

Passed by both Houses



New South Wales

# Local Government Amendment Bill 2019

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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,*

*, 2019*



New South Wales

## **Local Government Amendment Bill 2019**

Act No , 2019

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An Act to amend the *Local Government Act 1993* with respect to rates, tendering requirements, election planning, mutual recognition of approvals and other regulatory matters; and for other purposes.

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*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.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Local Government Amendment Act 2019*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedule 1 [4], [15]–[20] and Schedule 2.2 commence on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Local Government Act 1993 No 30

### [1] Section 55 Requirements for tendering

Omit “at a rate not exceeding the rate so specified” from section 55 (3) (a) and (g) wherever occurring.

Insert instead “, if a rate is so specified, at a rate not exceeding the rate so specified”.

### [2] Section 55 (3) (n)

Omit the paragraph. Insert instead:

- (n) a contract involving an estimated expenditure or receipt of an amount of:
  - (i) less than \$250,000 or another amount as may be prescribed by the regulations, or
  - (ii) less than \$150,000 or another amount as may be prescribed by the regulations for a contract involving the provision of services where those services are, at the time of entering the contract, being provided by employees of the council,

### [3] Section 55 (3) (q)

Insert after section 55 (3) (p):

- (q) a contract made with a person or body approved as a disability employment organisation under the *Public Works and Procurement Act 1912* for the purchase of goods or services in relation to which the person or body is so approved.

**Note.** Despite the person or body being approved under the *Public Works and Procurement Act 1912*, that Act does not otherwise apply to the procurement of goods and services by or for a council.

### [4] Section 178A

Insert after section 178:

#### 178A Appeals relating to mutual recognition of approvals

- (1) The regulations may make provision for or with respect to appeals to the Land and Environment Court by applicants or approval holders who are dissatisfied with a determination of a council under a scheme prescribed by the regulations for the mutual recognition of approvals.
- (2) The regulations may also confer on the Land and Environment Court a discretion to award compensation, that is payable by a council, in circumstances of a kind referred to in section 179.

### [5] Section 218CB Transitional provision for maintenance of pre-amalgamation rate paths

Omit “3 rating years” from section 218CB (2). Insert instead “4 rating years”.

### [6] Sections 296AA (1) (b), 296 (1) and 298 (3)

Omit “the general manager of the council” wherever occurring.

Insert instead “an electoral services provider engaged by the council”.

### [7] Section 296AA (2)

Omit the subsection. Insert instead:

- (2) A resolution referred to in subsection (1) (b) must include the following information:
- (a) whether the general manager has identified an electoral services provider to be engaged for the next ordinary election of councillors and, if so, the name of that provider,
  - (b) any other information required by the regulations.

**[8] Section 296AA Councils to plan for administration of elections**

Insert after section 296AA (4):

- (5) Despite the other provisions of this section, a council may make a resolution under subsection (1) on or before 1 October 2019 for the purposes of an arrangement that includes the ordinary election of councillors in 2020.

**[9] Section 296 How elections are to be administered**

Insert after section 296 (5):

- (5A) Without limiting subsection (5), an election arrangement for the Electoral Commissioner to administer all elections of a council that is to include the ordinary election of councillors in 2020, or to administer that particular election, may be entered into if:
- (a) the council resolves on or before 1 October 2019 that an arrangement is to be entered into, and
  - (b) the arrangement is entered into on or before 1 January 2020.

**[10] Section 296A Elections administered by an electoral services provider**

Omit “the general manager of a council” from section 296A (1).

Insert instead “an electoral services provider engaged by a council”.

**[11] Section 296A (2) and (7)**

Omit “general manager” wherever occurring.

Insert instead “electoral services provider”.

**[12] Section 298 (5)**

Omit “A general manager of”.

Insert instead “An electoral services provider engaged by”.

**[13] Sections 299 (3), 300 (3) and 317 (1) (c)**

Omit “the general manager” wherever occurring.

Insert instead “an electoral services provider”.

**[14] Section 313 Check on double-voting and failure to vote**

Omit “a general manager” from section 313 (2).

Insert instead “an electoral services provider engaged by a council”.

**[15] Section 379 Delegation of regulatory functions**

Insert at the end of section 379 (1) (d):

- , or
- (e) another council.

