



# ELECTORAL CARETAKER PERIOD POLICY

## PURPOSE

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This Policy establishes protocols for the purpose of preventing actual and perceived advantage or disadvantage to a Candidate in a local government election through the use of public resources or decisions made by the Council or administration on behalf of the City during the period immediately prior to an election.

## SCOPE

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This policy applies to Elected Members and Employees and specifically applies during a Caretaker Period to:

- a. Decisions made by the Council;
- b. Decisions made under delegated authority;
- c. Decisions made administratively;
- d. Promotional materials published by the City;
- e. Discretionary community consultation;
- f. Events and functions, held by the City or other organisations;
- g. Use of the City of Kalgoorlie-Boulder's resources;
- h. Access to information held by the City.

This policy applies to Elected Members, Candidates and Employees.

## DEFINITIONS

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The definitions in this policy reflect those in the Act as they are defined in that Act.

**Act** means the *Local Government Act 1995*.

**Candidate** means a person who has nominated for election to become a Council Member.

**Caretaker Period** means the period of time prior to an Election Day, specifically being the period from the close of nominations (44 days prior to the Election Day in accordance with s.4.49(a) of the Act) until 6.00pm on Election Day.

**Caretaker Protocol** means the caretaker practices or procedures required by the Act (and related regulatory requirements) and prescribed in this policy (with the former to apply to the extent of any inconsistency).

**CEO** means the Chief Executive Officer of the City.



**Circumstances** means a circumstance that requires the Council to make or announce a Major Policy Decision or Significant Expenditure during the Caretaker Period because, in the CEO's opinion, delaying the decision or announcement to occur after the Caretaker Period has reasonable potential to:

- a. Incur or increase legal, financial and/or reputational risk; or
- b. Cause detriment to the strategic objectives of the City,

or is otherwise so urgent that it cannot wait until after the election.

**City** means the City of Kalgoorlie-Boulder.

**City Resources** means resources including but is not limited to employee time or expertise, City provided equipment, stationery, hospitality, images, communications, services, reimbursements and allowances provided by the City.

**Elected Members** means a member of the elected governing body of the City, including the Mayor.

**Election Day** means the day fixed under the Act for the holding of any poll needed for an election.

**Electoral Material** means any advertisement, handbill, pamphlet, notice, letter, article or social media post that is intended or calculated to aid a candidate in an election but does not include:

- a. An advertisement in a newspaper announcing the holding of a meeting (s.4.87 (3) of the Act ); or
- b. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
- c. Any materials produced by the City relating to the statutory 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.

**Employee** means an employee of the City.**Events and Functions** means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the City and its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities and social occasions such as dinners and receptions. **Extraordinary**

**Major Policy Decision** means any decision, excluding one which constitutes a Significant Act:

- a. Relating to the employment, remuneration or termination of the CEO or any other designated senior employee (s.5.37 of the Act), other than a decision to appoint an acting CEO, or suspend the current CEO (in accordance with the terms of their contract of employment and the model CEO standards), pending the Election Day result;



- b. Relating to the City entering into a sponsorship arrangement, unless the Council resolved “in principle” support for the sponsorship prior to the Caretaker Period taking effect and sufficient funds have been allocated in the annual budget;
- c. Relating to the City entering into a commercial enterprise as defined by s3.59 of the Act ;
- d. That would commit the City to Significant Expenditure or actions that, in the CEO’s opinion, are significant to the City’s operations, strategic objectives and/or will have significant impact on the community;
- e. To prepare a report, initiated by the administration, a Council Member, Candidate or member of the public that, in the CEO’s opinion, may be perceived as or is actually an election campaign issue;
- f. Initiated through a notice of motion by a Council Member, where the effect of that motion will change the status quo or, in the CEO’s opinion, may be relevant to the circumstances described in subclauses (a) to (e) above;
- g. That adopts a new policy, service or service level or significantly amends an existing policy, service or service level, unless the decision is necessary to comply with legislation;or
- h. That initiates or adopts a new Local Planning Scheme, amendment to a Local Planning Scheme or Planning Policy.

Major Policy Decision does NOT include any decision necessary in response to an Emergency, either declared by the State or Federal Government or by the Mayor in accordance with s.6.8(1)(c) of the Act.

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

**Returning Officer** means the person appointed to that role by the electoral commission or other relevant authority.

**Significant Act** has the meaning given under section 3.73 of the Act and Part 1B of the Local Government (Functions and General) Regulations 1997.

**Significant Expenditure** means expenditure that exceeds 1% of the City’s annual budgeted revenue (inclusive of GST) in that relevant financial year.

