

Passed by both Houses



New South Wales

Local Government Amendment Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Local Government Amendment Bill 2007

Act No , 2007

An Act to amend the *Local Government Act 1993* to make further provision with respect to entering into public-private partnerships and the levying of annual charges; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment Act 2007*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

4 Consequential amendment of other legislation

The Acts and regulation specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Local Government Act 1993 No 30

(Section 3)

[1] Section 55 What are the requirements for tendering?

Insert before the last dot point in section 55 (3):

- a contract to enter into a public-private partnership
- if a council has entered into a public-private partnership—
a contract entered into by the council for the purposes of carrying out a project under the public-private partnership (but only to the extent that the contract is part of the project that has been assessed or reviewed under Part 6 of Chapter 12)

[2] Section 55 (5)–(7)

Omit the subsections.

[3] Section 55A

Insert after section 55:

55A Extended operation of section 55 to council-related entities

- (1) A council must comply with the requirements of section 55 (including any regulations made under that section) even though the contract to which that section applies involves something being done to or by an entity that the council has formed or participated in forming.
- (2) However, if the entity concerned is formed under a public-private partnership, subsection (1) has effect only to the extent that the contract is not part of a project that has been assessed or reviewed in accordance with Part 6 of Chapter 12.
- (3) In this section:
entity means any partnership, trust, corporation, joint venture, syndicate or other body (whether or not incorporated), but does not include any such entity that is of a class prescribed by the regulations as not being within this definition.

[4] Section 400B Definitions

Omit section 400B (1). Insert instead:

- (1) For the purposes of this Act, a *public-private partnership* means an arrangement:

- (a) between a council and a private person to provide public infrastructure or facilities (being infrastructure or facilities in respect of which the council has an interest, liability or responsibility under the arrangement), and
 - (b) in which the public infrastructure or facilities are provided in part or in whole through private sector financing, ownership or control,
- but does not include any such arrangement if it is of a class that has been excluded from the operation of this Part by the regulations.
- (1A) For the purposes of subsection (1), the provision of public infrastructure or facilities includes the delivery of services during the carrying out of any project under the public-private partnership.

[5] Section 495A

Insert after section 495:

495A Strata lots and company titles taken to be separate parcels of land for annual charges

For the purposes of making or levying an annual charge under section 496, 496A or 501:

- (a) each lot in a strata plan that is registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, and
- (b) each dwelling or portion of the kind referred to in section 547 (1),

is taken to be a separate parcel of rateable land.

[6] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Local Government Amendment Act 2007

[7] **Schedule 8, Part 28**

Insert after Part 27:

**Part 28 Provisions consequent on enactment of
Local Government Amendment Act 2007**

88 Definition

In this Part:

amending Act means the *Local Government Amendment Act 2007*.

89 Validation provision

Anything done or omitted to be done by a council that would have been validly done or omitted to be done had section 495A, as inserted by the amending Act, been in force when the thing was done or omitted to be done is validated.

90 Existing public-private partnerships

The substitution of the definition of *public-private partnership* in section 400B (1) by the amending Act does not affect the operation of a public-private partnership entered into before the commencement of that substitution.

Schedule 2 Consequential amendment of other legislation

(Section 4)

2.1 Local Government (General) Regulation 2005

Clause 408 Arrangements excluded from provisions relating to public-private partnerships

Omit clause 408 (1). Insert instead:

- (1) For the purposes of section 400B (1) of the Act, the following arrangements are excluded from the operation of Part 6 of Chapter 12 of the Act:
 - (a) any contract between a council and a private person that would, but for a resolution by the council to enter into a public-private partnership, be subject to the tendering requirements under section 55 of the Act,
 - (b) any arrangement arising out of the operation of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*,
 - (c) any arrangement arising out of the imposition by a council of a requirement under section 306 of the *Water Management Act 2000* (as applying to the council by virtue of section 64 of the Act).

2.2 Strata Schemes (Freehold Development) Act 1973 No 68

Section 93 Charges for services

Insert “(other than stormwater management services within the meaning of the *Local Government Act 1993*)” after “effluent services”.

2.3 Strata Schemes (Leasehold Development) Act 1986 No 219

Section 125 Charges for services

Insert “(other than stormwater management services within the meaning of the *Local Government Act 1993*)” after “effluent services”.