



Tiwi Islands Regional Council

Title: Caretaker Period Policy
Policy No: 34
Adopted By: Council
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Responsibility: Chief Executive Officer
InfoXpert Document Number 198909

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PURPOSE

Section 96A of the *Local Government Act* (the Act) requires Council to formally adopt a Caretaker Policy. The Caretaker policy has been developed to ensure that the ordinary business of Local Government in the Tiwi Islands region continues throughout the Local Government General Election period in a responsible and transparent manner.

This policy recognises that the Minister has presently made no guidelines under section 96A(2) and confirms its obligation under section 96A(3) to formally amend by resolution this policy so that it complies with any guidelines as soon as practicable after they are made.

To avoid doubt, this policy has no application to a by-election under section 86 of the Act.

This policy restricts the Council from making major decisions, prior to election, which would:

- Bind an incoming Council; or
- Allow the use of public resources or comment in ways that are seen as advantageous or disadvantageous to existing elected members or new candidates.

SCOPE

This policy applies during a Caretaker period to all elected members and employees and captures all major policy decisions of Council, a committee of the Council or a delegate of the Council.

POLICY STATEMENT

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During an election period Council goes into caretaker mode to avoid actions and decisions that could be seen to influence voters or have a significant impact on the incoming Council. The caretaker mode commences from the close of nominations on Nomination Day (as defined in the *Local Government (Electoral) Regulations* which is the 23rd day before polling and ends when the result of the general elections are declared pursuant to Regulation 56 of the *Local Government (Electoral) Regulations*

PRINCIPLES

Decision Making

Except in extraordinary circumstances 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.

If Council considers that there are extraordinary circumstances where the Tiwi Islands Regional Council would be significantly disadvantaged by the Council not making a particular Major Policy Decision, the Council will, by resolution, seek an exemption from this policy and deal with the matter.

To assist the Council to comply with its commitment to appropriate decision making during 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 shall state"

The decision the Council may make in relation to this item could constitute a 'Major Policy Decision' within the context of the Tiwi Island Regional Council Caretaker Policy, however, an exemption should be made because ...(insert the circumstances for supporting the recommendation exemption)...

Scheduling Consideration and Announcement of Major Policy Decisions



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As far as reasonably practicable, the CEO should avoid scheduling Major Policy Decisions for consideration during the 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

Councils resources are only to be used for authorised day to day activities. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer or the Governance and Compliance Manager.

Council resources, including offices, support staff, hospitality services, equipment and stationery shall not be used in connection with any electioneering activity.

Reimbursements of Elected Members out-of-pocket and travel expenses during the pre-election caretaker period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

Photos or images taken or provided by Council are not to be used by Elected Members for the purpose of electioneering or in support of their election campaign. This applies equally to images on Councils website that may be able to be copied.

The Chief Executive Officer or any staff should not be asked to undertake any tasks connected directly or indirectly with electioneering.

No election material or active campaigning is to be conducted at Council sponsored events or display.

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

Access to Information



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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. However, the existing Elected Members shall continue to receive information that is necessary to fulfil their elected roles. Neither Elected Members nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns and there shall be complete transparency in the provision of all information and advice during the pre-election caretaker period.

Information and briefing material prepared by staff for Elected Members during the pre-election caretaker period will relate only to items on Council meeting agendas, or to existing Council services and programs.

Assistance to candidates

All candidates for the Council election will be treated equally.

Any assistance and advice provided to candidates as part of the conduct of the Council Election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to candidates in advance.

All election process enquiries from candidates, whether current Council Members or not, will be directed to the Governance and Compliance Manager or to the Chief Executive Officer.

Communication

Council communication will not be used in any way that might influence the outcome of a Council election.

No publicity will be provided that involves specific Councillors.

Publicity of Council events (if any during the election Caretaker Period) will be restricted to the communication of factual material and will not mention or quote any Elected Member.

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 response to such request.

Council Publications

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The Council will not print, publish or distribute any publications containing electoral matter during an election period.

A publication will be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to or comment on:

- The election, or
- A candidate in the election, or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Any reference to Elected Members as candidate in Council publication printed, published or distributed during an election period must not include promotional text.

Website

During the election period Councils website will not contain material which is precluded by this Policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process and any references to Councillor Candidates will not include promotional text.

Information about Councillors will be restricted to the names of the elected representatives and contact details, membership of Special Committees and other bodies to which they have been appointed by the Council.

Social Media

During Caretaker period any new publication on social media site such as Facebook that is under the care of Council will require certification by CEO before uploading and any matter that exists on social media pages that could be viewed as electoral matter shall be removed.

The public's ability to post comments on Council social media pages shall be disabled for the duration of the Caretaker period.

Public consultation

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 Tiwi Islands Regional Council to fulfil its functions.

Attendance and participation at Council organised activities and events



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Events and/or functions organised by the Council and held during the Caretaker period shall 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.

Councillors should refrain from delivering speeches or keynote addresses at Council organised or sponsored events and functions during the caretaker period other than protocol speeches such as short welcome and thank you speeches. Any speech or addresses should have prior approval of the CEO or Governance and Compliance Manager.

Elected Members may continue to attend events and functions which are staged by external organisations during the caretaker period.

IMPLEMENTATION AND DELEGATION

The CEO will be responsible for implementing the caretaker practices as outlined in this policy.

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 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.

DEFINITIONS

Caretaker period

Means the period of time during which the caretaker practices are in force prior to the declaration in a General 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 Regulations 56 of the NT Local Government (Electoral) Regulations.

Election period

Means any matter which is intended or likely to affect voting in an election but does not include:

- Any electoral material produced by or on behalf of the returning officer for the purpose of conducting an election or
- An advertisement in a newspaper announcing the holding of a meeting.

Extra ordinary circumstances

Means as situation that requires a major policy decision of the Council because:



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- In the CEO's opinion, the urgency of the issue is such that it cannot wait until after the election,
- Of the possibility 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 for the decision to be made as soon as possible.

General election

Means a general election or periodic election held under *Section 84 or 85 of the Local Government Act*.

Major Policy Decisions

Means a decision to:

- Enter into any contract or lease involving expenditure inclusive of GST that exceeds one percent (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 asset,
- 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 Federal or Northern 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.

Public Consultation

Means a process which involves an invitation or invitations to individuals, groups, organisations or the community generally to comment on an issue or proposed policy and includes discussion of that matter with the public.

Significant Decisions



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Means decisions other than major policy decisions that are of a significant nature and would unreasonably bind the incoming Council. It includes:

- decisions that commit the Council to substantial expenditure or major actions that cannot be changed.
- decisions that will have a major impact on the Tiwi Islands Regional Council or the community and cannot be changed.

REFERENCES AND RELATED POLICIES

TIRC Code of Conduct Policy No.31

TIRC Privacy Policy No.10

NT Local Government Act, 2016

NT Local Government Electoral Act, 2016

NT Local Government (Electoral) Regulations, 2016

NT Information Act 2016

Declaration:

I have read and agree to the Caretaker Period Policy.

.....
Name

.....
Signature

Date:...../...../.....