



Name	GOV05 Caretaker Policy
Policy Type	Council
Responsible Officer	Chief Executive Officer
Approval Date	19/07/2017
Review Date	18/03/2020

## 1. Purpose

The purpose of this policy is to ensure that Litchfield Council:

- demonstrates compliance with Section 96A of the Local Government Act governing the conduct of Council and its staff during a general election.
- demonstrates that public resources are not used for election campaigning;
- is aware of what can and cannot be done during the election (caretaker) period; and
- continues to provide high standards of service to the community.

## 2. Scope

This Policy applies to current Elected Members and Council employees during a Caretaker Period prior to a Council General Election or By-Election.

## 3. Definitions

For the purposes of this Policy, the following definitions apply:

Council resources	Any asset or information owned or controlled by a Council is a 'Council resource'. Council resources may include: (a) materials published by Council; (b) facilities and goods owned by the Council; (c) attendance and participation at functions and events; (d) access to Council information; and (e) media services. Council staff and contractors engaged by a Council are also Council resources.
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. 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:

	<ul style="list-style-type: none"> <li>a) in the CEO’s opinion, the urgency of the issue is such that it cannot wait until after the election;</li> <li>b) of the possibility of legal and/or financial repercussions if a decision is deferred; or</li> <li>c) in the CEO’s opinion, it is in the best interests of the Council and/or Litchfield Council for the decision to be made as soon as possible.</li> </ul>
<p>Nomination Day</p>	<p>means Nomination Day as defined in the NT Local Government (Electoral) Regulations.</p>
<p>Major Policy Decisions</p>	<p><b>Major Policy Decisions</b></p> <p>A major policy decision means a decision to:</p> <ul style="list-style-type: none"> <li>) 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.</li> <li>) Appoint or terminate the appointment of a Chief Executive Officer;</li> <li>) Make a decision relating to the Chief Executive Officer’s remuneration;</li> <li>) Spend unbudgeted monies;</li> <li>) Conduct unplanned public consultation;</li> <li>) Endorse a new policy;</li> <li>) Dispose of Council land;</li> <li>) Approve community grants; or</li> <li>) Progress any matter which is contentious or has been identified as an election issue.</li> </ul> <p>Major Policy Decisions <b>do not</b> include:</p> <ul style="list-style-type: none"> <li>) Decisions that relate to the carrying out of works in response to an emergency or disaster;</li> <li>) 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;</li> <li>) The suspension of the CEO for serious and wilful misconduct.</li> <li>) The appointment of an acting CEO</li> </ul>

**4. Policy Statement**

The Caretaker Policy has been developed in order to ensure that the conduct of Council, Elected Members and Council employees during a caretaker period is responsible, transparent and legally compliant with Section 96A of the Local Government Act.

The Caretaker Policy covers the following areas:

- Major policy decisions that are made by Council
- Scheduling considerations and announcements of major policy decisions
- Use of Council's resources including material published by Council
- Access to information
- Media
- Website
- Attendance and participation in Council organised activities and events
- Public consultation

**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. 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 Litchfield 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 for Elected Members and the Local Government Act provide that Council's resources are only to be utilised for authorised activities. 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 employees 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 Council, cannot be used for the advantage of a 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 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 regarding 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.

### **Website**

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 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, are considered relevant to, or likely to influence the outcome of, an election.

Excluding the Mayor and Deputy 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 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**

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 Litchfield Council to fulfil its functions.

### **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.

## **5. Associated Documents**

Code of Conduct for Elected Members

Code of Conduct for Employees

## **6. References and Legislation**

Northern Territory Local Government Act

Northern Territory Local Government (Electoral) Regulations

**7.** Review History

Date Reviewed	Description of changes (Inc Decision No. if applicable)
15/10/2015	Policy established
	Policy updated as per checklist from Local Government and Community Development