

Circular Details	Circular No 16-22 / 7 July 2016 / A498703
Previous Circular	Not applicable
Who should read this	Councillors / General Managers / Governance staff
Contact	Council Governance Team - 02 4428 4100 - olg@olg.nsw.gov.au
Action required	Information

The Local Government and Elections Legislation Amendment (Integrity) Act 2016

What's new or changing

- The NSW Parliament has passed amendments to the *Local Government Act 1993* (the LGA) and the *Election Funding, Expenditure and Disclosures Act 1981* (the Election Funding Act). The amendments are designed to promote confidence in the integrity of local government elections and the candidates who stand for election to councils, and to offer a more effective deterrent to misuse by councillors of their office for personal gain.
- The *Local Government General Regulation 2005* (Regulation) has also been amended to increase transparency about whether candidates at local government elections are property developers or close associates of corporations that are property developers. These terms are defined in clause 290(5) of the Regulation.

What this will mean for your council

- The amendments to the Election Funding Act extend the State caps on political donations to local government elections. In practice, this means that:
 - candidates and third-party campaigners will not be able to accept more than \$2,600 per year from the same donor; and
 - registered parties and groups will not be able to accept more than \$5,900 per year from the same donor.
- The amendments to the LGA:
 - disqualify a person from holding civic office in a council where:
 - they have been convicted by a court of an offence under the Election Funding Act (other than by way of the issue of a penalty notice) while holding that office, or within 2 years before nomination for election; or
 - they have been convicted of an offence carrying a sentence of 5 years or more imprisonment within 7 years before nomination for election;
 - repeal the loophole in the LGA that allowed councillors to vote on changes to environmental planning instruments that do not alter the permissible uses of land without disclosing a pecuniary interest in the matter; and
 - allow the Chief Executive of the Office of Local Government to apply to the Supreme Court for an order that a councillor, who has been found by the NSW Civil and Administrative Tribunal to have participated in the consideration of a matter in which they had a pecuniary interest in breach of their obligations under the LGA, pay to the council an amount

equivalent to the financial benefit they received as a result of the council's decision in relation to the matter in question.

- The amendments to the Regulation:
 - require candidates at Local Government elections to disclose whether they are a property developer or a close associate of one in each of the following:
 - candidate information sheets submitted under section 308 of the LGA (which are published online prior to an election); and
 - statistical information sheets submitted under clause 289 of the Regulation (which are kept by General Managers and are available to the Office of Local Government).
 - make it clear that a nomination paper is not valid unless the person proposed for nomination has completed the candidate information sheet accompanying the nomination; and
 - provides that a returning officer at a council administered election is to make copies of nomination papers received by the officer and send those copies to the Electoral Commissioner, after the election.

Key points

- These amendments are designed to:
 - extend the State caps on political donations to local government, removing large political donations from all levels of the NSW political system;
 - provide a more effective deterrent to non-compliance with electoral funding and expenditure requirements prescribed under the Election Funding Act;
 - ensure that candidates who stand for election to councils are fit and proper persons by disqualifying persons who have been convicted of offences carrying a minimum prison term of 5 years;
 - provide greater visibility by the community of candidates and elected councillors with interests in property development;
 - repeal the loophole in the LGA that allowed councillors to vote on some changes to environmental planning instruments without having to disclose they stood to benefit financially from the change; and
 - provide a more effective deterrent to misuse by councillors of their office for personal benefit by providing a mechanism to compel councillors who have profited from a proven breach of their obligation not to participate in the consideration of matters in which they have a pecuniary interest to forfeit the financial benefit they received by doing so.

Where to go for further information

- For further information on the new political donation caps, contact the NSW Electoral Commission on 1300 022 011.
- For further information on the amendments to the LGA and its Regulation, contact the Office's Council Governance Team on 02 4428 4100.



Sarah Lees
Acting Chief Executive
Office of Local Government