

[Home](#) » [Hansard & Papers](#) » [Legislative Assembly](#) » [15 November 2007](#) » [Full Day Hansard Transcript](#) »
Item 10 of 46 »

Local Government Amendment Bill 2007

About this Item

Speakers - [Lynch Mr Paul](#)

Business - [Bill, Bill Introduced, Agreement in Principle, Motion](#)

LOCAL GOVERNMENT AMENDMENT BILL 2007

Page: 4285

Bill introduced on motion, by leave, by Mr Paul Lynch.

Agreement in Principle

Mr PAUL LYNCH (Liverpool—Minister for Local Government, Minister for Aboriginal Affairs, and Minister Assisting the Minister for Health (Mental Health)) [1.05 p.m.]:

That this bill be now agreed to in principle.

The bill reflects the Government's commitment to keep the Local Government Act continually under review to provide a transparent and effective legislative framework for the administration of local government in New South Wales. The proposed amendments address issues highlighted by the Department of Local Government that arise out of the operation of the Act and that require legislative amendment. First, the bill proposes to clarify matters in relation to the use of tendering and public-private partnerships in local government. The Act was originally amended in 2004 to allow a council an alternative to the tendering provisions of the Act when considering whether to enter into a contract to use a public-private partnership model to progress a council's project or works.

Previously, when a private developer with a proposal to provide a public facility or infrastructure on, for example, council-owned land, approached a council, a council was required to seek tenders. This discouraged private developers from entering into public-private projects with councils. It also encouraged some councils to attempt to avoid the tendering requirements by arguing that "extenuating circumstances" brought the contract within the exemption for compliance with the tendering provisions. The Local Government Amendment (Public-Private Partnership) Act 2004 provided councils with an alternative method of engaging in a transparent and accountable process for selecting its partners for a particular project. However, concerns have been raised in the local government industry that the provisions as currently drafted are ambiguous.

Some doubt has been expressed whether these provisions operate as was intended, namely, to enable councils to choose either to go to tender as required by section 55 of the Act or use the public-private partnership provisions for certain projects. The aim of this bill is to make this choice—and its corresponding procedural requirements—clearer for councils, developers and the public. The amendments proposed in this bill enable councils to apply the most appropriate method of testing the market for a project, that is, determining whether to proceed with a development by tender or by public-private partnership. Arrangements that may not constitute a contract but otherwise are a public-private partnership arrangement will be required to be dealt with under the public-private partnership provisions, commencing at section 400B of the Act.

For example, a memorandum of understanding between a council and a private developer to enter into an arrangement for the development of council owned land to provide a public facility that would be owned and operated by a third party would trigger the public-private partnership provisions. Central to this is a change to the definition of "public-private partnership" in the bill. The new definition will now provide that 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 by the regulations.

This amendment will remove any uncertainty about the types of services that fall within the public-private partnership framework. Importantly, the new definition will capture services delivered to a council that are associated with the provision of infrastructure, but will exclude any ongoing maintenance or operation of that infrastructure. For example, it is now very clear that councils do not have to follow the public-private partnership provisions for every cleaning contract for a public toilet block. A charity providing a bench in a public park is not entering a public-private partnership arrangement. A not-for-profit organisation such as Rotary providing lawn

mowing or garden maintenance for a public area is not a public-private partnership arrangement. The proposed amendments enhance the recent changes to local government public-private partnership legislation, removing any ambiguities that have occurred in practice. By ensuring certainty in a council's processes, all sectors of the community will benefit from increased transparency and flexibility in the models available for infrastructure development in local government.

Secondly, the bill proposes amendments to the Act to clarify the manner of levying certain annual charges for stormwater management. Currently, councils can levy annual charges under the Act for services such as waste management and water and sewerage management. These charges can be applied to individual lots, strata lots or company title properties. In accordance with government policy, councils have the ability to levy a capped annual charge for their stormwater management services. This charge allows for the improvement of stormwater management throughout the urban areas of New South Wales. In particular, it will facilitate the planning, construction and maintenance of drainage systems, constructed wetlands, stormwater harvesting systems and gross pollutant traps. It also allows the continued monitoring and maintenance of general water quality and flow.

To better support the application of this charge, the bill seeks to strengthen the existing provisions in the Act that allow a council to levy annual charges on individual strata lots and company title properties. There will be corresponding amendments to the strata titles legislation. These amendments will not impose a new charge on landowners. These amendments merely clarify existing arrangements. While different in focus, each area of reform proposed in this bill is founded on the improvement of local government procedures, policy and service provision. The tendering and public-private partnership amendments provide greater public transparency and the stormwater levy amendments provide greater public resource management. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.

[Acting-Speaker (Mr Thomas George) left the chair at 1.11 p.m. The House resumed at 2.15 p.m.]

[Update this page](#)

[Legislative Council](#) [Legislative Assembly](#) [Members](#) [Joint Services](#)

[Home](#) [Hansard & Papers](#) [Committees](#) [Legislation](#) [Library](#) [Phonebook](#) [Admin Resources](#)