## POLICY DETAILS

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### 1. CARETAKER PERIOD PROTOCOLS - DECISION MAKING

The CEO will ensure that:



- a. Elected Members and Employees are advised in writing of the impending Caretaker Period and policy requirements at least 30 days prior to the commencement of a Caretaker Period.
- b. Candidates are provided with a copy of this policy and any Caretaker Protocol at the time of their nomination for election, to ensure their awareness of the protocols and equitable access requirements.

### **1.1 Scheduling Major Policy Decisions**

- a. During a Caretaker Period, unless Extraordinary Circumstances apply, the CEO will reasonably ensure that:
  - i. Council or Committee agendas, do not include reports and/or recommendations that constitute Major Policy Decisions; and
  - ii. Council forums, workshops or briefings, do not list for discussions matters that relate to Major Policy Decisions.
- b. The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Major Policy Decisions are either:
  - i. Considered by the Council prior to the Caretaker Period; or
  - ii. Scheduled for determination by the incoming Council.
- c. The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, delegated authority from the Council to the CEO or a Committee is not exercised where the exercise of that delegated authority relates to a Major Policy Decision or an election campaign issue.

### **1.2 Council Reports Electoral Caretaker Period Policy Statement**

During the Caretaker Period, the CEO will ensure that a Caretaker Statement is included in every agenda submitted to Council or a Committee.

The Caretaker Statement will state: "The decisions recommended in all reports on this agenda do not fall within the definition of a Major Policy Decisions unless a report specifies therein that it is submitted under Extraordinary Circumstances in accordance with clause 1.2.1 of this policy."

#### **1.2.1 Extraordinary Circumstances**

##### **1. Council Reports**

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may submit a report on a Major Policy Decision for Council's consideration, subject to the report including:

- a. Details, if applicable, of:
  - i. Options for what aspects of the decision are necessary to be made within the Caretaker Period and what aspects may be deferred until after the Caretaker Period.
  - ii. How potential electoral impacts will be managed or mitigated.



- b. An Electoral Caretaker Period Policy Statement, which details why Extraordinary Circumstances apply.
- c. An Officer Recommendation, for Council's to accept Exceptional Circumstances apply and receive the report for consideration. This recommendation is to be considered and resolved by Council, prior to debate of the substantive recommendation relating to the Major Policy Decision.

***Electoral Caretaker Period Policy Statement***

*The Officer Recommendation has been determined as a Major Policy Decision within the context of the City of Kalgoorlie-Boulder's Electoral Caretaker Period Policy for the following reasons:*

- (a) The urgency of the issue*
- (b) The possibility of legal and/or financial repercussions if it is deferred*
- (c) The best interests of the City.*

*In accordance with the City of Kalgoorlie-Boulder's Electoral Caretaker Period Policy, the CEO seeks a Council Resolution to enable Council's consideration of the matter due to the following Exceptional Circumstances:*

- (a) The urgency of the issue*
- (b) The possibility of legal and/or financial repercussions if it is deferred*
- (c) The best interests of the City.*

***Officer Recommendation***

*That Council, in accordance with the Electoral Caretaker Period Policy, determines in regard to the Report titled "insert report title" to:*

- 1. Accept that Exceptional Circumstances exist: and therefore*
- 2. Receives the Report for Council's consideration.*

**2. Council Forums, Workshops or Briefings**

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply; the CEO may include matters relating to a Major Policy Decision for Council Member discussion at Council forums, workshops or briefings.

The CEO is required to provide Council with advice as to why Exceptional Circumstance applies and how potential electoral impacts will be managed or mitigated. Details of this advice is to be retained, with the forum, workshop or briefing notes, as a local government record.

**1.3 Significant Acts**

- a. Significant Acts are dealt with by section 3.73 of the Act and Part 1B of the *Local Government (Functions and General) Regulations 1997*.
- b. In accordance with Section 3.73(2) of the Act, a local government must not do a Significant Act during a Caretaker Period, subject only to the prescribed



exceptionse and this is not subject to Exceptional Circumstances or other exceptions in this Policy.

#### **1.4 Managing CEO Employment**

- c. This policy prohibits Major Policy Decisions relating to the employment, remuneration or termination of the CEO during a Caretaker Period.
- d. The Council is however required to fulfil its obligations as the CEO's employer regardless of a Caretaker Period. Therefore, during a Caretaker Period:
  - i. The Council may consider and determine:
    - A. CEO's leave applications;
    - B. Appoint an acting CEO, where necessary;
    - C. Suspend the current CEO, where appropriate and in accordance with the terms of their contract and the model CEO standards; and
  - ii. The Council may not initiate a new CEO recruitment process or initiate or undertake a CEO performance review process, during a Caretaker Period.

#### **1.5 Delegated Authority Decision Making in Extraordinary Circumstances**

- a. During a Caretaker Period, Employees who have delegated authority shall not exercise that delegated authority where the matter relates to a Major Policy Decision or an election campaign issue.
- b. All such decisions under delegated authority must be referred to the CEO for review.

