



ORDINARY MEETING OF COUNCIL

MINUTE ITEM ATTACHMENTS

Tuesday 13 August 2024

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13 AUGUST 2024

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Phone enquiries:
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Reference:
24/76312

29 July 2024

The Hon. Stephen Kamper MP
Minister for Lands and Property
GPO Box 5341
SYDNEY NSW 2001

Via online portal

Dear Minister

Kiama Municipal Council Managed Crown Land Plan of Management

At its meeting of 21 May 2024 Council adopted the *Council Managed Crown Land Plan of Management 2024*, following the endorsement of the draft by the Minister's delegate dated 4 April 2024. Council has formally advised the Department of the adoption and provided a copy of the final document under a separate letter.

At the same meeting Council also resolved to seek clarity from the Minister on some matters in the Crown Land Plan of Management (PoM). At that meeting Council resolved, in part:

3. *Delegate to the CEO to prepare correspondence to the Minister for Lands and Property seeking clarity on the application of the designation of the category of Park specifically for the reserves at Seven Mile Beach, Warri Beach, Easts Beach and Bombo, as well as noting one potential anomaly relating to Reserve Purpose at Minnamurra Headland so that Council can understand the process for any future amendment.*

Council received correspondence from the Department dated 26 April 2021 which outlined Council's application of "park" to the beach areas as consistent with the direction from the Minister. The draft PoM was prepared based on those directions and, following public exhibition and community consultation, Council narrowed the strips/areas of "park" to a small area along the beaches, which was subsequently endorsed by the Minister.

It would be appreciated if the Minister could provide clarity on the application of categorisation of "park" for the reserves at Seven Mile, Warri, Easts and Bombo Beaches in the endorsed PoM.

Our Councillors would also appreciate some guidance and advice from the Minister on whether it is possible to maintain the adjacent natural area categories instead of "park". Perhaps by utilising S46 subsections (1)(b)(i) and (4) of the *NSW Local Government Act, 1993* to accommodate leases for existing surf schools and other commercial activities on these beaches.

Additionally, Council seeks clarification on Reserve 90992 (Minnamurra Headland – Lot 68 DP 243062) purpose. Our research during preparation of the draft PoM found that the reserve has two purposes; the first - Reserve 90992 Public Recreation (notified in Government Gazette 16 December 1977) and the second - Reserve 90992 for Filming Event (notified in Government Gazette 17 November 2017).

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It would also be appreciated if the Minister could advise are currency and validity of these purposes.

If you need additional information to provide clarity on these issues, please contact Council's Manager Property & Recreation, Donna Flanagan on 4232 0444.

Yours faithfully



Jane Stroud
Chief Executive Officer



INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

8 August 2024

Our Ref: Z22/0095

Dear Councillor

Integrity issues relating to the 2024 NSW Local Government Elections

As the September 2024 Local Government elections fast approach, I am writing to current local government councillors, registered political parties and registered candidates to highlight some important integrity related matters.

“Weaponisation” of the Commission

In the past, particularly in the context of campaigning, individuals have ‘weaponised’ the Independent Commission Against Corruption (the Commission) by directing allegations of corruption against their political rivals. These allegations may be accompanied by public statements that the matter has been referred to the Commission. Doing so, irrespective of whether there is a reasonable basis for such allegations, may cause political damage, and such allegations should not be used as a weapon to level at a political rival.

The weaponisation of the Commission for political advantage, whether it be via a referral or some other means, is inappropriate. This type of conduct, particularly when undertaken during an election campaign, leaves the Commission with little time to adequately assess and then investigate the allegation. It may also jeopardise the Commission’s investigation opportunities, where evidence may be destroyed. Timely and unpublicised reporting assists the Commission to deal effectively with an allegation.

If any person holds a genuine suspicion of corrupt conduct, it should be reported to the Commission in the usual manner. Reporting suspected corruption allegations to the Commission, actively contributes to a NSW public sector that is more resistant to corruption.

Although the Commission typically refrains from confirming or denying the existence of any allegation or investigation, if it becomes apparent that the Commission’s functions are being weaponised, the Commission may determine that it is in the public interest to clarify the status of its involvement in a matter.

Ongoing obligations

Some councillors will not be contesting the local government election, while others may be successful or unsuccessful in their campaign for re-election. For those councillors currently in office, they should be aware of important obligations, including during the caretaker period (16th August to 3rd September 2024).

- The exercise of certain council functions are restricted during caretaker period. Some of these restrictions include entering or receipting of certain valued contracts or

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undertakings, determining controversial development applications, and the appointment, reappointment, or removal of the general manager. It is important that councillors adhere to these restrictions.

- Councillors may have access to **commercial-in-confidence** or other confidential information during their time in office. It is imperative that this information not be **misused** while in or transitioning out of office. Councillors must not seek to personally benefit from such information in any way.
- Transitioning out of office does not negate a councillor's obligation to disclose their pecuniary interests and non-pecuniary conflicts of interests. This also extends to current councillors, including those campaigning for re-election.

Engaging in any of the above conduct could result in a breach the relevant code of conduct, the law, and may amount to corrupt conduct.

Other obligations

a. Councillors

When considering their fundraising activities, candidates for local council should be aware that as a general rule, councillors cannot vote on matters in which their reportable donors have an interest. This requirement, set out in each council's code of conduct, is intended to ensure that councillors cannot be improperly influenced by their donors.

Councillors must not misuse council resources, including council staff, or council facilities to assist their election campaign or that of others. Further, they must not use such resources for private purposes. This requirement is available in each council's code of conduct.

b. Candidates

Once elected, local councillors become public officials and are expected to act in the public interest at all times. While the "public interest" is multi-faceted and can involve a degree of political judgment, it is important for all candidates to understand that public office cannot be used for the purpose of conferring personal benefits on individuals and groups.

In addition, candidates should understand that councillors' accountability requirements entail disclosing details about their income, assets, and other financial interests in regular pecuniary interest returns. Although minor redactions can be made to protect privacy, these returns are public documents and are an important mechanism for managing risks that arise from conflicts of interest.

Registered candidates campaigning to become a local government councillor should be aware of their obligations in the lead up to the election. This includes issues around campaigning, political donations, and payments for electoral-related expenditure. The NSW Electoral Commission provides guidance material on its website (www.elections.nsw.gov.au) to assist election participants to meet their obligations.

It is imperative that all candidates be mindful of their actions both publicly and in a private capacity. Candidates, whether campaigning for office or re-election, should always act with integrity and observe the highest standards of probity. Candidates must not attempt to circumvent electoral funding laws or be involved in improper arrangements surrounding political donations to their campaign, as donations may be used as a mechanism to exert improper influence to secure favourable decisions.

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Next steps

The Commission takes a proactive approach to the education of elected officials and encourages councils to reach out to the Commission to discuss training opportunities for their councillors. The Commission would be happy to work with NSW local councils to uplift their education programs.

Should you have any questions about the matters raised in this letter, please contact the Commission at education@icac.nsw.gov.au.

Yours sincerely



The Hon John Hatzistergos AM
Chief Commissioner

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