

14.3 Endorse for public exhibition: Draft Local Government Elections (Caretaker Period provisions) Policy

CSP Objective: Outcome 5.2: Governance is transparent and builds trust

CSP Strategy: 5.2.3 Engage with the community in meaningful dialogue and demonstrate how community participation is being used to inform decisions

Delivery Program: 5.2.3.2 Our elected officials are supported through good systems and records.

Item 14.3

Summary

The proposed Local Government Elections (Caretaker Period provisions) Policy has been drafted to provide the framework to assist Council employees, Executive, Councillors, and our community to understand the requirements and limitations that apply during the lead-up to the September 2024 Local Government elections.

The Policy aims to provide accurate and timely notice of the prescribed constraints so that operational and civic duties can be planned and undertaken compliantly during the caretaker period.

Financial implication

The Local Government Elections (Caretaker Period provisions) is an administrative policy and does not impact the budget.

Risk implication

The Local Government Elections (Caretaker Period provisions) Policy addresses constraints that apply during the caretaker period so that operational and civic duties can be undertaken compliantly – particularly with respect to S393B of the regulations, significant contracts, controversial planning decisions or appointment or reappointment of General Manager (Chief Executive Officer).

Policy

Draft Local Government Elections (Caretaker Period provisions) Policy

Consultation (internal)

Management Leadership team

Executive Leadership Team

Communication/Community engagement

It is proposed that the Draft Local Government Elections (Caretaker Period provisions) Policy be placed on public exhibition for a period of 28 days to allow the community to provide feedback.

Attachments

1 DRAFT Local Government Elections and Caretaker Provisions [↓](#)

Enclosures

Nil

Report of the Chief Operating Officer

14.3 Endorse for public exhibition: Draft Local Government Elections (Caretaker Period provisions) Policy (cont)

RECOMMENDATION

That Council:

1. proceed to public exhibition of the Draft Local Government Elections (Caretaker Period provisions) Policy for a period of 28 days.
2. note if submissions are received during the exhibition period a further report will be provided on any proposed amendments to the Draft Local Government Elections (Caretaker Period provisions) Policy.
3. adopt the Local Government Elections (Caretaker Period provisions) Policy if no submissions are received on the day after the completion of the public exhibition period.

Background

Council has not previously had an endorsed policy reflecting arrangements, activities and limitations regarding Local Government elections.

Development of a policy to clearly outline both civic and operational permitted activity and limitations, and the subsequent communication of that policy is relevant to our community, employees and Councillors, to manage expectations, align work activity and reporting schedules and achieve compliance.

The Draft Local Government Elections (Caretaker Period provisions) Policy is attached for Councillors' consideration.



Local Government Elections (Caretaker Period provisions) Policy

Policy Owner/Responsible Officer	Public Officer
Department	People & Performance
Date adopted/endorsed	D Month Year
Resolution number (if applicable)	XX
Next review date	D Month Year
TRIM reference	XX

Contents

Policy Statement/Objectives	1
Scope	2
References	2
Consultations	2
Variation and review	3
POLICY	3
1. Election Preparation	3
2. Key Dates	4
3. Caretaker Period	5
Related Forms/Documents	8
Attachments	8
Authorisation	9

Policy Statement/Objectives

Kiama Municipal Council is committed to observing the specific legislative and governance requirements and other considerations that apply to the decisions councils make and the way they exercise their functions in the four week lead up to the election when the caretaker period applies.

The objectives of the policy are to:

- Ensure Councillors, community and staff are aware of what can and cannot be done during the election caretaker period.
- Ensure Council complies with the election period caretaker provisions of the Local Government Act 1993 (the Act).
- Ensure Council continues to provide high standards of service and governance to the community during an election period
- Avoid making significant new policies or decisions that could unreasonably bind a future Council

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- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election

Scope

This policy applies to Councillors, Chief Executive Officer and Directors for the caretaker period. The caretaker period for the Saturday 14 September 2024 local government election starts midnight Friday 16 August 2023 and ends on Friday 13 September 2023.

References

- Local Government Act 1993
- Model Code of Conduct for Local Councils in NSW
- Local Government Regulations (General) 2005
- Council's Code of Conduct
- Environmental Planning and Assessment Act 1979

Consultations

- Office of Local Government – Pre-election Guide
- NSW Electoral Commission

Definitions

Term	Definition
Caretaker Period	The period of 4 weeks preceding the date of an ordinary election (clause 393B(3) of the Reg)
Chief Executive Officer	1st tier management position and titled as such
Controversial Development Application	A development application for designated development under section 4.10 of the Environmental Planning and Assessment Act 1979 for which at least 25 persons have made submissions during community consultation
Councillor	An elected member of Council
Council officer	A member of Council staff
Electoral material	Means anything, including without limitation a how-to-vote card, poster or advertisement, containing Electoral Matter (whether in a tangible or an electronic form).
Electoral Campaign Material	Any matter that is intended or calculated or likely to affect or is capable of affecting the result of any election held or to be held or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at any election

Regulated period	The regulated period starts when the electoral rolls close 40 days before election day and ends on election day
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Variation and review

Council reserves the right to review, vary or revoke this policy.