## **2. CARETAKER PERIOD PROTOCOLS - CANDIDATES**

Part 2 of this Policy, inclusive of its sub-clauses, applies to a Caretaker Period relevant to Election Days and Extraordinary Election Days (within the meaning given by the Act).

Candidates, including Elected Members who have nominated for re-election, shall be provided with equitable access to the City's public information.

The CEO shall ensure that assistance and advice provided to Candidates as part of the conduct of the election is provided equally to all Candidates.

Elected Members nominating for re-election, may access information and assistance regarding the City's operations and Council matters during a Caretaker Period, but only to the extent necessary to perform their role as a Council Member and limited to matters currently relevant to the City.

All election process enquiries from Candidates, including Elected Members who have nominated for re-election, will be directed to the Returning Officer, or where the matter is outside the responsibility of the Returning Officer, to the CEO.

#### **2.1 Candidate Requests on behalf of electors, residents or ratepayers**

- a. Candidates, including Elected Members who have nominated for re-election, may advise the City where they have received elector, resident or ratepayer requests for advice, information or responses to matters relevant to the City.





- b. Responses will not be provided to the Candidate on the basis that the provision of responses to enquiries from electors, residents or ratepayers regarding the operations of the City is an administrative function.
- c. Candidate's requests made on behalf of an elector, resident or ratepayer will be responded to by the City's administration directly to the requesting elector, resident or ratepayer.

## **2.2 Candidate Campaign Electoral Materials**

Candidates, including Elected Members who have nominated for re-election, are prohibited from using the City's official crest or logo in any campaign electoral materials.

## **2.3 Candidate attendance at Meetings**

- a. To ensure equitable access to information about Council's decision making during a Caretaker Period, the CEO shall ensure that Candidates who are not sitting Elected Members, are:
  - i. advised of ordinary and special council meetings (if open to the public) called and convened during a Caretaker Period;
  - ii. provided with a copy of the meeting agenda at the time it is distributed to Elected Members.
- b. For the purposes of transparency and the benefit of the public gallery, Candidates are requested to identify themselves as an election candidate prior to asking a question or making a statement at a Council or Committee meeting.

## **3. COUNCIL MEMBER CARETAKER PERIOD PROTOCOLS**

Part 3 of this Policy, inclusive of its sub-clauses, applies to a Caretaker Period relevant to Election Days and Extraordinary Election Days (within the meaning given by the Act).

### **3.1 Access to Information and Advice**

- a. All Elected Members will scrupulously avoid using or accessing City information, resources or employee resources and expertise for the purpose of gaining electoral advantage or disadvantage relevant to their own candidacy or any other person's candidacy.
- b. All Council Member requests for information and advice from the City will be reviewed by the CEO and where the subject of the information or advice is considered as being related to an election campaign issue, the CEO will have absolute discretion to determine if the information or advice is / is not provided, including where information is provided to one candidate, if that information is also to be provided to all candidates (i.e. including candidates who are not current Elected Members).

### **3.2 Media and Publicity**

- a. All Council Member requests for media advice or assistance during a Caretaker Period, including Elected Members who have nominated for re-election, will be referred to the CEO for review.



- b. The CEO will only authorise Council Member access to media advice or assistance where, in the CEO's opinion, the subject matter is relevant to the City's objectives or operations and is not related to an election campaign purpose or issue or to the Council Member's candidacy or the candidacy of another person.

### **3.3 Council Member Business Cards, City of Kalgoorlie-Boulder Printed Materials and email account**

- a. Elected Members must ensure that City business cards and printed materials are only used for purposes associated with their role of a Councillor, in accordance with section 3.10 of the Act. .
- b. Elected Members are prohibited from using City business cards or printed materials at any time, including times outside a Caretaker Period, for any election campaign purpose, either in support of their own candidacy or the candidacy of another person.
- c. Elected Members are prohibited from using their City email accounts for election purposes.

### **3.4 Council Member Participation in Events and Functions**

During a Caretaker Period, Elected Members may continue to fulfil their role through attendance at events and functions hosted by external bodies.

### **3.5 Council Member Delegates to External Organisations**

At any time, including times outside of a Caretaker Period, Elected Members who are the Council's appointed delegate to an external organisation must not use their attendance at an external organisation's meeting, event or function for any purpose associated with an election campaign purpose, including; recruiting campaign assistance or to promote their own candidacy or the candidacy of another person.

### **3.6 Council Member Addresses / Speeches**

Excluding the Mayor and Deputy Mayor, when fulfilling their functions prescribed in sections 2.8 and 2.9 of the Act, Elected Members who have nominated for re-election, shall not be permitted to make speeches or addresses during a Caretaker Period at events or functions organised or sponsored by the City of Kalgoorlie-Boulder, unless expressly authorised by the CEO.