**[16] Section 379 (2B)–(2D)**

Insert after section 379 (2A):

- (2B) A council may delegate a regulatory function to another council only with the approval, by resolution, of the other council.
- (2C) The regulations may prescribe regulatory functions that must not be delegated by a council to another council under this section or limit the circumstances in which a regulatory function may be delegated by a council to another council under this section.
- (2D) A council may delegate a regulatory function to a joint organisation under a provision of this section whether or not the council is a member council of the joint organisation.

**[17] Section 379 (3) (c)**

Insert “a committee of the board of the joint organisation or” before “the executive officer” where firstly occurring.

**[18] Section 379 (3) (d)**

Insert at the end of section 379 (3) (c):

, or

- (d) a regulatory function is delegated to another council, the function may be delegated to:
  - (i) a committee of the other council of which all the members are councillors or of which all the members are either councillors or employees of the other council, or
  - (ii) the general manager of the other council and by the general manager to an employee of the other council.

**[19] Chapter 15, Part 10, Division 5**

Insert after Division 4 of Part 10 of Chapter 15:

**Division 5 Exemption from regulatory requirements for fees**

**612 Regulations may exempt certain fees from regulatory requirements**

- (1) Regulations may be made for or with respect to exempting fees that are charged by a council in connection with a commercial activity specified by the regulations from all or any of the requirements of this Act relating to public notification of council fees or the determination of fees in accordance with a pricing methodology.
- (2) An exemption made by or under the regulations for the purposes of this section may be unconditional or subject to conditions.
- (3) A regulation made under this section may validate a fee that was charged by a council before the making of the regulation if the fee would, if charged after the regulation commenced, have been validly imposed.

**[20] Schedule 6 Regulations**

Insert after item 8:

- 8AA** A scheme for mutual recognition by councils of approvals under Part 1 of Chapter 7
- Examples.** Model policies for councils relating to mutual recognition

Policies of councils relating to mutual recognition  
Arrangements between councils for mutual recognition  
Approval of mutual recognition arrangements  
Effect of recognition of approvals  
Modification and revocation of recognised approvals and conditions of approvals  
Compensation by councils for modification or revocation of recognised approvals  
Procedures (including applications and payment of fees) for recognition of approvals granted by other councils  
Records of recognised approvals  
Exchange of information relating to recognised approvals  
Notice to other councils of recognised approvals  
Enforcement of recognised approvals by councils

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

Insert at the end of the Schedule, with appropriate Part and clause numbering:

**Part Provision consequent on enactment of Local Government Amendment Act 2019**

**Rate freeze for previously amalgamated councils**

Section 218CB (2), as amended by the *Local Government Amendment Act 2019*, extends to a determination made by the Minister before the commencement of that amendment and in force on that commencement.

## **Schedule 2 Amendment of other legislation**

### **2.1 Government Sector Finance Legislation (Repeal and Amendment) Act 2018 No 70**

#### **Schedule 4.89, item [3], proposed section 31 (2)**

Insert “or for a local authority under the *Local Government Act 1993*” after “*Government Sector Finance Act 2018*”.

### **2.2 Land and Environment Court Act 1979 No 204**

#### **Section 18 Class 2—local government and miscellaneous appeals and applications**

Insert “, and regulations made under section 178A of,” after “611 of” in section 18 (a).

### **2.3 Local Government (General) Regulation 2005**

#### **Clause 163 Application of Part**

Omit clause 163 (2).

### **2.4 Public Interest Disclosures Act 1994 No 92**

#### **[1] Section 31 Reports to Parliament by public authorities**

Omit section 31 (2). Insert instead:

- (2) An annual report under this section must be tabled in each House of Parliament by the relevant Minister as soon as practicable after it is prepared unless it is included in an annual report prepared for the purposes of:
  - (a) the *Annual Reports (Departments) Act 1985*, or
  - (b) the *Annual Reports (Statutory Bodies) Act 1984*, or
  - (c) the *Local Government Act 1993*.

#### **[2] Schedule 2 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering:

### **Part Provision consequent on enactment of Local Government Amendment Act 2019**

#### **Application of amendment to local authorities**

Section 31 (2) (c), as inserted by the *Local Government Amendment Act 2019*, applies to and in respect of a local authority on and from 1 July next following the substitution of the provision.