



New South Wales

Property Services Council Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish and confer functions on the Property Services Council for New South Wales.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Constitution and management of Property Services Council

Clause 4 constitutes the Property Services Council (the *Council*) as a body corporate.

Clause 5 provides that the Council is a NSW Government agency.

Clause 6 provides that the Council is subject to the control and direction of the Minister administering the proposed Act (the *Minister*) in the exercise of its functions, except in relation to the contents of any advice, report or recommendation given to the Minister.

Clause 7 provides for the establishment of a Board of the Council (the *Board*).

The Board is to consist of the following members—

- (a) 1 person appointed by the Minister as the Chairperson of the Board,
- (b) 1 person appointed by the Minister from a panel of 3 persons nominated by the Owners Corporation Network of Australia Ltd,
- (c) 1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Consumers' Association,
- (d) 3 persons appointed by the Minister from a panel of 5 persons nominated by The Real Estate Institute of New South Wales Limited,
- (e) 1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Livestock and Property Agents Association Ltd,
- (f) 1 person appointed by the Minister from a panel of 3 persons nominated by the Head of School, School of Built Environment, Faculty of Design, Architecture and Building, University of Technology Sydney (after consulting with the senior members of that school),
- (g) 1 person appointed by the Minister from a panel of 3 persons nominated by the Tenants' Union of NSW, being the Tenants' Union of NSW Co-operative Limited ABN 88 984 223 164,
- (h) 1 person appointed by the Minister from a panel of 3 persons nominated by the Strata Community Association (NSW), being the Strata Community Association (NSW) Limited ACN 001 767 997,
- (i) the Property Services Commissioner.

Clause 8 enables the Board to establish other committees. The members of a committee need not be members of the Board.

Clause 9 provides for the appointment of a Property Services Commissioner (the *Commissioner*) by the Governor, on the recommendation of the Council.

Clause 10 allows staff to be employed in the Public Service to enable the Council to exercise its functions.

Part 3 Objects and functions of Property Services Council

Clause 11 sets out the objects of the Council, being—

- (a) to promote appropriate standards of conduct and competency for agents, and
- (b) to protect the interests of persons who deal with agents, and
- (c) to facilitate the resolution of disputes between agents and persons who deal with them.

Clause 12 sets out the functions of the Council, being—

- (a) to provide advice, reports or recommendations to the Minister relating to the following—
 - (i) the business of agents,
 - (ii) the education, training and continuing professional development of agents,
 - (iii) consumer protection,
 - (iv) the management of strata properties and community schemes,
 - (v) other matters requested by the Minister, and
- (b) to provide public information and guidance programs, and
- (c) other functions conferred or imposed on it by or under the proposed Act or any other Act.

Part 4 Miscellaneous

Clause 13 deals with the recovery of amounts due to the Council.

Clause 14 deals with the service of documents.

Clause 15 protects persons involved in the administration of the proposed Act from personal liability if acting in good faith.

Clause 16 enables the Council and the Commissioner to delegate their functions to specified other persons.

Clause 17 makes it an offence for a person to disclose information obtained in connection with the administration or execution of the proposed Act except in certain circumstances. The maximum penalty is 20 penalty units (currently, \$2,200).

Clause 18 provides that proceedings for an offence under the proposed Act may be dealt with summarily before the Local Court.

Clause 19 enables the Governor to make regulations.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Constitution and procedure of Board

Schedule 2 sets out the provisions relating to the appointed members of the Board, including their appointment, term of office and vacancy and removal. The schedule also deals with the procedure of meetings of the Board.

Schedule 3 Provisions relating to Property Services Commissioner

Schedule 3 contains provisions relating to the office of Commissioner, including provisions dealing with the term of office, vacancy and removal from that office. The schedule also makes provision for an Acting Commissioner.

Schedule 4 Amendment of Acts

Schedule 4 makes amendments to the following Acts—

- (a) the *Community Land Management Act 2021*, the *Property and Stock Agents Act 2002* and the *Strata Schemes Management Act 2015* to transfer to the Council certain functions under those Acts currently exercised by the Commissioner for Fair Trading,
- (b) the *Statutory and Other Offices Remuneration Act 1975* regarding the determination of the remuneration of the Commissioner.