# 13 REPORT OF THE CHIEF EXECUTIVE OFFICER

## 13.1 Local Government NSW 2026 annual conference motion - Minister ability to reduce councillor numbers

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| CSP Objective: | Outcome 4.1 Public funds and assets are managed strategically, transparently and efficiently. |
| CSP Strategy: | 4.1.3 Council delivers local government functions and sustainable services that meet community expectations, with regular service reviews per Integrated Planning and Reporting requirements. |
| Delivery Program: | 4.1.3.1 Maintain compliance with all relevant legislation and requirements, including the Office of Local Government risk management and framework, the Audit, Risk and Improvement Committee and internal audit operation. |

**Summary**

It is proposed that Council submit a motion to the 2026 Local Government NSW Annual Conference seeking legislative reform to provide greater flexibility in managing councillor casual vacancies. Specifically, the proposal seeks to enable the Minister for Local Government, upon application by a council, to approve ***a temporary*** reduction in councillor numbers where a vacancy occurs after the first 18 months of a council term and before the final 18 months of that term.

**Financial implication**

Submitting a motion to the LGNSW conference does not require budget.

**Risk implication**

The motion must follow the LGNSW criteria and be submitted by the deadline of 30 September 2026.

**Policy**

LGNSW motion guidelines

*Local Government Act 1993* section 224A and 294A

**Consultation (internal)**

Executive Leadership Team.

**Communication/Community engagement**

Nil.

**Attachments**
Nil

**Enclosures**
Nil

*RECOMMENDATION*

That Council endorse the following motion for submission to the Local Government NSW Conference:

> That Local Government NSW lobby the NSW Government to amend the Sections 224A, 291A and 294 of *Local Government Act 1993* to enable the Minister for Local Government, upon application by a council, to approve a temporary reduction in the number of councillors where a casual vacancy occurs after the first 18 months and before the final 18 months of a council term, where:
>
> (a) the vacancy cannot be filled through a countback process;
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> (b) the council resolves to seek approval for the temporary reduction;
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> (c) the Minister is satisfied that democratic representation will be maintained and that the reduction is in the public interest; and
>
> (d) the approved reduction remains in effect only until the next ordinary local government election.
>
> Further, that LGNSW advocate for greater flexibility in the management of councillor casual vacancies to reduce unnecessary by-election costs and support the financial sustainability of local government across NSW.

**Background**

Kiama Municipal Council has recently accepted the resignation of one of its elected Councillors resulting in a casual vacancy. Part 5 of Chapter 10 of the *Local Government Act 1993* (the Act) outlines the process that, generally speaking, casual vacancies are to be filled via a by-election. The exceptions to needing to hold a by-election are it the:

- casual vacancy occurs within 18 months of the last ordinary election and the council resolved to fill such a vacancy via a countback (section 291A), or
- casual vacancy occurs within 18 months of the next ordinary election (section 294), or
- councillor numbers are reduced, either via resolution or via a constitutional referendum (sections 294A and 294B).

As the recent Kiama councillor resignation did not occur within 18 months of either the last or the next ordinary election a by-election can only be avoided if the councillor numbers are reduced.

Section 294B of the Act outlines that a casual vacancy is not required to be filled if a constitutional referendum has approved a reduction in councillors numbers but the reduction has not yet taken effect.

Section 294A of the Act outlines that a casual vacancy is not required to be filled if the Minister of Local Government has approved an application under section 224A of the Act to reduce the number of councillors but the reduction has not yet taken effect.

Section 224A of the Act appears to enable Council, with the approval of the Minister of Local Government, to reduce Councillor numbers without the need to hold a constitutional referendum. However, Section 224A(7) outlines that an application to the Minister can only occur in the 5-month window after the commencement *of the* *Local Government Amendment (Elections) Act 2011* and before 27 November 2011. Prior to 27 June 2011 councils had a 12 month window between 1 January 2005 and 1 January 2006 to make such an application. Prior to 2005 there were no provisions of the Act which granted the Minister the ability to reduce councillor numbers.

For Kiama Municipal Council, the prospect of a costly councillor by-election following the resignation of a councillor outside the current statutory countback period creates a significant financial burden on an already constrained Council. The experience has highlighted a gap in the Act whereby councils are required to undertake an expensive by-election, regardless of the financial impact on the organisation or community, where a casual vacancy occurs outside the permitted countback timeframe.

For councils facing financial challenges, the requirement to conduct a by-election to fill a single vacancy can impose a significant and unbudgeted cost burden on ratepayers. In Kiama Municipal Council's case, the estimated cost of the August 2026 by-election range from approximately $311,000 to potentially more than $450,000, in addition to the ongoing remuneration and associated costs of the councillor position.