Review History

Date reviewed	Date adopted/endorsed	Brief detail of amendments
		This is a new policy.

POLICY

1. Election Preparation

1.1 Coordinating an Election

Following Council’s resolution on August 2023, to engage the NSW Electoral Commission (NSWEC) to run Kiama Municipal Council’s 2024 Local Government Election, relevant Council officers have been and will continue to liaise with representatives of the NSWEC to facilitate the coordination of the election. These officers will include the Chief Executive Officer, Governance Coordinator and Executive Services staff.

The Council Officers listed above have and will assist with organising the following:

- preparation of non-Residential roll.
- scoping of pre-poll voting venues.
- scoping of Returning Officer venue.
- information for prospective candidates relevant to Kiama Municipal Council.
- preparation of Councillor Induction Training Programs after election results are declared.

1.2 Non-Residential rolls

The non-Residential rolls close forty (40) days prior to the Election Day, which is 4 August 2024. Information on non-Residential nomination forms can be found at [Non-residential enrolment for local government election - NSW Electoral Commission](#)

2. Key Dates

Key Dates for 2024 Local Government elections	
22 July 2024	Advertising of enrolments
29 July 2024	Last day to lodge half-yearly political donations disclosure.
5 August 2024	Start of regulated period for each electoral material 8am: Lodgements of nominations open 6pm: Close of roll for the purposes of being a candidate, nominator and roll printing
6 August 2024	Lodgement of postal vote applications open
14 August 2024	Registration of electoral materials open 12pm: Close of nominations and close of registration of candidates and groups
15 August 2024	2pm: Ballet paper draw conducted 2pm: Uncontested elections declared
19 August 2024	Postal packs distribution begins
2 September 2024	Pre-poll voting opens Display of registered electoral material website commences
6 September 2024	5pm: Registration of electoral material closes
9 September 2024	Telephone voting registration and voting opens 5pm: Postal vote applications close Registration of third-party campaigners close
13 September 2024	Pre-poll voting period closes Telephone voting registration closes
14 September 2024	Election day: 8am – 6pm 1pm: Telephone voting closes 6pm: Regulated period for electoral material ends
22 September 2024	Last day to lodge annual electoral expenditure disclosure
27 September 2024	6pm: End of postal vote return
30 September 2024	Progressive distribution of preferences
1 October 2024	Progressive distribution of preferences Progressive declaration of results

2 October 2024	Progressive distribution of preferences Progressive declaration of results
3 October 2024	Progressive declaration of results
7 October 2024	Public holiday

3. Caretaker Period

In the four weeks preceding the date of an ordinary election, Councils enter a caretaker period. The caretaker period for the Saturday 14 September 2024 local government election starts midnight Friday 16 August 2023 and ends on Friday 13 September 2023.

During this period, restrictions are placed on Councils functions.

3.1 Decision Making

Council is committed to complying with Clause 393B of the Regulations which states:

The following functions of a council must not be exercised by the council, or the Chief Executive Officer or any other delegate of the council, during a caretaker period:

- a) *entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger),*
- b) *determine a "controversial development application", except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period*
- c) *appoint or reappoint the council's Chief Executive Officer (except for temporary appointments)*

In certain circumstances, these functions may be exercised with the approval of the Minister

3.2 Council meeting or officers acting under delegated authority

Council meetings may be held during the caretaker period however the following decisions will not be made during the caretaker period by Council or an officer acting under delegation:

- acquisition of land;
- adoption or amendment of the Kiama Local Environmental Plan 2011 (Kiama LEP 2011);
- adoption or amendment of policies, protocols, strategies, master plans or frameworks;
- adoption or amendment of the Community Strategic Plan or Council's Delivery Program;
- adoption of a revised budget;
- allocation of grants or awards to individuals or organisations;
- appointing representatives to Council committees;
- endorsing submissions to government or public bodies;

- entering into a contract or entrepreneurial agreements exceeding the amount specified in the Regulation;
- entering into agreements deeds or leases;
- hearing of submissions or deputations from the community;
- naming or re-naming of roads, reserves or features;
- reviewing of programs or service provision; and
- any other decision that the Chief Executive Officer considers may affect voting at the election or is a decision that can be made outside of the caretaker period.

Decisions made prior to the caretaker period by Council or by an officer under delegation can be implemented during the caretaker period.

