Conferences and Training. For the avoidance of doubt:
 - i. In circumstances where a Councillor is travelling or attending solely as an election candidate then no allowances may be claimed.
 - ii. If undertaking an official role designated to the Councillor, including deputation for the Mayor, Deputy Mayor or as a designated spoke person of Council, then any entitlement to allowances is not altered.
- g. Councillors will not use the position of elected representative, or access to employees or resources, to gain media attention in support of their, or any other candidate's election campaign.
- h. A Councillor shall not use membership of a Council committee or appointment as a member of an external group to disseminate information or promote their or any other candidate's election campaign.

7. Access and Use of Information

- a. At the commencement of the Caretaker Period the General Manager is to:
 - i. Review all advertising campaigns, events or community activities and make recommendations to the Council about

whether those campaigns should continue, be modified in content, or be deferred.

- ii. Review arrangements for the distribution of publicly communicated material, such as newsletters. Council will avoid active distribution of material if it promotes a candidate or political party.
- b. During the Caretaker Period the following provisions shall apply:
- i. No electoral material shall be permitted to be displayed or distributed on any Council owned or managed property.
 - ii. Council supplied equipment and Council branded material shall not be used by in any manner that supports a candidate's election campaign.
 - iii. Councillors may continue to use Council equipment and branded material throughout the course of the Caretaker Period to carry out their regular functions as described under Section 28 of the *Local Government Act 1993*.
 - iv. Councillors will not use the position of elected representative, or access to employees or resources, to gain media attention in support of their own, or any other candidate's, election campaign.
 - v. Nothing in this policy removes the requirement of Councillors and staff to comply with relevant policy and guidelines relating to the security, use and distribution of information and material.

8. Continuity of Council Business and Operations

Nothing in this policy prevents the Mayor, Councillors, General Manager and staff from carrying on the business of the Council during a Caretaker Period:

- a. Council meetings shall continue to be held and will consider agenda items that relate to the ordinary business of Council other than those matters otherwise identified in this policy.
- b. The General Manager may still exercise all delegations and functions provided by Council or legislation, including the appointment of staff.

- c. Council employees shall maintain the normal business activities of Council. Employees shall undertake their duties in an appropriate way and take all steps to avoid any real or perceived support for a candidate in order to protect the organisation's ability to impartially serve any incoming Council following an election.
- d. Capital works as approved by Council as part of the annual budget process and subsequently approved by the awarding of a tender, can proceed during the Caretaker Period, regardless of scale.
- e. The Mayor and Councillors may continue to accept invitations to attend community functions and may continue to correspond with constituents on matters related to Council business.
- f. All elected representatives are to comply with requirements to declare gifts and donations.
- g. Council supplied equipment and Council branded material shall not be used by Councillors or staff in any manner that supports a candidate's election campaign.

9. Legislation & Related Standards

- *Local Government Act 1993*
- *Tasmanian Electoral Act 2004*
- *Land Use Planning and Approvals Act 1993*

10. Responsibility

Responsibility for the operation of this policy rests with the General Manager.