This issue has implications across the local government sector. There may be circumstances where a council and the Minister for Local Government determine that continuing to operate with one fewer councillor for the balance of the term is both financially prudent and does not materially diminish democratic representation, particularly given the ratio of number of Councillors to voting residents, which is high.

It is noted that this motion does not preclude a council’s ability to proceed to by-elections, it merely provides discretion to the Minister and the local government authority to allow a Council to seek a temporary reduction.

However, as described above, the Act does not currently provide this power to the Minister and only provided this power to the Minister for a five (5) month period in 2011 and a 12 period in 2005.

Given the increasing pressures on the local government sector a reform to Section 224A of the Act to enable councils, with the approval of the Minister, to temporarily approve a reduction in councillor numbers is prudent. Alternatively, reforms to either or both Sections 291A and/or 294 of the Act to enable councils to either extend the period councils could rely on a countback process or extend the period that the Minister could order that a vacancy not be filled.

Such reforms would provide councils with a practical alternative to costly by-elections while preserving local representation and allowing each case to be assessed on its merits. It would also provide councils with greater flexibility to manage financial resources responsibly and reduce the risk of substantial unplanned expenditure.

**LGNSW motions**

A motion submitted to the LGNSW Conference must satisfy the following criteria:

1. Be consistent with the objectives of LGNSW Rules (Rule 4).
2. Demonstrate that the issue concerns or is likely to concern a substantial number of local governments in NSW.
3. Seek to establish or change a policy position of LGNSW and/or improve governance of the association (noting that the LGNSW Board is responsible for any decisions around resourcing and campaigns or operational activities, and any necessary resource allocations will be subject to the LGNSW budgetary process).
4. Be strategic.
5. Be concise, clearly worded and unambiguous.
6. Not be focused on just a small specific part of NSW.
7. Not encourage violation of prevailing laws.
8. Not seek to advantage one or several members at the expense of other members.

The deadline for submissions to the 2026 LGNSW Conference is 30 September 2026 or an absolute final deadline of 25 October 2026.

## 13.2 Support of Federation Compact with Local Government

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| CSP Objective: | Outcome 4.2: Our governance is transparent and trusted, supported by the right structures, technology and processes to effectively serve the community. |
| CSP Strategy: | 4.2.2 Communicate transparently to inform, build trust and respect. |
| Delivery Program: | 4.2.2.4 Effectively communicate the projects, plans, actions and outcomes of Council (and relevant government departments) to inform our community in a timely and accessible way. |

### Summary

The purpose of this report is to present Council with the opportunity to formally acknowledge the Federal Government's recent announcement of a proposed Federation Compact with Local Government and to consider writing to the Prime Minister and the Federal Minister for Local Government, the Hon Catherine King MP, welcoming the Government's commitment to strengthening its relationship with local government and working on addressing the financial sustainability challenges facing the sector.

The proposed Compact contains several commitments which, if implemented effectively, have the potential to provide benefits to councils across Australia through increased financial support, workforce development initiatives and greater flexibility in infrastructure funding programs.

While the announcement represents a positive recognition of the financial pressures facing local government, significant detail regarding implementation, funding mechanisms, indexation arrangements and interactions with existing funding programs has not yet been released. It is therefore appropriate for Council to welcome the Government's commitment whilst also noting that the full implications of the Compact will only become clear once further details are available.

### Financial implication

Should the Federation Compact ultimately result in increased Financial Assistance Grants or other forms of Commonwealth funding to local government, there may be positive long-term financial implications for Council. However, the nature, quantum and timing of any future funding increases are currently unknown.

### Risk implication

The commitments announced under the proposed Federation Compact remain subject to further development and implementation. Until detailed funding arrangements, indexation methodologies and associated policy settings are released, the extent of any benefits or obligations arising from the Compact cannot be fully assessed.

### Policy

*Local Government (Financial Assistance) Act 1995 (Cth)*

*Local Government Act 1993 (NSW)*

**Consultation (internal)**

Executive Leadership Team

**Communication/Community engagement**

Local Government NSW, the Australian Local Government Association and the NSW Country Mayors Association have all released statements and continued advocacy on this matter.



**Attachments**

Nil

**Enclosures**

Nil

***RECOMMENDATION***

That Council:

1. Welcomes the Federal Government's recent announcement recognising the very real challenge of financial sustainability impacting the Local Government sector and committing to a meaningful, ongoing, annual increases in the level of Financial Assistance Grants;
2. Welcomes the announcement of the Federation Compact with Local Government that commits to:
   (a) Ongoing annual increases to Financial Assistance Grants to return them to historic levels;
   (b) Ensure Roads to Recovery funding can be used to purchase plant and equipment to enable councils to carry out their own road maintenance with their own trained workers, to the extent possible;
   (c) Support and increase the availability of apprenticeships in local government, as well as other employment programs in a local government context;
   (d) Deliver new capabilities to improve outcomes in housing, planning, emergency management and aged care; and
   (e) Ensure the Government publishes an annual summary of funding for Local Government.
3. Write to the Prime Minister and Local Government Minister Catherine King MP welcoming their commitment to address the crisis in local government financial sustainability and urging them to work with the local government sector to urgently progress the Federation Compact with Local Government.