In any case, the Mayor, Deputy Mayor and Elected Members are prohibited from using an official speech or address during a Caretaker Period to promote an election campaign purpose.

### **3.7 Council Member Misuse of Local Government Resources**

- a. A Council Member who uses City Resources for the purpose of persuading electors to vote in a particular way is a "misuse of Local Government resources" breach of the Code of Conduct for Councillors, Committee Members and Candidates .
- b. This prohibition on misuse of City Resources for electoral purposes applies at all times and is not only applicable to a Caretaker Period.





## **CITY OF KALGOORLIE-BOULDER PUBLICITY, PROMOTIONAL AND CIVIC ACTIVITIES**

Part 4 of this Policy, inclusive of its sub-clauses, applies to a Caretaker Period relevant to Election Days and Extraordinary Election Days (within the meaning given by the Act).

Publicity campaigns and promotional activities during a Caretaker Period may be undertaken only for the purposes of:

- a. Promoting City services and activities, where such promotion do not relate to an electoral campaign issue and would otherwise be undertaken as part of normal operations; and,
- b. Conducting the Election and promoting Elector participation in the Election.

All other, publicity and promotional activities of City initiatives will be, where reasonably practicable, avoided during the Caretaker Period, including the announcement of Major Policy Decisions made prior to the commencement of a Caretaker Period or proposed to be made after a Caretaker Period.

The CEO may determine if Exceptional Circumstances apply and if a Major Policy Decision announcement is necessary during a Caretaker Period.

### **4.1 Civic Events and Functions**

- a. The City will avoid the scheduling of Civic Events and Functions during a Caretaker Period, so as to avoid any actual or perceived electoral advantage that may be provided to Elected Members who have nominated for re-election.
- b. Where the City is required to schedule a Civic Event or Function during a Caretaker Period, all Candidates will be invited to attend and will be provided with the similar prominence and protocol courtesies as provided to Elected Members. For example, Candidates will be introduced at the function immediately following the introduction of Elected Members.

### **4.2 City of Kalgoorlie-Boulder Publications and Communications**

- d. All City publications and communications distributed during a Caretaker Period must not include content that:
  - i. May actually, or be perceived to, persuade voting in an election; or
  - ii. is specific to a candidate or candidates, to the exclusion of other candidates; or
  - iii. Draws focus to or promote a matter which is a Major Policy Decision or which is an electoral campaign issue.
- e. All City publications and communications proposed to occur immediately prior to, throughout or during, a Caretaker Period must be reviewed and approved by the CEO prior to publication or distribution.

### **4.3 City website and social media content**

- a. During the Caretaker Period, the City of Kalgoorlie-Boulder's website and social media will not contain any material which does not accord with the requirements of this Policy.



- a. Website and social media content regarding Elected Members will be limited to Council Member names, contact details, membership of committees and Council appointments as City delegates on external committees and organisations.
- b. Historical website and social media content, published prior to a Caretaker Period, and which does not comply with this policy will not be removed.
- c. New website or social media content which relates to Major Policy Decisions or election campaign issues will not be published during a Caretaker Period, unless Exceptional Circumstances apply at the CEO's determination or the matter relates to a decision of Council made prior to the Caretaker Period.
- d. Content posted by the public, Candidates or Elected Members on the City of Kalgoorlie-Boulder's social media channels, which is perceived as candidate election campaign material or promotes a candidate or candidates will be removed.

#### **4.4 Community Consultation**

Unless consultation is mandated under a written law or Exceptional Circumstances apply, community consultation relevant to Major Policy Decisions or potentially contentious election campaign issues, will not be initiated so that the consultation period is conducted immediately prior to, throughout or concluding during, a Caretaker Period.

### **5. ELECTION SIGNAGE**

- a. Electoral signage is not permitted on City road reserves (including City verges outside private property), reserves or infrastructure (including park fencing) other than as permitted under the City's *Thoroughfares and Trading in Public Places Local Law*.
- b. The installation of a sign on private property requires permission from the property owner.
- c. All signs should be removed by Candidates within five (5) business days from the Election Day.

## **COMPLIANCE REQUIREMENTS RELEVANT DOCUMENTS**

<b>DOCUMENT CONTROL</b>				
Responsible Department	Governance and Office of the CEO			
Description of Changes	Update to the definitions and legislation references, and addition new Election Signage requirements.			
Version	Resolution Number	Endorsement Date:	Last Reviewed Date:	Next Review Date:
1	15.1.6	24 July 2023	June 2023	June 2025
2	14.1.5	19 May 2025	March 2025	March 2027