

Title:	Caretaker Period
Policy No:	036
Adopted By:	Council
Next Review Date:	30/08/2019
Responsibility:	Chief Executive Officer
Document Number:	2119223

Version	Decision Number	Adoption Date	History
1	20\4352	30/08/2011	Adopted
2	21\5211	28/02/2017	Adopted Background updated to include reference to S96 Local Government Act

1 Policy Summary

This Policy applies during a 'Caretaker Period' prior to Council general elections or a By-election for the Lord Mayor to cover major policy decisions that are made by the Council, the use of City of Darwin resources, including materials published by City of Darwin, as well as attendance and participation in Council functions and events and, access to Council information.

2 Policy Objectives

The primary objective of this policy is to restrict the Council from making major decisions, prior to an election, which would:

- 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 sitting Elected Members who are seeking re-election or new candidates.

The Policy recognises the requirement for the City of Darwin administration to act impartially in relation to all candidates.

3 Background

In accordance with Section 96A Local Government Act:

Caretaker policy during general election

- (1) A Council must formally adopt by resolution a caretaker policy governing the conduct of the council and its staff during the period that:
 - (a) Commences on the nomination day for a general election as defined in the Local Government (Electoral) Regulations; and

- (b) Ends when the result of the general election is declared under regulation 56 of those Regulations.
- (2) The caretaker policy must be made in accordance with any guidelines that the Minister may make.
- (3) If the Minister makes guidelines under subsection (2), the council must formally amend by resolution its caretaker policy so that it complies with the guidelines, as soon as practicable after the guidelines are made.

4 Policy Statement

This Policy applies to Elected Members and Council employees during a **Caretaker Period** prior to a General Election or By-election for the position of Lord Mayor (see Part 5 for a definition) to cover:

- Major policy decisions that are made by the Council;
- Scheduling 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
- 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 Part 5 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 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 City of Darwin Caretaker Policy, however, an exemption should be made because (insert the circumstances for making the 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 City'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, 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. Usual 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 City 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, are considered relevant to, or likely to influence the outcome of, an election.

Excluding the Lord Mayor and Deputy Lord Mayor fulfilling their functions as prescribed by Sections 43 of the Local Government Act, Elected Members that 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**.

All known candidates are to be invited to civic events/functions organised by the City 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**.

This Policy does not prevent any mandatory public consultation required by the Local Government Act or any other relevant Act which is required to be undertaken to enable the City to fulfil its functions.

5. 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 or a By-election for the position of Lord Mayor. The caretaker practices 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 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 Darwin City Council 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.
- The appointment of an acting CEO

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

6. Implementation and delegation

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. 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 scheduled for Council consideration prior to the **Caretaker Period** or deferred where possible for determination by the incoming Council.

7 Evaluation and Review

This Policy will be evaluated once during the term of the Council.