**Background**

Local government across New South Wales continues to face increasing financial pressures arising from cost shifting, constrained revenue growth, increasing community expectations, ageing infrastructure, workforce challenges and escalating construction and service delivery costs.

These pressures have been widely recognised across the sector and have contributed to growing concerns regarding the long-term financial sustainability of councils. Without meaningful reform and increased investment from other levels of government, councils may face increasing challenges in maintaining infrastructure, delivering services and meeting the needs of their communities.

For regional councils such as Kiama Municipal Council, these challenges are compounded by increasing infrastructure renewal costs, rising contractor and construction expenses, workforce constraints, award increases outpacing rate pegging increases, and the ongoing pressure to maintain and enhance services expected by the community within existing revenue limitations.

Commonwealth Financial Assistance Grants remain a critical source of untied funding for local government. However, many within the sector have highlighted the long-term decline in Financial Assistance Grants as a proportion of Commonwealth taxation revenue and have advocated for increased Federal support to improve local government financial sustainability.

On 25 July 2026, the Australian Labor Party announced its intention to establish a Federation Compact with Local Government. The announcement included commitments to:

- provide ongoing annual increases to Financial Assistance Grants.
- enable Roads to Recovery funding to be used for the purchase of plant and equipment to undertake road maintenance activities where appropriate.
- support and increase apprenticeships and other employment pathways within the local government sector.
- deliver new capabilities to improve outcomes in housing, planning, emergency management and aged care.
- publish an annual summary of funding provided to local government.

The announcement has generally been welcomed by local government representative organisations, including the Australian Local Government Association (ALGA) and Local Government NSW (LGNSW), as an acknowledgement by the Commonwealth of the significant role councils play in delivering essential services and infrastructure to local communities.

The proposed Compact has the potential to deliver positive outcomes for councils, particularly through additional funding support, workforce development initiatives and greater flexibility in the use of Roads to Recovery funding. The recognition by the Federal Government of the financial sustainability challenges facing the sector is also a positive development.

It is noted however that the effectiveness of the proposed Compact will ultimately depend on the detail of its implementation.

At this stage, the sector is requiring detailed information on issues such as:

- the scale and indexation of any increased Financial Assistance Grants.
- whether funding increases will improve local government's share of Commonwealth revenue in real terms.
- how the Compact will interact with existing Commonwealth funding streams.
- whether any additional reporting requirements, obligations or funding offsets may arise.

Similarly, while increased transparency regarding Commonwealth funding to local government is broadly positive, further detail is required to understand how funding information will be reported and whether the reporting framework accurately reflects the different purposes served by untied funding programs, targeted grant programs and disaster recovery funding arrangements.

Council should also be mindful that the long-term financial sustainability of local government relies on both adequate untied funding and access to targeted grant programs. These funding sources serve different purposes and should not be viewed as alternatives to one another.

Various reviews at both a State (NSW) and Federal level have occurred in recent years. The NSW State review of the rate pegging system administered by IPART (NSW) Independent Pricing & Regulatory Tribunal introduced changes to improve the distribution of funding but did not increase the funding – this still leaves many NSW Councils seeking Special Rate Variations to support key asset and community infrastructure work and to support general financial sustainability.

Councils in NSW remain heavily reliant on capital grants to support infrastructure and maintenance works programs and general operations. An analysis of year ended 2025 financial results shows circa 70% or 90 Councils across all 127 Councils in NSW operating at a loss if capital grants were excluded from their results. For Kiama Municipal Council, the State Award increase of 4% at July 2026 compares to its rate peg of 3.2%. This is a major financial structural issue for smaller Councils such as Kiama that do not have the volume of rate payers of other larger Councils.

Recent economic conditions whether influenced by international or national events have resulted in significant cost increases which are simply not met by normal operations and require grant funding to absorb the impacts. The higher costs have forced higher replacement costs, higher asset revaluations and higher depreciation charges which then monetise into higher facilities maintenance and upgrade costs.

It is considered appropriate for Council to welcome the Federal Government's commitment to working with local government through the proposed Federation Compact while recognising that further detail is required before the full implications and benefits of the initiative can be assessed. Council should support the intent of the Compact while recognising that a more detailed evaluation will be required as further information becomes available.

By writing to the Prime Minister and the Minister for Local Government, Council can contribute to a coordinated sector-wide advocacy effort that supports meaningful reform and sustainable funding outcomes for local government, while encouraging the development of a Compact that genuinely strengthens the financial and operational capacity of councils and the communities they serve.