3.3 Council Meetings and Councillor Briefings

Ordinary Council Meetings will continue to be held during the caretaker period. As the standard Council Meeting agenda contains item that may lead to discussing election issues, Council will not consider the following during the caretaker period:

- petitions, joint letters and deputations
- public forum
- questions on notice
- notices of motion
- Mayoral Minute
- matters of an urgent nature

Councillor Briefings are a forum for information sharing, not decision-making. Councillor briefings may be held during the caretaker period however; Councillor briefing material will relate only to factual matters or to existing Council services, and will not relate to matters that might be perceived to be connected with a candidate's election campaign.

The Chief Executive Officer will have final approval of topics presented at Councillor Briefings during the caretaker period. Council Meeting Public Forum sessions will not be held during the caretaker period.

3.4 Council Resources

The Councillor Facilities and Expenses Policy still applies during the caretaker period. Council will continue to support Councillors with their normal civic duties and appropriate out-of pocket expenses will be covered.

Council resources (including, but not limited to, offices and equipment, phones and tablets, logos, letterheads, photocopying, corporate clothing etc.) must not be used by Councillors and officials for Electoral Matters and campaigns.

No election campaigning material is to be prepared or produced by Council, nor distributed from or displayed in or on Council land, facilities, libraries or community noticeboards.

Councillors must ensure that operational requests can only be made on behalf of themselves (e.g. issues with roads, footpaths, trees, waste management and general amenity etc.) are made through Council's Request Management system.

Request for Council records can be submitted under the Government Information Public Access (GIPA) Act 2009. If a formal application is made during the election period, the usual requirements of this Act will apply.

Databases and mailing lists held by the organisation remain the property of Council, are subject to the requirements of the Privacy and Personal Information Protection (PPIP) Act 1998, and are therefore not available to members of the public, candidates or as Councillors.

The use of Council's internet and intranet sites, including Council's social media sites for any activity to do with election campaigning is prohibited. There will be no links from the Council's website to a candidate's private website.

Council facilities booked for the election campaign purposes will be let at the same rate to all hirers.

The Mayor Vehicle is under a leaseback arrangement and is available for private use during the caretaker period.

No Mayoral column will be published during the caretaker period.

Throughout the election period, including the time in which the Council is in a caretaker period, Councillors are required to adhere to the Code of Conduct for Councillors.

3.5 Access to Council Information

Councillors will continue to receive information necessary to fulfil their existing roles as a Councillor during the caretaker period (e.g. information related to Council Meetings).

Council staff must not offer comment to the public about any Councillors or candidates, except to provide contact details for current Councillors.

3.6 Community Consultation, Engagement and Events

Council will limit community consultation and engagement during the caretaker period. Regular statutory planning consultations/ engagement involving Council staff, councillors and interested persons may continue. Discussions at these planning meetings must not involve Electoral Matters or significant community consultation on major developments, strategy or policy issues.

Council will not schedule public Council events outside of the existing program during the caretaker period. Councillors can attend and accept invitations for externally organised events (e.g. business breakfasts, annual general meetings, launches, openings and exhibitions) held during the caretaker period. However, they will not be provided with administration assistance and the event must not be used for electioneering.

3.7 Publications and Communications

Council will, where possible, reduce media releases. The Chief Executive Officer is required to approve all media releases, responses and public comments and will determine the appropriate spokesperson in relation to specific issues. The Chief Executive Officer will be Council's spokesperson if the issue relates to Electoral Matters

The Chief Executive Officer will have final sign-off on all publications produced and distributed by the Council during the caretaker period. The Chief Executive Officer must certify that the publication does not contain electoral matter. This should be broadly interpreted to refer to documents that are produced for the purpose of communicating with the community including:

- Council newsletters.
- Advertisements and notices.
- Media releases and response to media enquiries.
- Leaflets, brochures, stickers etc.
- Mail outs to multiple addresses.
- Social media content.

The Policy applies to both hard copy publications and publications on the internet.

Publications that were published prior to the commencement of the caretaker period and publications that are required to be published in accordance with any Act or Regulation do not require certification by the Chief Executive Officer

Council's website will function as normal during the caretaker period, however Councillor profile pages will be limited to names, contact details and membership of committees. Any references to the election on the website will be restricted to process only.

During the election period Council-managed social media sites must not be used for election campaigning. Any publication of comments or new content on Council-managed social media sites will require approval by the Chief Executive Officer during an election period.

The ability for members of the public to post comments on Council's social media sites will continue during the election period and must adhere to the published community guidelines for each site.

Related Forms/Documents

[How does a local government election work? - NSW Electoral Commission](#)

[2024 NSW Local Government elections - NSW Electoral Commission](#)

[Local government elections - Office of Local Government NSW](#)

Attachments

Nil	

Authorisation

Name: **Title of person authorising OR ELT OR Council Resolution No: ******
Date: **Date endorsed by ELT or adopted by Council**

Item 14.3

Attachment 1