

ELECTORAL FUNDING AMENDMENT (LOCAL GOVERNMENT ELECTORAL
EXPENDITURE CAPS) BILL 2024

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Bill amends the *Electoral Funding Act 2018 (Act)* to provide for the indexation of the amounts of each of the caps on electoral expenditure that apply to political participants during the capped expenditure period for the 2024 local government elections.

The amounts of the electoral expenditure caps for political participants in local government election campaigns have not been adjusted for inflation since being introduced in 2019, due to the postponement of the 2020 elections.

Due to the impacts of COVID-19, all local government elections in NSW were postponed State-wide until 4 December 2021. The Act provides a formula for adjusting the electoral expenditure caps in line with CPI. However, timing for adjusting the caps is uncertain under the Act in circumstances where no elections are held on the prescribed four-yearly date. This is because the trigger for adjusting the caps is contingent on elections being held on the prescribed date.

To address this, the Bill provides that the caps are adjusted for CPI ahead of the 2024 local government elections as if the first election period (which commenced on 10 September 2016) ended on 4 December 2021 (being the date the general elections were held).

The Bill also makes other miscellaneous amendments to improve administration and enforcement of the Act by the NSW Electoral Commission and to facilitate the delivery of the 2024 local government elections.

Objectives: What is the policy's objective couched in terms of the public interest?

It is in the public interest that the Bill resolves uncertainty about the timing for indexation of electoral expenditure caps that apply to local government elections and by-elections. The uncertainty is a result of the operation of the relevant provisions of the Act in the context of the State-wide postponement of the 2020 local government elections due to the COVID-19 pandemic.

The amendments proposed by the Bill would also prevent the same uncertainty arising in similar circumstances in future by clarifying the provisions which determine when is the end of an "election period" and thereby, the trigger for adjusting the caps.

The miscellaneous amendments in the Bill will improve administration of the Act by the NSW Electoral Commission.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Legislative amendment is required to achieve the objects of the Bill.

Analysis: What were the pros/cons and benefits/costs of each option considered?

Without legislative amendment, the local government expenditure caps which were put in place in 2019 will continue to apply for the 2024 elections. This would be undesirable

as the purpose of the scheme in the Act is to ensure the applicable caps on expenditure are appropriately adjusted for inflation at the end of each election day, to reflect increases in the cost of electoral expenditure.

The Bill will provide for the amendments to be made to the Act in advance of the capped expenditure period which commences on 1 July 2024 and ends on election day on 14 September 2024. This will allow time for the NSW Electoral Commission to notify political participants and provide education and guidance materials.

Another advantage of introducing the Bill is that it clarifies the end of an election period (for the purpose of adjusting expenditure caps) in circumstances where one or more local government general elections are postponed, or if there is another State-wide postponement of elections as occurred in 2020.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill commences on assent.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Bill has been developed through consultation with the NSW Electoral Commission staff agency and the Office of Local Government.