

TITLE:	Caretaker Policy		
DIVISION:			
ADOPTED BY:	Council		
DATE OF ADOPTION:	17 July 2014	DATE OF REVIEW:	July 2018
MOTION NUMBER:	132/14		
POLICY NUMBER:	CP000037		
AUTHORISED:	Chief Executive Officer		

THIS POLICY APPLIES TO:

All employees contractors and Elected Members of the Barkly Regional Council

PREAMBLE

The aim of all policy is for Councillors to provide strategic input into the effective operational framework of the organisation under S.11 of the Local Government Act

SUMMARY

This Policy applies during a ‘Caretaker Period’ prior to Council general elections to cover major policy decisions that are made by the Council, the use of Council resources, including materials published by the Council, as well as attendance and participation in Council functions and events and, access to Council information.

OBJECTIVES

The primary objective of this policy is to restrict the Council from making major decisions, prior to an election, which would either bind an incoming Council, or, allow the use of public resources in ways that are seen as advantageous or disadvantageous to the electoral prospects of new candidates or those Elected Members who are seeking re-election.

The Policy recognises the requirement for the Council’s administration to act impartially in relation to all candidates.

BACKGROUND

In Australia the term “caretaker government” is used to describe the status of a government during a period that starts when the notices are issued for an election, and continues for a short period after the election - until the next government is formed. Caretaker conventions require that during the caretaker period:

- No major new policy decisions be taken
- No major contracts should be entered into; and
- No significant appointments or dismissals are made.

Section 96A of the Local Government Act requires the Council to adopt a caretaker policy. The Act requires the policy to be applied during the period between nomination day for a general election as defined in the *Local Government (Electoral) Regulations* and the day when the result of the general election is declared under Regulation 56 of those Regulations.

The caretaker policy must be made in accordance with any guidelines that the Minister may make. At the time of adopting this policy no guidelines had been issued however the Department of Local Government had indicated that the guidelines adopted by the City of Darwin provided an appropriate model.

POLICY STATEMENT

This Policy applies to *major policy decisions* and other specified actions during a *Caretaker Period* prior to a General Election. These are:

- Scheduling the consideration and announcement of major policy decisions;
- Use of the Council's resources including material published by the Council;
- Access to information;
- Media;
- Web site;
- Attendance and participation in Council organised activities and events; and
- Public Consultation during the Caretaker Period.

Major Policy Decisions that are made by the Council.

Except in ***Extraordinary Circumstance*** the Council will not make ***Major Policy Decisions*** during the ***Caretaker Period***. (See below for definitions and exclusions.)

Where *Extraordinary Circumstances* prevail, the CEO may submit a *Major Policy Decision* to the Council for its consideration. 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 is, or could be considered, a *Major Policy Decision*. The CEO's *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 Council's Caretaker Policy, however, an exemption should be made because (insert the circumstances supporting the recommended exemption)

Scheduling Consideration and Announcement 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 considered by the Council prior to the *Caretaker Period*, or scheduled for determination by the incoming Council. Announcements of earlier decisions may be made during a *Caretaker Period* however, as far as practicable; any such announcements should be made before the *Caretaker Period* begins or after it has concluded.

Use of Council Resources including material published by the Council

The Code of Conduct and the Local Government Act provide that the Council's resources are only to be utilised for authorised activities (for example - use of employees for personal tasks or use of equipment, stationery, or hospitality for non-Council business is not permitted). This includes the use of resources for electoral purposes. *It should be noted that the prohibition on the use of Council resources for electoral purposes is not restricted to the Caretaker Period.*

Council staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign and must avoid assisting Elected Members in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice is to be sought from the CEO.

Council resources, including material published by the Council, cannot be used for the advantage of a particular candidate or group of candidates. Council resources must only be used for normal Council business (which excludes the preparation or dissemination of campaign material).

Council resources must not be used for the advantage of a particular candidate, or group of candidates, however, the Council may allow the equal use of Council resources by all candidates preparing for the election.

This Policy does not cover material authorised by the CEO or Returning Officer to facilitate the conduct of the election or encourage voter participation.

Access to Information

All candidates will have equal rights to access public information and any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. The normal Freedom of Information (FOI) procedures will apply.

Media

No media advice or support will be provided in relation to election issues or in regard to publicity that involves specific Elected Members. If satisfied that advice sought by an Elected Member during the *Caretaker Period* does not relate to the election or publicity involving any specific Elected Member(s), the CEO may authorise the provision of a response to such a request.

Web site

During the *Caretaker Period* any new material placed on the Council website, which refers to the election should only relate to the election process by way of information, education or publicity. Information about Council Members should be restricted to names, contact details, titles, membership of committees and other bodies to which they have been appointed by the Council.

Attendance and participation at Council organised activities and events

Events and/or functions organised by the Council and held during the Caretaker Period will be limited to only those that the CEO considers appropriate and should not in any way be associated with any issues that, in the CEO's opinion, could possibly influence the outcome of an election.

Elected Members who are also candidates should not, without the prior approval of the CEO, be permitted to make speeches or addresses at events/functions organised or sponsored by the Council during the *Caretaker Period*. *This restriction does not apply to the President and Deputy President when fulfilling their functions as prescribed by Sections 43 of the Local Government Act,*

All known candidates are to be invited to civic events/functions organised by the Council during the *Caretaker Period*.

Elected Members may continue to attend events and functions hosted by external bodies during the *Caretaker Period*.

Public consultation during the Caretaker Period

The Council will not commission or approve any public consultation where it is likely that such consultation will continue into the *Caretaker Period* other than any public consultation required by the Local Government (or other) Act.

Terminology and References

Caretaker Period means the period of time during which the caretaker practices are in force prior to the declaration a General Election. The caretaker policy will apply from the close of nominations on Nomination Day until the declaration of the Results of the election pursuant to Regulation 56 of the NT Local Government (Electoral) Regulations.

Extraordinary Circumstances means a situation that requires a major policy decision of the Council where:

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

Major Policy Decision means a decision to:

- Enter into any contract or lease involving expenditure inclusive of GST that exceeds one per cent (1%) of the annual budgeted revenue in the relevant financial year;
- Appoint or terminate the appointment of a Chief Executive Officer;
- Make a decision relating to the Chief Executive Officer's remuneration;
- Spend unbudgeted monies;
- Conduct unplanned public consultation;

- Endorse a new policy;
- Dispose of Council land;
- Approve community grants; or,
- Progress any matter which is contentious or has been identified as an election issue.

Major Policy Decisions do not include:

- Decisions that relate to the carrying out of works in response to an emergency or disaster;
- An expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or Territory Government or otherwise for the Council to be eligible for funding from the Commonwealth or Territory Government;
- The suspension of the CEO for serious and wilful misconduct; and,
- The appointment of an acting CEO

Nomination Day means *Nomination Day* as defined in the NT Local Government (Electoral) Regulations.

LEGISLATION, TERMINOLOGY AND REFERENCES

Section 96A of the Local Government Act requires the Council to adopt a caretaker policy.

IMPLEMENTATION AND DELEGATION

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; and,
- Any major policy or significant decisions required to be made by the Council are either scheduled for Council consideration prior to the Caretaker Period or deferred, where possible, for determination by the incoming Council.

EVALUATION AND REVIEW

This Policy is to be reviewed every four (4) years, and may be reviewed at other times at the discretion of Chief Executive Officer.

The effectiveness of the Policy will be evaluated by assessing:

- Whether major policy decisions were scheduled for Council consideration during the caretaker period; and
- Whether any breaches of the policy occurred as a result of staff or Elected Members being unaware of the Policy.