



## Council Policy 1.27 Caretaker Policy

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### OBJECTIVES

The objectives of this Caretaker Policy are to:

- ensure Council of the Shire of Donnybrook-Balingup avoids making major decisions prior to an election that would bind an incoming Council;
- prevent the use of public resources in ways that could be seen as advantageous or disadvantageous to members seeking re-election or new candidates; and
- recognise the requirement for the Shire administration to act impartially in relation to all candidates.

This Policy applies during a 'Caretaker Period' (see below for a definition) to cover:

- a. decisions that are made by the Council;
- b. materials published by the Shire;
- c. attendance and participation in functions and events;
- d. use of the Shire's resources;
- e. access to information held by the Shire.

### POLICY STATEMENT

#### 1.1 Application

This Caretaker Policy applies to Elected Members and employees of the Shire of Donnybrook-Balingup. While electoral candidates that are not sitting Elected Members cannot be compelled to comply with a policy of the Council, such candidates will be made aware of the Caretaker Policy and encouraged to cooperate with its implementation.

#### 1.2 Definitions

**'Caretaker Period'** means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from

the close of nominations (37 days prior to the Election Day – Section 4.49 (a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

**‘Election Day’** means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election but excludes an extraordinary election other than an extraordinary election to elect a new Shire President.

**‘Electoral Material’** means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- a. An advertisement in a newspaper announcing the holding of a meeting (Section 4.87 (3) of the *Local Government Act 1995*).
- b. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*.
- c. Any materials produced by the Shire 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.

**‘Extraordinary Circumstances’** means a situation that requires a major policy decision of the Council because:

- a. in the CEO’s opinion, the urgency of the issue is such that it cannot wait until after the election;
- b. of the possibility of legal and/or financial repercussions if a decision is deferred; or
- c. in the CEO’s opinion, it is in the best interests of the Council and/or the Shire for the decision to be made as soon as possible.

**‘Major Policy Decision’** means any:

- a. Decisions relating to the employment, termination or remuneration of the CEO or any other designated senior officer, other than a decision to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of their contract), pending the election.
- b. Decisions relating to the Shire entering into a sponsorship arrangement with a total Shire contribution that would constitute substantial expenditure unless that sponsorship arrangement has previously been granted “in principle” support by the Council and sufficient funds have been included in the Council’s annual budget to support the project.
- c. Decisions relating to the Shire entering into the disposition of property or a commercial enterprise as defined by Sections 3.58 and 3.59 of the *Local Government Act 1995*.

- d. Decisions that would commit the Shire to substantial expenditure or actions that, in the CEO's opinion, are significant, such as that which might be brought about through a Notice of Motion by an Elected Member.
- e. Decisions that, in the CEO's opinion, will have a significant impact on the Shire of Donnybrook-Balingup or the community.
- f. Reports requested or initiated by an Elected Member, candidate or member of the public that, in the CEO's opinion could, be perceived within the general community as an electoral issue and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

**'Public Consultation'** means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy but does not include consultation required to be undertaken in order to comply with a written law.

**'Substantial Expenditure'** means expenditure that exceeds 0.1% of the Shire's annual budgeted revenue (inclusive of GST) in the relevant financial year.

### 1.3 Scheduling Consideration of Major Policy Decisions

So far as is reasonably practicable, the CEO should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:

- a. considered by the Council prior to the Caretaker Period; or
- b. scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the CEO may submit a major policy decision to the Council (refer to Part 3).

### 1.4 Decisions Made Prior to a Caretaker Period

This Policy only applies to decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker Period. Whilst announcements of earlier decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins or after it has concluded.

## 2. IMPLEMENTATION OF CARETAKER PRACTICES

### 2.1 Role of the CEO in Implementing Caretaker Practices

The role of the CEO in implementing the caretaker practices outlined in this policy is as follows:

- a. The CEO will ensure as far as possible, that all Elected Members and staff are aware of the Caretaker Policy and practices at least 30 days prior to the start of the Caretaker Period.
- b. The CEO will ensure, as far as possible, that any major policy or significant decisions required to be made by the Council are scheduled for Council resolution prior to the Caretaker Period or deferred where possible for determination by the incoming Council.
- c. The CEO will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Caretaker Period, are publicised prior to the Caretaker Period.
- d. The CEO will provide guidelines for all relevant staff on the role and responsibilities of staff in the implementation of this policy.

### **3. EXTRAORDINARY CIRCUMSTANCES REQUIRING EXEMPTION**

#### **3.1 Extraordinary Circumstances**

Despite clause 1.3, the CEO may, where extraordinary circumstances exist, permit a matter defined as a 'major policy decision' to be submitted to the Council for determination during the Caretaker Period.

#### **3.2 Appointment or Removal of the CEO**

Whilst clause 1.3 above establishes that a CEO may not be appointed or dismissed during a Caretaker Period, the Council may, where the substantive officer is on leave, appoint an Acting CEO, or in the case of an emergency, suspend the current CEO (in accordance with the terms of their contract) and appoint a person to act in the position of CEO, pending the election, after which date a permanent decision can be made.

### **4. CARETAKER STATEMENT**

To assist the Council to comply with its commitment to appropriate decision making during the Caretaker Period, a Caretaker Statement will be included in each report submitted to the Council where the Council's decision would, or could, be a Major Policy Decision. The Caretaker Statement will state:

"The decision the Council may make in relation to this item could constitute a 'Major Policy Decision' within the context of the Shire of Donnybrook-Balingup Caretaker Policy, however, an exemption should be made because, (insert the circumstances for making the exemption)".